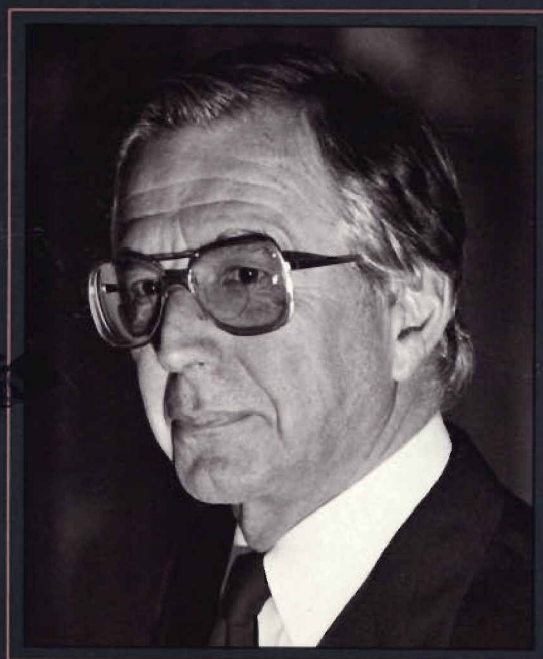


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Some Welcome News for Things of the Spirit



Dean Cliff F. Thompson

The strong likelihood that the legislature will provide 15% "catch-up" pay between January 1986 and July 1987 is wonderful news. For while I am certain that money cannot buy the special spirit of the Law School, we had reached a point where the difference between our salaries and the Big Ten Schools raised the spectre that we would be an easy hunting ground for rival appointment committees.

Our faculty has resisted the financial lures of other schools for many reasons, including the charms of Madison, and the intellectual excitement within the university and the Law School. But we lost a distinguished colleague to UCLA this year, and the danger was that it might signal the start of an unraveling of the mutual threads of interest which bind us together.

The 15% catch-up is calculated to bring the UW-Madison from the bottom level up to the middle salaries offered in the Big Ten and "Other Peers" identified in the Governor's study: Texas; UCLA; Berkeley; North Carolina; and the University of Washington.

Lest anyone think that 15% is extravagant, I note that the overall increase obscures differences of need within the university. To have law faculty salaries reach the average level of peers for the academic year 1984-85, we would need 24.7% to reach the average level of the Big Ten, 32.7% to reach the level of the "Other Peers" or 28.7% increase to

reach the average level of the Big Ten and "Other Peers" combined.

The legislative commitment to begin solving the salary problems is reassuring. Our spirit cannot live on the view of Lake Mendota alone. It is also gratifying to see that our alums and other friends have responded so generously to the first endowment campaign in the history of the school. We will be able to achieve a margin of excellence in our programs beyond the basic support provided by the state.

We will report on our endowment campaign in a later issue. If you have not yet contributed, now is the time to do so. With a mind to contribution, alums ask me about the School. They are obviously pleased to hear about our faculty's commitment to teaching, and about the state, national, and international fame in significant research and publication. But alums also ask about students, as they reflect on their own law school careers. So I'll end by noting two student efforts of this past year which I think are characteristic of the Law Schools' spirit. One, the placing of plants in what were formerly ashtrays in our halls, was reported to you in the last issue. The other was the establishment of a telephone answering service for newly admitted students. The student volunteers handling this service provided answers to questions about the up-coming law school experience and, more importantly, the service eased doubts and generally provided a warm welcome to a great Law School.

The Wisconsin Ban On DDT: Old Law, New Content

William G. Moore

In the Fall of 1968, a petition was filed with the Wisconsin Department of Natural Resources "requesting a declaratory ruling on whether DDT was an environmental pollutant" within the meaning of specified Wisconsin statutes. The administrative hearing at Madison which followed was soon to take on national, even worldwide, importance and played a critical role in widespread banning of what had been probably the most important pesticide of its day.

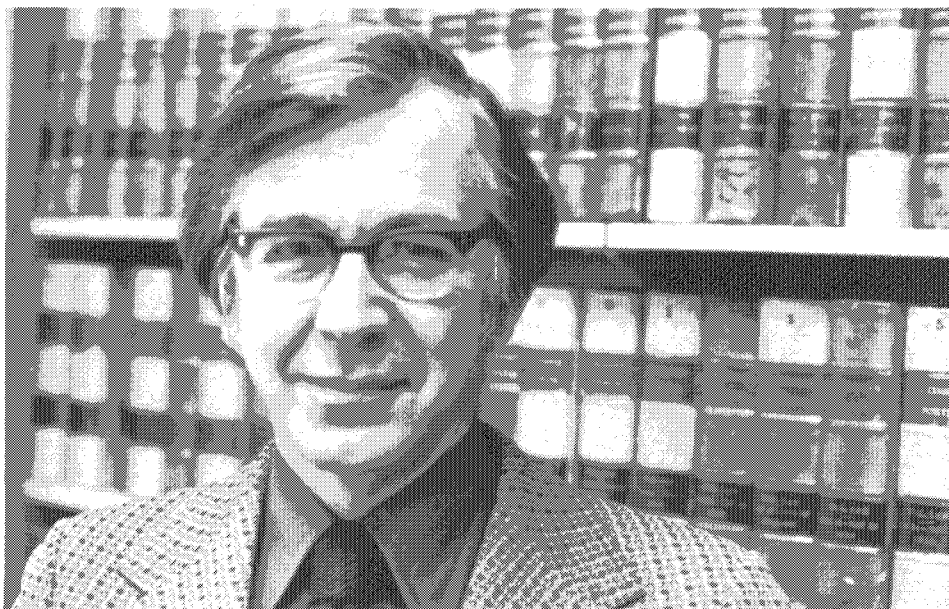
To some, the 1960s and the early 1970s conjure up a picture of little more than anti-war demonstrations, civil disorder, drug abuse and long hair. And true, these elements were a part of those times. But the same elements were also manifestations of an inquisitive and questioning mood that swept pervasively through American society and was part of a cycle recurrent in our national history—a time of shaking up the status quo which would be followed by a period of re-grouping and consolidation under new patterns.

Today's image of the Sixties is often bitterly portrayed as a time of quixotic goals whose fulfillment was largely denied.

But not all of the questioning, nor all of the dissent, by any means came to naught; not all of it was denied fulfillment. And not all of it was generated by anti-establishment youth.

Bill Moore—who is responsible these days for much of the writing which appears in the GARGOYLE—describes in the story below a significant event which took place in those turbulent days of the late Sixties: the hearings at Madison on the question of banning use of DDT in Wisconsin.

Many people, some of them from distant places, participated in the DDT hearing at Madison. The hearing itself was presided over by Maurice Van Susteren (J.D. '48),



James MacDonald

then Chief Hearing Examiner for Wisconsin's Department of Natural Resources. A number of these were associated with the University of Wisconsin at Madison. Joseph J. Hickey, Professor of Wildlife Ecology (who supported the ban) and UW Entomology Professor Ellsworth Fisher (who opposed it) played important roles in the hearings and they must share a significant part of the credit (or blame) for the consequences to which the Madison hearings so importantly contributed. And a number of Madison people—among them UW Law Professor Jim MacDonald and his wife, Betty—turned over their homes for a week or more at a time to be used by the coalition fighting DDT as a temporary command post and site of nightly sessions devoted to tactics and

strategy.

While Joe Hickey and Jim MacDonald sided with those who sought to ban DDT, Ellsworth Fisher and others associated with the University supported the continued use of the pesticide.

At the time, and still, sharply differing accounts may be found of events leading up to the ban. Yet whatever else may be achieved by the story Bill Moore tells below, the point is made clear that the process of "winnowing and sifting" of ideas at the University of Wisconsin can be marked by deep and bitter differences within the University community itself as the search for the truth is pursued. And, as is the case here, the Law School can often be found tied into the fray.

In the early Sixties, there appeared in the *New Yorker* a series of articles which discussed the impact of pesticides on the environment. In 1962, these articles were united to comprise Rachel Carson's polemic volume, *Silent Spring*.

A collection of theories blended with fact, of "truths, half-truths and no-truths," Ms. Carson's book was at first shunned by the great bulk of the scientific community. In the beginning, indeed, it was difficult to find a respected scientist who would even step forward to say Ms. Carson had raised questions for which definitive answers were not to be had—and only later were a few scientists willing to support some of her more frightening prophetic premises.

But *Silent Spring*, on the other hand, received considerable attention from lay quarters and its importance rested primarily on its bringing before an ever growing contingent of concerned citizens the question of man's practices in the use of pesticides.

Portions of *Silent Spring* concern themselves with the pesticide DDT (Dichlorodiphenyltrichloroethane). But it was not until 1968 that the issue of the compound and its detrimental effects on the environment received broad national and international attention. Much of the publicity was generated by, and came out of a hearing held in Madison, Wisconsin, in late 1968 and early 1969, a hearing held to determine whether DDT was an environmental pollutant as defined in sections 144.01(11) and 144.30(9) of the Wisconsin Statutes.

The outcome of the hearing and the ramifications felt well beyond Wisconsin's borders constitute the triumph of concerned and questioning citizens whose efforts brought to light, in Ms. Carson's words, the "... false assurances (and the) sugar coating of the implatable facts" about the chemical compound that had been in use for nearly twenty-five years.

The story of DDT is a complex and controversial one. When the compound was first introduced as a pesticide, it was proclaimed a wonder-chemical, capable of solving a myriad of man's pest problems. Paul Mueller, a Swiss scientist, won the Nobel Prize for his discovery of the chemical's proficient insect-killing properties.

DDT was used extensively by the military during World War II, and saved "countless lives" through its effective control of malaria-carrying mosquitoes and other disease-carrying pests. After the War it was put to use domestically and became one of the most popular pesticides on the market because of its effectiveness and low cost. By 1968 its usage peaked at twenty million pounds annually.

But with its effectiveness came features which posed great danger to the environment, its creatures, and, ultimately, man (who somehow believes himself to be independent from that which surrounds and sustains him). Not only did DDT eliminate pests, but also useful and necessary predators. Furthermore, insects—whose reproductive rate is far faster than man's—soon became immune to the chemical, "necessitating" applications of greater chemical concentrations. Of great consequence, was DDT's mobility: it was found all over the world, thousands of miles from the nearest point of application, even in the polar regions. Moreover, DDT was persistent as a result of its slow rate of breakdown in the environment and because of its solubility in body fats—lipids, as these are known—DDT was lodging in the fat reserves of everything from moles to man. The effect on us could only be known with time.

More tangible to non-scientists was the fact that after DDT had been applied for the purpose of eliminating Dutch Elm Disease, birds disappeared and local fauna and flora suffered great losses. One woman thus described such a scene: "My neighbors close their eyes while Robins dance themselves to death—and [they] keep spraying."

DDT's success at controlling pest species, however, made it a formidable chemical to contend with, either politically or scientifically. As early as the late forties scientists had questioned its effects on the environment—effects which chemical companies routinely and flatly denied. Beginning in 1958, Professor Joseph Hickey, a University of Wisconsin wildlife ecologist and ornithologist, conducted internationally recognized studies on the Peregrine Falcon which ultimately correlated with DDT the worldwide population crash of that hawk and other species of raptors.

It was later shown that DDT and DDE (Dichlorodiphenyldichloroethane), a closely related compound, caused a calcium deficiency which eventually caused the thinning and breakage of egg shells, making it almost impossible for birds to produce successive generations. Professor Hickey's testimony was to be of great importance in the case against DDT at the Madison hearing.

Professor Hickey and his students also did studies which showed with "careful comparative studies of sprayed and unsprayed areas," that Robin mortality was "at least 86 to 88 per cent" after the application of DDT. On the Madison campus of the University of Wisconsin as much as twenty-three pounds to the acre of DDT were used at one time in an effort to eradicate Dutch Elm Disease.



Betty MacDonald

The Madison Hearing: Origins

It was the issue of the use of DDT as a deterrent to Dutch Elm Disease which eventually brought the debate over the chemical to Madison.

When the *Milwaukee Journal* reported that DDT was to be used to fight the devastating tree disease in Milwaukee county—parts of which border on Lake Michigan—citizens under the auspices of the Citizens Natural Resource Association (CNRA) sought an injunction through the Wisconsin Department of Natural Resources (DNR) to halt the county's spraying. A meeting took place in October of 1968 in what the Chief Hearing Examiner of the DNR, Maurice Van Susteren, called a "roomfull of very agitated people." The *Milwaukee Journal* had reported only a rumor, it turned out, and it was agreed by the county and the tree service involved that DDT would not be used in attempts to control Dutch Elm Disease. The hearing was declared "moot."

But the CNRA and the Environmental Defense Fund (EDF), which had come to Wisconsin from New York to support and help represent the CNRA, were seeking a more substantial victory than the essentially hollow one attained in October.

Van Susteren, a bit puzzled by the group's "dejection," then informed the petitioners of provisions of Wisconsin Statute 227.06, which "allowed citizens to ask any state agency for a declaratory ruling on the applicability of a law enforced by that department to any particular situation or set of facts."

On October 28, 1968, the CNRA, again

backed by the EDF, and the Wisconsin division of the Izaak Walton League of America, Inc., filed a petition with the DNR "requesting a declaratory ruling on whether DDT was an environmental pollutant within the definitions of section 144.01(11) and 144.30(9) of the Wisconsin Statutes." Put differently, a ruling was sought on whether DDT contaminated state waters, over which the DNR exercised jurisdiction. On December 2, 1968, the hearing began in Madison, with Mr. Van Susteren presiding as Chief Hearing Examiner.

The Wisconsin statute permitting interested citizens to obtain declaratory rulings on laws enforced by various state agencies was singular in the realm of state law and made Wisconsin the ideal setting for the foes of the pesticide. Opponents of DDT, and indeed environmentalists in general, had long been looking for a way in which their concerns could be voiced via legal action. The EDF had scored partial success in forcing a stoppage of the use of DDT as a mosquitoicide in the salt marshes of Suffolk County, New York. Were the judgment of the Madison hearing made in favor of the anti-DDT coalition, the impact would not only be statewide, but more importantly, draw national attention to DDT's detrimental physical character, and "provide the basis for further legal action and seriously set back the defenders of DDT." In any event, if managed properly, the hearing could become a podium from which the evils of DDT could at last be broadcast to a very wide audience.

But the Statute 227.06 merely states that citizens may ask for a declaratory ruling. Whether or not they are granted one is quite another matter.

In 1968, DDT was applied liberally to Wisconsin's woodlands, roadsides, marshes and farmlands to control mosquitoes, flies and gypsy moth caterpillars and other pests. The prevailing belief was that no other pesticide could be at once so inexpensive and effective, and that its application was essential to the preservation of those lands and—more importantly—the tourist trade which they attracted. If, it was thought, the use of DDT was halted, thousands of acres would be defoliated and overridden with flying insects, thus driving campers, hunters and fishermen to seek greener pastures elsewhere, where they instead would spend the tourist dollars so important to the Wisconsin's treasury. If DDT was really threatening the environment, its benefits in the minds of many seemed to far outweigh its costs; if the situation were truly otherwise, few within the realm of politics cared to know about it. Only when public outcry reached a sufficient pitch, did it become an issue politi-

cally safe to handle.

Thus Mr. Van Susteren's willingness—in fact, his determination—to hear out the evidence took considerable courage. And to him must be credited recognition that the Madison hearing was so essential to the revealing of the real facts about DDT—which only now began to receive full public attention.

The Adversaries and Their Early Expectations

The petitioners, the anti-DDT coalition which grouped at Madison, fully realized from the start the importance of the Madison hearing. The potential educative impact on the public was as noted, immense; the opportunity quite unprecedented. The *New York Times* called the hearing "... the first forum in which the nation's scientific community has been able to meet the [chemical] manufacturers in a face to face confrontation that can be carried to a decision. . . ." The hearing could "affect the use of pesticides in every state."

On the other hand, an advisory group of the National Chemical Association—the Task Force for DDT—had intervened in the Madison hearing. And the Task Force apparently did not appreciate the significance or importance of the hearing until long after it had begun, until news cameras from the networks were presenting national coverage. They never recovered from the consequences of these misjudgments.

A number of factors contributed to the poor start made by the Task Force when the Madison hearings began.

Madison's *Capital Times* called the hearing a showdown between David and Goliath: Goliath big, big moneyed and silk-suited; David "passionate but poorly funded. . . ."

First and foremost, the disdain with which the Task Force viewed the foes of DDT clouded the vision needed both to size up the enemy and to gauge the turf on which the battle was to be fought. The disdain was a holdover from the initial reactions of a number of respected biologists, chemists, agricultural economists and others to the doubts Ms. Carson had cast on the value of DDT. In their view, what she had suggested was irresponsible at best and harmful at worst. The benefi-

cial side of DDT, as they saw it, could not be denied and DDT's critics at most could make no more than a circumstantial case against it. In this view, the burden lay on those who questioned DDT to prove the case against it with careful, scientifically solid evidence. And until that kind of evidence was at hand, the critics were acting quite reprehensibly in using no more than circumstantial evidence to undermine public confidence in a demonstrably effective pesticide.

Complicating the task of proving the case against DDT for the foes of the pesticide, was the pattern of breakdown followed by DDT when it reached the environment: In identification tests carried out by scientists, DDT—when it broke down in the environment—yielded products almost impossible to separate from harmful PCBs which came from other substances. DDT advocates could point to this and claim that the pollutants had come from substances other than DDT, that the results of tests purporting to link DDT to PCBs found in fatty parts of all kinds of animal life were inconclusive, and that the claims of the coalition nothing more than "a convenient diagnosis." But during the hearings testimony of a Task Force witness, the chief chemist of a subsidiary of the Shell Oil Company, indicated that "with difficulty" the break-down products of DDT in the environment *could* be distinguished from PCBs which came from other substances. With that evidence in the record, the coalition was "home free" to insist that DDT be forced to stand trial.

The disdain for the critics which pervaded the Task Force was reflected in a variety of forms. UW Entomology Professor Ellsworth Fisher sat with Task Force representatives through much of the Madison hearing and throughout remained a staunch advocate of DDT. His perception of their adversaries was reflected in a remark he made at the time: "They're trying to indict us, while we're just trying to do our jobs." Louis McLean, an Illinois agri-business consultant who volunteered to represent the Task Force at Madison, referred to environmentalists as "[those who] are preoccupied with the issue of sexual potency."

But while McLean prepared to try to discredit coalition testimonials by casting doubt on the personal and professional character of witnesses, notes The Environment, The Establishment and The Law, a 1971 volume dedicated to a detailed discussion of the Madison hearing, McLean's adversaries—the coalition scientists—were busy collecting and fortifying solid proof against DDT. And as the coalition's evidence accumulated during the hearing, Professor Hickey—sitting in his office not far from Professor Fisher's

Entomology lab—came to realize that what scientists like himself knew was true in their own labs was happening throughout the biosphere.

Apart from the disdain the chemical companies held for their critics, the chemical companies were also unaccustomed to hearings at which cross-examination was permitted. Earlier complaints against pesticides resulted in, if anything, congressional meetings where the companies' usual procedure was to bring in paid scientists who would attest—almost without contention—to DDT's effectiveness and its non-toxicity to non-target animals and plants. In Madison, scorching cross-examination at a hearing "conducted in quasi-judicial fashion . . . [which was] a blend of scientific forum and criminal court proceeding," superseded, in Van Susteren's words the "legislative pow-wows" that the industry had encountered before.

It was a magnificent effort; these people were of inestimable value in the background. The whole action was perfect citizen's movement.

Finally, the Task Force could have better served itself by admitting DDT was a pollutant and altering its defense accordingly. "After all," notes UW Law Professor James MacDonald—a specialist in environmental law who acted as a counselor for the anti-DDT coalition during the spring of 1969 and in other capacities later—"too much tea is a pollutant. Anything that is entered into the environment in too great a quantity is a pollutant—with the exception of distilled water." But the Task Force was inflexible and antique in its defense; it essentially behaved as if it were determined to try to reissue the panacea status that DDT had when it first appeared as a pesticide. This proved an impossible task.

Madison's *Capital Times* called the hearing a showdown between David and Goliath: Goliath big, big moneyed and silk-suited; David "passionate but poorly funded. . . ." Professor MacDonald and Betty MacDonald, his wife, whose interest in environmental concerns also drew her to support the anti-DDT cause, both saw it as a fight between *Davids* and Goliath, the plural because of the diverse political and social make-up of the coalition which had rallied—in large part spontaneously—to oppose the Task Force at Madison.

One key member of the Environmental Defense Fund—the organization which largely represented the petitioners at the hearing—jokingly referred to his group as "the fundless environmental defenders." With the exception of the Chief Counsel, all members of the EDF had paid positions elsewhere, and volunteered when their testimony and support were needed. Though the coalition managed to raise more than \$60,000 to support those who testified and worked directly at the hearing, this was nothing in comparison to the funds that backed the opposition. Nearly all of the effort put out by coalition was done by private citizens on a voluntary basis.

Yet the coalition possessed a great wealth of a kind with which the Task Force was largely unacquainted: tenacity, concern, and enthusiasm generated by a diverse group desiring change. Linked with the sound testimony of "conservative and cautious scientists," the combination was virtually unbeatable.

The initial petitioners, six private citizens who belonged to the CNRA, were overshadowed by the impressive battery of scientists who assembled to give evidence against DDT. But it was the efforts of the CNRA petitioners which started the momentum that did not halt until it reached Washington, D.C., a few years later. They, with their friends and associates, also housed and fed those who testified for the coalition. Others—again private citizens along with University professors and students—also offered another crucial brand of aid to testifying scientists in the form of spur-of-the-moment research, referencing and stenography.

"It was," in Professor Hickey's words, "a magnificent effort; these people were of inestimable value in the background." The whole action was, states Betty MacDonald, a "perfect citizen's movement."

Those in the limelight received the headlines. The "ring leader" of the petitioners was Victor Yannacone, "a bright, brash and indefatigable lawyer from Patchogue, New York" who was Chief Counsel for the EDF. Yannacone always had "one eye on the headlines," recalls Professor Hickey. The lawyer's uncanny ability to elicit fresh and astounding news to coincide with the presses of Madison and national newspapers helped to win further publicity for himself and the case against DDT.

Yannacone's brilliance in Madison lay not so much in his capacity as a lawyer, but in his vise-like memory, sharp-tongued oratorical skills and great showmanship. His renowned prepping of coalition witnesses wounded many a scientist's pride; his acerbic behavior made tempers flare and fissures widen

within the petitioner's camp, but common cause kept them together.

Yannacone's counterpart for the Task Force was at first Louis McLean. McLean undertook the representation of the Task Force because he lived not far from Madison, and because both he and the industry believed that they'd be home for Christmas. The *Capital Times* believed the same. "The hearing," it reported, "will continue for a fortnight or more."

Unexpected Duration: From Two Weeks to Six Months

One reason the hearing lasted nearly six months instead of two weeks was that McLean's tactics misfired. His concentration on personal attacks—referred to earlier—proved futile, and "the more McLean examined, the more the scientists talked for the record . . . the better their position became."

And boy, did they talk. Charles Wurster, for example, who, "in essence outlined the case presented by the petitioners," was examined for three days as McLean attempted to destroy his credibility. But "Wurster had," notes James MacDonald, "as close to a photographic memory as anyone I ever knew." Much of Wurster's evidence, broad and far ranging, would probably have been ruled inadmissible had Yannacone tried to introduce it, but was instead allowed because McLean elicited it. McLean, in short, failed to parry, and in fact indirectly aided the "concerted broad-spectrum attack" dished up by the coalition; he was later replaced by Willard S. Stafford, a Madison attorney of broader mind and highly regarded trial-court skills.

"In the long run," expounded the *Capital Times*, a week into the hearing, "the decision on this vital issue will be made by the public."

Shortly after the hearing began, the Wisconsin Attorney General's office petitioned the Dane County Circuit Court for a writ of mandamus to force the DNR to permit the Attorney General's office to intervene in the hearings. The power to appear as public intervenor was approved and Robert McConnell of the Attorney General's office took the position. With a watch-dog for the public installed, the stakes immediately grew higher, and the public's collective mind forced to an impending decision on the future of DDT. Yannacone, fellow petitioners, and the Task Force grasped this. When the hearing resumed in January of 1969 after a Christmas recess, the Task Force returned to Madison with new determination and a team whose sole purpose was public relations.

While the Madison hearing intensified

and the country was slowly becoming aware of the "disastrous physical properties of DDT," an event outside of Madison pushed public opinion to new levels of concern about the pesticide.

Late into the presentation of the defense, the news broke that the federal Food and Drug Administration had banned the sale of 32,000 pounds of Coho Salmon taken from the waters of Lake Michigan: the fish had been found to contain as much as fifty parts per million of the pesticide. On April 17, the Michigan Department of Agriculture's Executive Board—which had long been a great defender of DDT—voted to ban the use of the pesticide in the state.

This news was sensational and its effect immediate. Lab experiments now seemed all the more pertinent. Combined with the hard evidence delivered by an array of scientists at Madison, the news was condemning DDT. The public had at last had enough. Before the hearing ended, the Wisconsin Legislature, which had been in session during much of the proceeding, also voted to ban the chemical. The original goal of the CNRA had been attained.

The Madison Hearing: How It Ended, What It Meant

The Madison evidence showed lucidly the disastrous traits of DDT. "Its persistence, solubility in lipids, broad biological activity and surprising mobility" were traits which wreaked destruction. "The

fact that DDT was being stored in body fat and in the fatty layers of the nervous system; that DDT was not remaining restricted to the pests it was sent out to eradicate but was also affecting beneficial insects, fish and birds; and that concentrations of DDT could now be found throughout the biosphere . . ." supported

"Only in a courtroom," said Yannacone, "can bureaucratic hogwash be tested in the crucible of cross-examination."

the conclusion that DDT adversely affected everything other than humans.

If a showing of the effects on the rest of the planet was not enough—if the potential danger to humans had to be spelled out—the testimony of S. Goran Lofroth showed that there was universal contamination of human mother's milk with DDT residues. And the Madison evidence was crowned with the appalling revelation that the Federal agency designed to regulate pesticides had left safety testing and poison information of all pesticides to the manufacturers: the agency questioned only discrepancies in that information and did not attempt to verify the information furnished by the DDT manufacturers.

The declaratory ruling was not released until May 21, 1970, a full year after the adjournment of the hearing. To most—and perhaps also to himself—Chief Hearing Examiner Van Susteren's report was a letdown: DDT by that time had been banned in Wisconsin and Michigan. The coalition had scored its victory. And the future of DDT was imperiled at a national level. But Van Susteren's report was a reminder that Madison's hearing was more than a "legislative pow-wow," that the public could, and indeed did, reshape and modify that with which it was dissatisfied.

"Only in a courtroom," said Yannacone, "can bureaucratic hogwash be tested in the crucible of cross-examination." What was revealed at Madison was the bitter pill, "the unpalatable facts" about DDT, and about the way in which our government regulates pesticides. The hearing signified many firsts: the first time environmentalists met pesticide manufacturers face to face; one of the first times an environmental contention was litigated, albeit in "quasi-judicial fashion;" one of the first times the incompetence of a regulatory agency was so plainly revealed.

But above all, the Madison hearing represented a true victory for concerned citizen's whose workings displayed, says Betty MacDonald, "the anatomy of a perfect citizen's movement." It was, notes one authority on the hearing, "with the backing of various outside scientists and with volunteer help . . . [that] Yannacone kept the crucible hot."

Farewell, Madison

*Robert M. O'Neil
Professor of Law and
President, UW System*

Though a law professor's life is never dull, there are times of relative repose and reflection. One who is also a full time university administrator of course finds fewer respites. Yet even for one who is doubly occupied, a transition between universities causes one to reflect upon experiences and institutions. It is at such a time, having completed my years as a Wisconsin law professor (and president), and about to assume the same role at the University of Virginia, that I thought a few reflections might be in order.

The opportunity to teach law at Wisconsin has been a rare and challenging experience. My first contact with the UW Law School occurred in the summer of 1970, when I came to Madison (my first visit here, in fact) at the invitation of Willard Hurst to assess the effects of the teaching assistant strike that spring. Willard arranged for me to talk also with Nathan Feinsinger and with Arlen Christensen, both of whom had played significant roles in resolving the strike. I toured the Law School building that afternoon, and came away with the distinct impression of subterranean passages and tortuous corridors—an impression which proximity and greater familiarity have, I may say, in no way diminished! But the visit also reinforced my admiration for the school and those of the faculty I had already known or met that day. Little did I realize that ten years later I would be joining that faculty.

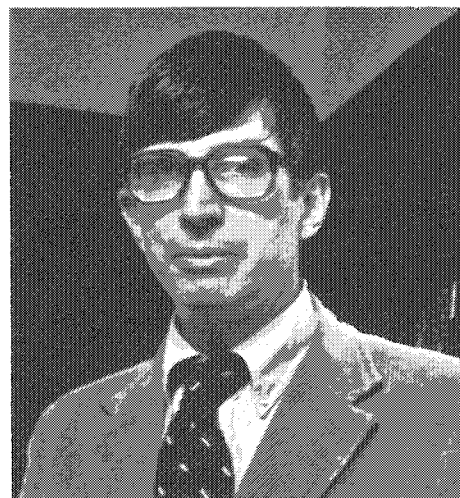
No law faculty of which I have been a member—Berkeley, Buffalo, Cincinnati and Indiana being the others—better combines the qualities of collegiality and challenging ideas than does this one. Nowhere else is there the sense of excitement or ferment—in and outside the classrooms, and of course in offices and the faculty lounge—that I have found here whenever I was able to enjoy my membership in

this community of legal scholars. No law school fits better into the larger context of a research university, or makes better use of interdisciplinary ties and links between scholars across campus. This is truly an exceptional group of colleagues, distinctive quite as much for their variety of background and perspective as for their collegiality and cordiality.

The students have also been exceptional. During the past five years I have taught one course each semester. Through constitutional law, commercial law, and advanced contracts, I have come to know some 350–400 of the most promising young lawyers and future lawyers to be found anywhere. In fact, the students are in many ways as collegial as the faculty; they approach problems and issues in and outside class with a common quest for insight rather than a passive expectation that the professor alone knows (or will discover) the answer. Time and again I have learned from my students as we have explored fascinating paper topics or puzzled unresolved questions of constitutional or commercial law. I can only hope they learned as much from me as I did from them—and I look forward to hearing from many of them as they apply what we learned together to the practice, making, judging, or in at least a few cases I hope, the teaching of law.

Law school deans tend to be unsung heroes and heroines, but I have a very special feeling about the two deans under whom I have served here. Orrin Helstad not only made me welcome in the early months (ably aided by Stuart Gullickson) but along with Charlotte became Karen's and my co-hosts for an annual gathering of law faculty and judges which I hope my successor will continue.

Cliff Thompson is, of course, a special friend and one I will miss most keenly on leaving Madison. He and I were debate



partners and college classmates in the '50's and have shared many experiences since then. Just last spring we recreated at Marquette University a 1954 debate which first brought both of us to Wisconsin—and though we lost the original debate, we felt last spring that we had finally joined those we could not beat! Since he and Judith came to Madison, Cliff has been an exemplary dean as well as a dear friend and colleague. I especially regret leaving his faculty now that we have been reunited.

One other quality that I have much admired is the strong support from alumni that has been shown through the recent capital campaign. I have been privileged to meet with a number of law alumni groups during the last three years, and have found them unfailingly supportive, as well as curious about the current condition of the Law School. If the distinction of a professional school is measured in part by the quality and support of its graduates, there should be no doubt where Wisconsin ranks in this dimension as well.

As I recall these qualities I have so valued during my years on the UW Law Faculty, I can only hope the future will be even brighter and more illustrious. All the ingredients are here—a faculty of first-rate scholars and teachers, a challenging and committed student body, a supportive and accomplished alumni, and a congenial university setting. One could not ask more than this, and I would not expect to find more anywhere else.

Community Property Comes to Wisconsin

William G. Moore



June Weisberger

On the First of January 1986, the Wisconsin Marital Property Act of 1984 will replace current Chapter 766 of the Wisconsin Statutes, "The Rights of Married Women." The Act is an integrated statutory plan based upon a community property system. When implemented, it will make Wisconsin the first common law property state in which "a serious attempt to introduce the concept of full sharing of the economic fruits of marriage" has been made.

Professor June Weisberger, who joined the Law School Faculty in 1974, played a large part in the drafting of the bill which was passed by the Legislature in the Spring of 1984. What began for her, during the 1975-76 school year, as a "spare time project" quickly escalated into an enormous undertaking—forty-six total versions of the bill were drafted before final passage.

So comprehensive is the enacted legislation and the uniform act upon which it is based, say some scholars, that it "represents an excellent model for other common law states, as well as for community property jurisdictions looking to improve their own statutory schemes." Twelve states are presently considering the Uniform Marital Property Act as a model for modifications of their marital property law statutes.

On the other hand, critics have displayed a spectrum of opposition that ranges from claims that the Act will destroy the viability

of the family unit, to the belief that, with or without the recent changes in spousal relationships and marital patterns, marriage cannot be viewed as a partnership of equals.

Whatever the verdict, many believe that "[t]he community property system [more] accurately reflects the modern trend toward viewing marriage as a partnership and is . . . superior to the common law theory of marital property."

Professor Weisberger's vital role in the development of the Act and the genesis, history and some of the controversy of the new legislation in Wisconsin are traced below.

Twenty-two years ago, the Report of the Committee on Civil and Political Rights to the President's Commission on the Status of Women produced a critical analysis of what it perceived to be the inequities of the marriage contract and, with it, offered some solutions to offset these imbalances. In part, the Commission reported,

Marriage is a partnership to which each spouse makes a different but equally important contribution. This fact has become increasingly recognized in the realities of American family living. While the laws of other countries have reflected this trend, family laws in this country have lagged behind. Accordingly, the Committee concludes that during marriage each spouse should have a legally defined and substantial right in the earnings of the other spouse and in the real and personal property acquired as a result of such earnings, as well as in the management of such earnings and property. . . .

Since 1963, the character of marriage has changed considerably. The divorce rate has risen dramatically, and in many families both spouses are employed. Family law has changed as well, yet many problems underscored by the Commission have remained. Equal contribution by spouses is not recognized by the vast majority of creditors, for example. Often, "a non-wage earn-

ing, non-asset owning spouse will probably be in a better position, from a legal and economic point of view, following divorce . . . than during an ongoing marriage." And "[r]eformers have stressed the irony of existing public policy in common law property states which recognizes the principle of spousal sharing and the concept of marriage as an economic partnership only when the marriage is no longer viable," that is, at divorce.

At a national level a remedy for this condition has been suggested through a conversion to a community property system. In 1979, the National Conference of Commissioners on Uniform State Laws formed a drafting committee on a Uniform Marital Property Act (UMPA). As the fruit of their efforts, the Committee produced a draft intended to serve as a model by which states could reform the "existing rules [which] are fundamentally inconsistent with the modern belief that marriage is a partnership between equal persons . . ." and assuage the inequities outlined by the Committee and recognized by an increasing number of lawyers and laypeople. Wisconsin's endeavors along these lines, however, began even before the national proposal was issued.

A Push for Change: Wisconsin's Marital Property Act

Wisconsin is the first common law property state to address comprehensive marital property law reform. The state's Marital Property Act is linked to, but is to a degree independent of, the Uniform Marital Property Act adopted by the National Conference in July 1983. In fact, prior to the formation of the UMPA drafting Committee, an ad hoc committee brought together by the Governor's Commission on the Status of Women had already drafted the preliminary version of what would ultimately become the state's Mari-

tal Property Act. Wisconsin later based its Marital Property Act on UMPA, to which it had contributed many provisions while the Uniform Act was in its infant stages.

It was an important relationship characterized by symbiosis; while the Wisconsin Act benefited greatly from the force of the national reform plan when it faced law makers, the national committee was aided by the efforts of Professor June Weisberger and those with whom she worked to formulate a bill. A fertile exchange of ideas and information was expedited by Peter Dykman, who both served on the UMPA drafting committee and works as a supervisory attorney in the Legislative Reference Bureau, the agency which drafted Wisconsin's version of the Act.

The origins of the Wisconsin Marital Property Act can be traced back to 1974, to the failure of the State Equal Rights Amendment. Proponents, frustrated in their efforts to pass the constitutional amendment, re-routed their plans and worked for the passage of an omnibus bill which would make the Wisconsin statutes sex-neutral, and which addressed the specific issues they believed were in need of reform. The omnibus bill passed, but missing from its provisions was any revision of marital property laws. The reformers took up marital property law reform separately shortly thereafter.

Thus in the mid 1970s, the Governor's Commission on the Status of Women initiated a "broad push to define the legal rights of women." Marital property rights were among these. The momentum needed to get a bill through the intricate machinery of the legislature was underway.

From Groundwork to Enactment: The "Popover Paper Days" and Subsequent Passage

In 1975, an ad hoc committee made up of legislators, practicing lawyers, citizens groups and law professors was formed under the auspices of the Governor's Commission on the Status of Women to "study alternative legal rules governing spousal property rights and make recommendations for change." Research was provided through law students who worked under the supervision of Professor Weisberger. Her role later grew to include, along with other members of the committee, the duties of exploring the implications of a bill, determining what direction it should take, and formulating specific provisions. Professor Weisberger then drafted instructions from the conclusions drawn up by the Committee.

The early meetings of the ad hoc committee were held in the Popover Room in the Memorial Union at the University of Wisconsin. There, papers were presented suggesting general policies for drafting

instructions. The meetings acted as a sounding board where alternatives were explored and tentative provisions were modified or excised. These "Popover Papers" streamlined the drafting process. Comprehensive drafting instructions were handed to the Legislative Reference Bureau of the Wisconsin Legislature in 1978. The first bill was introduced in December of 1979.

Its progress from then on was "due to the dedicated efforts of Representatives Mary Lou Munts, James Rutkowski and Barbara Ulichny as well as Senators William Bablitch and James Flynn." Additional support came in the Fall of 1983, when the bill was re-drafted to incorporate most of the provisions of the Uniform Act's provisions. From the time of its inception to its final form, the bill saw some forty-six versions. In March of 1984, the Wisconsin Legislature passed "1983 A.B. 200, the Marital Property Reform Bill." Governor Earl signed the Act on April 4, 1984. On January 1, 1986 it takes effect. Wisconsin is the first state to adopt a version of the Uniform Marital Property Act.

For legislation proposing such fundamental change in existing law, 1983 A.B. 200 encountered remarkably little opposition in the Senate. Votes there went overwhelmingly in favor of it, 27 for, 5 opposed; in the Assembly the bill met with greater resistance, 59 for, 43 opposed. Still, Representative Mary Lou Munts claims she was "elated that it passed in just three sessions."

Professor Weisberger attributes the bill's success to three factors: firstly, to the grass roots movement which preceded and accompanied legislative debate and broke the ground for reform; secondly, to support the bill received from prominent legislators; and lastly, to the earlier Wisconsin legislative efforts which were key to the passage of UMPA-based legislation.

Others involved in supporting the bill agree with Professor Weisberger's analysis, but hasten to add that her "untiring efforts" were essential to the launching of the legislation.

The Wisconsin Act: Provisions in Brief

It is not the aim of this article to offer a detailed and scholarly explanation of provisions of the Marital Property Act; that is the place of law reviews and journals. What is provided is a brief description of some of the key changes included in the legislation and the philosophical bases for those changes.

A. Fundamental Premises

The Wisconsin Act is based on the "fundamental policy determination that it is desirable to replace common law definitions of marital rights and responsibilities and

implement property rules with a definition of marriage as a partnership between equals and property rules consistent with that definition." Its "root concept" is that property attained during marriage by the efforts of spouses is to be shared.

B. Classification of Property

The Act "creates a new system of property rights applicable to property owned by spouses during a marriage."

Property falls into one of two categories: Individual or Marital. The latter has the broadest definition. Property acquired during marriage and after the Act's effective date by efforts of Wisconsin married couples is marital property. Each spouse has an existing, one-half undivided interest in it. This classification includes all wages earned by either spouse and income derived from the second category, individual property. All property is presumed to be marital property unless classified otherwise by a preponderance of evidence.

Individual property is defined as that which is owned by a spouse at the time of a marriage and includes property which is acquired during marriage and after the determination date by gift or by testamentary disposition or under intestacy.

The Act has only tangential impact on divorce proceedings. Its provisions seek to establish above all the "present shared property rights of spouses during marriage." The Act simply escorts couples "to the door of the divorce court" and "adds one more factor to the current list of factors to be considered by a court when dividing the spouses' property at divorce. . . ."

In order to minimize any constitutional problems, the Act will have no immediate impact on the characterization of property held by couples who were married before the Act's effective date. Such property will "continue to have whatever characteristics it had before the Act became applicable to its owners" until divorce or death.

C. Management of Property

The Act offers a plan under which marital property may be managed and controlled by either one or both spouses.

Spouses may title marital property in any form allowed by law. Management is title based; if title to property is held by one spouse alone that spouse has, under the Act, the exclusive right to manage and control the given property, "subject to the general duty that he or she will do so in good faith." Title, it should be stressed, does not rebut the presumption that all spousal property is marital property.

Either spouse may manage marital property titled in the alternative; both must manage that which is held in the conjunctive.

D. Marital Property Agreements

A key provision in the Act allows spouses to reclassify their property by a Marital Property Agreement, which provides couples with the opportunity to tailor an agreement to their individual needs and requirements. If no contractual variance is made, the Act applies as stated in the statutes.

The adjustable nature allows a couple to "opt-in, opt-out, or do both in part [and] permits a couple to move its marital economics from status to contract."

There remain, however, inalterable rights provided by the Act. A Marital Property Agreement can in no way modify the good faith management responsibilities of spouses to one another, alter the provisions protecting third party creditors or bona fide purchasers, or the support of children. All other provisions are open to contractual variance unless contrary to public policy.

E. Interspousal Remedies

Under the Act, marriage is viewed as a joint venture and a quasi-business association in which both partners have certain, defined rights. The right to legal action by one spouse against the other is one of these.

In situations where a given marital property asset is titled in the name of one spouse only, the Act specifically indicates the existence of management rights for the titled spouse. In addition, it provides meaningful remedies to the spouse whose name does not appear of record. More specifically, a spouse may have a claim against the other for "breach of duty of good faith resulting in damage to the claimant spouse's undivided one half interest in marital property." If marital property is used to satisfy a debt other than a marital obligation, the non-obligated spouse may ask for a court to order that he or she be reimbursed with marital property, redesignated as individual property, equal in value to that taken to repay the debt. Also, except for certain business property, a non-titled spouse may have his or her name added to a document of title.

F. Taxes

The Act provides for a state joint income tax system. The effective date of the Act was planned to coincide with the start of a new tax year for married couples.

G. Death of a Spouse; Probate

At the death of a spouse living in Wisconsin, all property owned by that spouse that was acquired during marriage and before the determination date that would have been marital property under the Act is treated as marital property. The provision aims to protect the surviving spouse because property of the

deceased which would have been marital property is divided in half before the wishes set forth in the deceased's will are taken into account.

H. The Trailer Bill

In June of 1984, the Legislative Council established a Special Committee on Marital Property Implementation. Its task was to formulate a technical amendments or trailer bill to assist in a smooth transition to the new marital property system. Professor Weisberger was appointed to serve as one of three public members. She also served as the Chairperson of the Special Committee's Technical Review Subcommittee. As a result of the Special Committee's deliberations and the Legislative Council's recommendations, a trailer bill was introduced into the Wisconsin Legislature in the Spring of 1985. The trailer bill was passed by the Senate. At this writing, it awaits Assembly action.

The Reaction of Critics

Opponents of UMPA and Wisconsin's version thereof have been characterized by an unwillingness to change the existing system. The cost and complexity of such modifications, they argue, are too great.

Some have what Professor Weisberger refers to as "philosophical differences" with the provisions of the Acts, and do not acknowledge that marriage consists of two co-equal contributors.

A number of lawyers have pointed to the legal headaches their profession will face once the Act is implemented. John Haydon ('59), a Milwaukee based counselor with the law firm of Whyte and Hirschboeck, spoke at the Law School's Spring Program Seminar on The Wisconsin Marital Property Act. Once a strong opponent of the Act, he has now begun to work to smooth its implementation, largely through work on the trailer bill. The reaction he feels lawyers will have to the Act is one of "disbelief, frustration and discomfort as they re-think the traditional ways of representing spouses." As "conflicts become more and more the rule than the exception," lawyers will be forced to re-examine the traditional ethical basis of representing a couple, the spouses of which may now have separate legal needs and interests. Above all, lawyers must learn, he stressed, that "informed consent is necessary to be free of ethical problems" of the profession and that separate representation of spouses may, in many cases, be a necessity.

But since the Wisconsin Act followed years of studying the shortcomings of the common law property rules and the advantages of many of the existing rules in the eight American community prop-

erty states, many of the faults associated with the traditional property systems have been overcome.

Foresighted provisions have, for example, eliminated the dilemma which arises when spouses maintain two residences, one within, the other without the state—a problem which many community property states still have not corrected. In Wisconsin, spouses are "free to designate the law of the jurisdiction of their choice which shall govern their property rights." It is, one scholar said of an early version of the bill, and mirrored in the proponents' assessments of today's much changed Act, "[a] carefully thought out, well drafted and comprehensive statutory scheme which addresses itself to the underlying causes of the present difficulties [and] discards the non-system of the married women property act and instead substitutes a true system of community property better than any of the eight models now in existence. . . ." "[It is] an excellent model for other common law states."

The Future

The immediate impact of the Wisconsin Marital Property Act will be the removal of the "irony of existing public policy" in a state which recognizes the principle of co-equal spousal partnership, but only at divorce. How long it will be before the Act begins to reshape the edifice created by former policies and statutes is impossible to say.

Professor Weisberger believes an immediate practical change brought about by the Act will be the extension of important economic rights to lesser-wage and non-wage earning spouses—the extension of credit, for one.

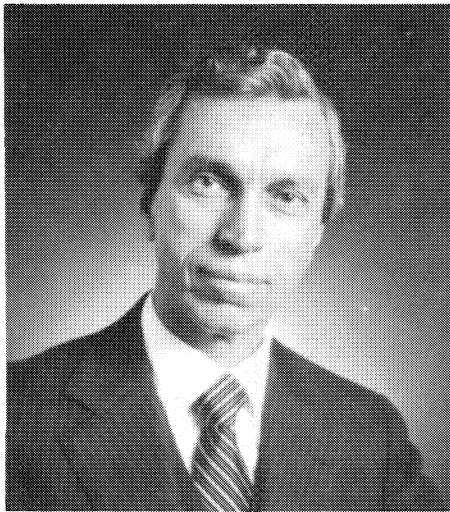
Subtle changes will be manifested over longer periods of time, she maintains. Ultimately, the Act will "give to homemakers and lesser wage earners a true sense of contribution, a new feeling of self-worth and encourage them to participate more in decision making."

How this new feeling will affect the divorce rate, the structure of everyday family living, marital violence, probate and the cost of death or divorce, is yet to be seen. Whether or not one family can be represented by single counsel also remains a question in some minds. Part of the answer will be found in how aware the public is of the new legislation and how comprehensible it finds it.

The majority seems to concur, in any case, that UMPA and the Wisconsin Act will provide for a more equitable marital status for both spouses. At a time when the fundamental institution of our lives has proven so fragile, the Acts offer a new promise toward a sounder framework for marriage.

Conflict Problems Under Marital Property Act

John B. Haydon



John B. Haydon ('55) is a partner in the Milwaukee firm of Whyte & Hirschboeck, S. C. In May he presented the following remarks at the Law School Spring Seminar on the subject of "Attorney Conflicts of Interest." His particular topic involved conflicts under the new Marital Property Act.

In addition to numerous State Bar activities in the areas of trusts and estates, John is a member of the American College of Probate Counsel.

I am delighted to join in this program on exploring lawyer conflict of interest problems. I appreciate the chance to discuss ethical problems relating to the new Marital Property Act. I have been involved in the development of the new law since the possibility of Wisconsin becoming a community property state began to be openly discussed back in 1978.

Numerous meetings, memos and drafts involving marital property, often on different sides of the fence, have resulted in friendships and feelings of camaraderie

which have been most rewarding. These efforts demonstrate how people with very different original viewpoints can work hard together toward common goals. These goals include the promotion of personal rights, the improvement of the legal system, and the development of our underlying property law.

First, I would like to make some broad observations concerning present practices involving conflicts of interest. Since much of my practice involves estate planning, I will use estate planning, particularly for spouses, as illustrative of the points I would like to make. In estate planning, as in financial matters, real estate, negligence litigation, et cetera, attorneys representing spouses under the present common law property regime in Wisconsin, generally have been able to accommodate themselves to the ethical considerations involved in conflicts of interest. Spousal conflicts in estate planning have involved matters such as gifts, property rearrangements, elective rights, and effects of marriage or divorce on estate plans. Other areas of conflict include second marriage situations (particularly where there are children of a first marriage), the use of QTIP marital trusts, allocation of the death tax burden, and the general tension involved in developing a mutual estate plan. We all know of couples where a dominant partner attempts to impose his or her intentions on the other, with the attorney caught in the middle representing both parties. These types of conflicts will continue under the new law.

Attorneys generally have been able to work with spouses within the normal dual representation (or multiple representation) rules, based on actual or implied consent of the spouses. Alternatively, where differing interests of the spouses could not be accommodated by dual representation, under our ethics, the attorney

has had to insist on separate representation (an independent lawyer for each party). In addition, for example, the general (and advisable) practice has been to rely on separate representation when a pre-marital agreement is involved. And the ethical rule is clear that separate representation is required in the divorce context. Other than these types of circumstances, the spouses' interests have generally been aligned and attorneys have ordinarily been able to represent both spouses under the ethical rules of informed consent. As a result, there has developed a feeling among attorneys that the norm is that one attorney may represent both spouses in estate planning.

However, even under the current common law separate property regime, there have been some voices in the wilderness warning us that some attorneys may have become a bit too lax. For example, the following quote, although far too sweeping in its conclusion, is illustrative:

It may be that "family lawyers," that is, those who represent both the husband and wife and advise them on the disposition of their property, should be more alert of the possibility that the loss of control over property is against the wife's interest. Of course, if there is even a possibility of a conflict of interest, the lawyer should not represent both people.

Babcock, *et al.*, "Testamentary Trusts for the Benefit of the Wife," *Sex Discrimination and the Law, Causes and Remedies*, 614, at 619 (1975). See also Flaherty, *Conflicts of Interest Arising in the Two-Spouse Estate Planning Context*, May-June 1982 issue of *The Estates, Gift and Trust Journal* (Tax Management, Inc.), 17, and August G. Eckhardt, "The Estate Planning Lawyer's Problems: Malpractice and Ethics," Chapter 74-6, *Proceedings of 1974 University of Miami Law Center Institute on Estate*

Planning (and Panel Discussion: Professional Ethics, Chapter 74-6), published by Newkirk Associates, Inc.

The result of the present practice has been a relatively high comfort level. However, when I speak to groups of attorneys in seminars, and individually, I find that, as they learn about the coming of marital property, this comfort level is being shattered. In this regard, two things will happen with the coming of marital property: First, the basic underpinnings of our property law will be drastically changed; as a result, lawyers are now experiencing future shock. Second, because of marital property, ethical concerns will be heightened and lawyers must become more aware of them and come to grips with them; this has been disquieting to many attorneys.

It seems to me that the following conclusions will apply: 1. The existence of significant conflicts of interest, sometimes classic conflicts, will be more the rule under marital property, rather than the exception; 2. adherence to the specific procedures of Disciplinary Rule 5-105, concerning informed consent to dual representation, will be required if the attorney is to be free of ethical problems in representing both spouses; and 3. in many more situations, separate representation by two lawyers, one for each spouse, will be required.

You may be interested to learn that, based on numerous meetings and seminars in which I have participated, the general reaction has been disbelief. The conflict of interest problems under the new Marital Property Law apparently will continue to cause considerable frustration and discomfort, until the Bar rethinks its traditional ways of representing spouses. Ultimately, these problems will be worked out.

However, I have a fear that some of our brethren will not wake up in time to avoid the ethical problems. This may occur because some have not faced the necessity of understanding what community property, Wisconsin style, is. Or it may occur because some may ignore the new and heightened conflicts of interest, and not take steps to solve them under the Canons (or the similar requirements of the new ABA Model Rules of Professional Conduct, if adopted in Wisconsin).

Why have I made such bold statements? The basic reason is that, when we pass through the curtain, at 12:01 a.m., January 1, 1986, spouses in Wisconsin will come under a unique community property regime, the Wisconsin Marital Property Act. The essence of that Act is that each spouse owns, as marital property, as of the instant of expenditure of efforts by either spouse, all rewards or fruits of the efforts of work of either spouse. This rule

of instant ownership, as marital property, applies regardless of the type of efforts expended by a spouse or the form of such rewards, whether in the form of wages, fringe benefits, substantial appreciation in value of property, or the like. This ownership interest in marital property is a vested undivided one-half interest, which cannot be severed unilaterally.

With this community property co-ownership comes specific rights of management, rights of control, rights to use marital property by either spouse for obtaining credit, and rights in each spouse to dispose of one-half at death (the other one-half ownership interest already being owned by the surviving spouse). Further, under the Wisconsin Act, in general, all income from whatever source is marital property, and substantial appreciation of assets due to substantial efforts is marital property (unless reasonable compensation has been received). And, possibly most importantly, all assets, if they cannot adequately be traced to a non-marital source (such as an inheritance of pre-marriage property), will become marital property.

The new conflict of interest concerns for the attorney, when representing spouses under the new Marital Property Act, are derived primarily from the nature

We all know of couples where a dominant partner attempts to impose his or her intentions on the other, with the attorney caught in the middle representing both parties. These types of conflicts will continue under the new law.

of marital property itself. Assets will not belong to one spouse or the other, based on title, or whose name is on the paycheck. Hence, the attorney will be involved in the difficult process of classifying the couple's property and advising each of spouses of their respective rights, based on such classification. Classification, and not title, will determine ownership, and all that flows from ownership. Classification involves legal and factual analysis and judgment, as to which each spouse is entitled to independent professional advice.

Let's take an example. The classification of stock of a closely held business as marital property (for instance, because it may have been derived from efforts of one spouse during marriage will result in each of the husband and wife owning a vested one-half interest. By contrast, if the

stock is classified as individual (separate) property of the husband, the husband will solely and wholly own it, free of any claim whatsoever of the wife. Or, it may be classified as mixed property and complicated questions of tracing and possible debatable fractional interests may arise.

If the attorney blithely advises the spouses that an asset is of one classification, which will be detrimental to one or the other of the spouses (and it seems it will always be detrimental to one, and advantageous to the other), without first facing and solving the conflict of interest, the attorney is possibly exposing himself significant risks. These risks include ethical censure; a possible malpractice claim; and if so, probable loss of one or both clients. Further, there is a risk of possible invalidity of an action taken (such as an invalid transfer, consent or marital property agreement). These indeed are dire consequences.

The same concerns arise in other settings under the new law, such as advising as to joinder or consents in financial and other transactions; preparation of and advice concerning limited or general marital property agreements, which agreements will be far more prevalent; exercise of management and control rights; advice as to the effect of the good faith duty between spouses; conflicts in probate, such as conflicts resulting from representing the personal representative and a spouse at the same time where there are other beneficiaries; and litigation involving marital property.

Another example may help illustrate the necessity for attorneys to be alert to new conflicts of interest arising from marital property. The general rule seems to be that when the attorney represents only one spouse, he has no direct professional duty to the other spouse, since each is an independent person under the law. Accordingly, it would seem there should be no concern, as long as it is made clear to the non-represented spouse that the attorney represents his or her spouse alone. However, lawyers under the new law will need to be alert to at least two new conflict of interest considerations.

First, the attorney must be alert to the duties owed by his client-spouse to the other spouse, and the nature of their respective property interests. For example, there are duties arising from co-ownership; the Marital Property Act adds a duty of good faith between spouses; the Act contains restrictions on gifts; the credit transactions of one spouse affect marital property (including future income) of the other spouse, and so on.

Second, although no part of the Marital Property Act creates or implies any direct professional duty by the lawyer to the non-client spouse, we should be alert to

that possibility. In some circumstances, there arguably may be a direct duty to the non-client spouse. This possibility arises by reason of the community property ownership of an asset, as to which the lawyer is advising the client spouse, since the non-client spouse has an equal com-

The basic rule is, of course, that where the interests of the spouses differ, the attorney should alert them to that fact, explain their respective interests, the implications of dual representation, and the advisability of considering separate representation.

munity property ownership in the same asset. For example, a relatively recent California divorce case involved a lawyer for the husband and the family business, the stock of which was community property. Under the unique facts of that case, the court ordered the lawyer disqualified from representing the husband. In such a litigation setting, the lawyer may have a direct professional duty to the wife, and, hence, may have an impermissible conflict of interest, because of her community property ownership interest in the stock of the corporation.

I would argue that the holding of this case should be confined to its particular facts and the implication of this case should not be carried beyond the divorce context. In fact, I don't believe a general rule can be based on the Court's decision, because of some unique facts we might explore in the discussion period.

The present rule that a lawyer is able to represent one spouse alone, without a conflict concern or direct professional duty to the other, should continue under marital property. However, this is an example of the types of issues which are expected to arise under the new law.

The basic rule is, of course, that where the interests of the spouses differ, the attorney should alert them to that fact, explain their respective interests, the implications of dual representation, and the advisability of considering separate representation. If the attorney concludes that he may adequately represent both spouses, he still should not do so without receiving consent of each of them. The newly published book, *Marital Property Law in Wisconsin* (ATS/CLE, 1984) explores various marital property situations and its general position is that, in most harmonious estate planning circumstances, dual representation is practical and in the interests of the spouses. However, the danger is that the attorney may not recognize the conflict (particularly those arising under the new law), or may not adequately explain the ramifications to the spouses. Further, the attorney should not proceed to advise them both unless he or she reasonably determines that he or she can adequately represent the interests of each, based on their knowledgeable consent. The book proposes various relevant factors which provide guidance in making this decision. Further, as one might suspect, the best advice is for the consent to be confirmed in writing.

Now some concluding remarks. The perspective of the Wisconsin attorney who faces marital property is one of some bewilderment. We are involved in a unique, historic, if not wrenching, event.

Unique and historic because no state has ever made a permanent, mandatory and all-inclusive conversion from common law (separate) ownership of property, based on title, to community property, with marital property co-ownership and control based on classification, regardless of title. I submit this is wrenching because the law is so far-reaching, as well as unfamiliar to us and our clients; further, much of our new law has yet to be written, and then to be passed by the legislature via the trailer bill. Relevant to our discussion, this is wrenching because the new law changes the basic legal assumptions underlying spousal conflicts of interest.

As to the over-all perspective, although it is perplexing, the challenge is exciting for all of us.

WISCONSIN PRO BONO FOUNDATION UNIVERSITY OF WISCONSIN LAW SCHOOL

The Wisconsin Pro Bono Foundation, based at the University of Wisconsin Law School, was incorporated in 1984 as a nonprofit organization dedicated to providing broad-based legal representation to under-represented members of society. Through private fundraising the Foundation sponsors law students in public interest legal work internships. The Foundation funded its first two interns in 1984.

You recently received a mailing from the Founda-

tion requesting contributions to fund the Foundation's 1985 summer internship program.

The Foundation deeply appreciates the contributions you have made, and gently urges those who have not yet responded to the mailing to send a contribution to the address above. Please remember that your tax deductible contribution is used *exclusively* to fund public interest legal work internships, not administrative or other overhead costs.

International Experience of the UW Law Faculty

The University of Wisconsin Law School boasts a diversified, urbane faculty whose concerns voyage well beyond the confines of the University proper. Many of our faculty members have traveled and spent time outside of the United States promoting learning and education in other lands, and offering their expertise to the governments of foreign nations.

The University's law professors have visited, taught and lectured in over forty countries: nine African lands; eight European countries; the Soviet Union; Australia; much of Central and South America, and countries in Southeast Asia, the Caribbean, and the Middle East.

Some have occupied such prestigious positions as advisors to Supreme Courts and Ministers of Finance, consultants to the architects of new judicial systems, Deans of foreign universities and envoys in US government missions to foreign lands; others have been professors in residence, guest lecturers and conferees.

Gordon Baldwin specialized in International Affairs at Cornell University Law School. He has had a broad range of experiences in international matters: Between 1966 and 1977 he was awarded two Fulbright Professorships to teach and study in Cairo and in Teheran. He lectured in Cyprus and in the summer of 1984 was a visiting professor at Chuo University in Tokyo, Japan. Mr. Baldwin has also served the US Government on numerous occasions. From 1975-1976 he was a counselor on International Law for the Department of State. He acted as a delegate to the UN Conference on Charter Revision in 1976, and during several months of 1977 was part of a US mission to Bolivia to investigate prison conditions; in that same country he assisted a US Government mission on narcotics investigations.

Awarded a Fulbright to study in Cambridge, England, **Richard Bilder** also

worked as an attorney for the Office of Legal Services at the Department of State, where he participated in a number of international negotiations and conferences. He returned to England for a semester in 1972 as a visiting fellow at the Institute for the Study of International Organization, at the University of Sussex.

William Church was a lecturer at Haile Sellasie I University in Ethiopia from 1963 to 1965 and at the University of Zambia Law School from 1972 to 1974. In the interim, from 1971 to 1972, he served as an advisor to the Supreme Court of Afghanistan. In past summers he has joined forces with Professors Davis, Irish, Kidwell and Zile to teach foreign students interested in the workings of United States law. This summer, along with Professors Irish and Zile, he traveled to West Germany to teach a short course in American law at the Justus-Liebig Universitaet at Giessen.

From 1971 to 1972 **Walter Dickey** was an Overseas fellow and honorary lecturer with the International Legal Center at the University of Ghana, and a research fellow to the Ghanaian Ministry of Justice.

Bill Foster was an Administrative Assistant to the then Secretary of State, Dean Acheson, in 1950-1951. For the 1963-1964 academic year he lectured on American Institutions as a Visiting Distinguished Professor at the University of Aix-en-Provence in southern France and from January through May 1964 also gave similar lectures—under the sponsorship of the American Cultural Centre at Paris—to students enrolled at the Sorbonne. In November 1970, he accompanied the Honorable Wade McCree, Jr.—then on the US Court of Appeals for the Sixth Circuit—to Venice, Italy, where for a week they participated as the US representatives to the World Conference of Chief

Judges. As an Advisor to the Chief Justice of Afghanistan in 1976, Bill worked with Afghan lawyers, training them to prepare digests and headnotes for use in reporting the opinions of the Supreme Court of Afghanistan. Indeed, he stayed long enough to see in print Volume I of Afghan Judicial Reports (in Persian). To the best of his knowledge, no Volume II appeared thereafter—owing in part at least to monumental troubles in that troubled land. Finally, he has from time to time lectured on civil rights in the United States at both Oxford and Cambridge in Britain.

Marc Galanter does double duty as a Professor of South Asian Studies here at UW. From 1957 to 1958, he was a Fulbright scholar in India, in 1972, a consultant to the International Legal Center on promoting social research on Indian Law. From 1981 to 1984 Marc was a consultant to the Ford Foundation in New Delhi on legal services and human rights programs. He has lectured in the United Kingdom, Denmark, Holland, Italy, Germany the Soviet Union, Sri Lanka and India.

With a travel grant from the Ford Foundation, **Herman Goldstein** studied policing methods and policies in Denmark, the Netherlands and England. More recently, he has served as a consultant to London's Metropolitan Police, Scotland Yard.

Stuart Gullickson participated in Australia's first National Conference on Legal Education in Sydney, Australia in 1976, and in 1980 acted as a consultant to the College of Law at Sydney on practical legal training matters.

A member of the teaching staff at the American Studies Seminar in Kyoto Japan in the Summer of 1966, **Willard Hurst** also taught American History and Institutions at Cambridge University, England from 1967-1968.

Last Fall's issue of the Gargoyle testified to the vast international experience of **Charles Irish**, who, among many positions, served as a legal advisor to the Zambian Ministry of Finance and instructed at the University of Zambia Law School. He has also lectured on international fiscal issues and on the taxation of natural resources in the Sudan, the Philippines, the United Kingdom, Canada, Indonesia, Malaysia, Japan, Tonga, Trinidad and Tobago, Tanzania, Sierra Leone, the Federal Republic of Germany, Taiwan and Kenya. He has served as a consultant on international tax issues to various United Nations agencies, US AID, the Organisation of Eastern Caribbean States, and the governments of the Barbados, Ghana and Nepal.

Warren Lehman was a resident at the Rockefeller Foundation center in Bellagio, Italy where he worked on a section of his jurisprudential study entitled "How We Make Decisions," a piece on the phenomenology of moral and legal decision making.

The Director of the Chile Law Program of the International Legal Center in Santiago from August of 1970 to January of 1972, **Stewart Macaulay** aided Chilean professors in the reform of legal education and in research on the impact of laws. During the Summer of 1979, he was a visitor at the Centre for Socio-Legal Studies at Oxford University. In October of 1984, Stewart went to the Netherlands and participated in a conference on lawyer-client interaction in Gronigen. In May of this year he presented a paper on lawyer advertising to the European Workshop on Consumer Law in Brussels. In June, he was the educational Activity Leader for a lawyers' group tour to the Soviet Union.

In 1975, **James MacDonald** lectured in Japan, Malaysia and the Philippines on United States environmental law. Three years later, he lived in Japan for nine months while doing research on Japanese laws and institutions regulating the allocation of water for the Japan Society for the Promotion of Science. He will return to Japan next June for an additional seven months of research and investigation on Japanese water allocation.

A Fulbright Lecturer in Japan during 1968 and 1969, **Samuel Mermin** was again in Japan during 1975 and 1976, where he was a visiting professor at Doshisha University in Kyoto, a Senior Cooperative Research Fellow with the Japan Society for the Promotion of Science and a USIA lecturer on Public Law and Jurisprudence in Japan, Korea, Taiwan, Thailand and the Philippines. Most recently, Mr. Mermin was a visiting professor from 1982 to 1983 at Chuo University and the Institute of Comparative Law of Japan, and he lectured at various other Japanese Universities.

Gary Milhollin is a member of the US State Department Advisory Committee on International Investment, Technology and Development. He has recently completed a study on nuclear trade relations between the United States and India, and he is currently planning a book on the options for the control of US origin plutonium held by foreign countries.

Anita Morse was a Peace Corp Volunteer in Thailand. There she served as a teacher of English as a second Language in Bangkok. She also taught at Thammasat University, at the undergraduate Law Program, and at a Middle School in Dhonburi.

Ted Schneyer studied legal constraints on Swedish public enterprise at the University of Stockholm on a Fulbright Grant. In 1980 in Tel Aviv, he and fellow UW Law Professor Ted Finman collaborated on a lecture entitled "The Role of Bar Association Ethics Opinions in Regulating Lawyer Conduct." The lecture was given at the International Congress on the Ethics and Responsibilities of the Legal Profession.

Born in San Jose, Costa Rica, **Joseph Thome** moved to the United States as a boy. He has concentrated much of his study of law on Latin American legal institutions and legal problems of economic and social change in Latin America. In this pursuit he spent four years in Chile and two in Columbia. He also has served as a coordinator of collaborative research and training program between the Land Tenure Center of the University of Wisconsin and the Center for Agrarian Reform Research of the Ministry of Agriculture, Nicaragua and acted as consultant to the Ecuadorian Agrarian Reform Institute, and to the National Agrarian Institute of Honduras. In the Summer of 1982 he consulted with the Inter-American Legal Services Organization for the purpose of evaluating its projects for supporting legal services for the poor in Latin America. In 1978 and 1979 he was awarded a research fellow on water law in Spain, and in the Summer of 1985 was a consultant to Florida International University on a project on the administration of justice in Costa Rica, Panama and Honduras.

Dean Cliff Thompson and his family lived in three African nations from 1961 to 1973. In Sudan he lectured in Law at the University of Khartoum and directed the Sudan Law Project on research and law reform. He was a Senior Lecturer in Law at the University of Zambia Law School, of which he is a co-founder, and a professor and Dean at Haile Sellasie I University in Ethiopia. Closer to home, he helped found and was associate director of the African Law Center at the Columbia University School of Law. In 1980 he tutored Prince Bin Sultan Saud, who is currently

Saudi Arabian Ambassador to the United States. He has served as legal education consultant to several African Universities, and in 1983 was a Distinguished Fulbright Professor in Sudan and Ethiopia.

From 1962-1964, **David Trubek** served the Agency for International Development as an attorney and advisor. He was legal advisor and chief of the Office of Housing and Urban Development in the USAID mission to Brazil from 1964-1966. In 1980 he spent a semester at the Commission of the European Communities in Brussels. Most recently, in 1982, he was a visiting scholar in residence at the European University Institute in Florence, Italy. He has lectured in Brazil, Belgium, the Netherlands, France and Germany.

From September of 1964 to August of 1965, **Frank Tuerkheimer** worked as an Assistant to the Attorney General of Swaziland under a Ford Foundation grant administered by the Maxwell School of Syracuse University. During that time, he had the duties of Crown Counsel, which entailed appearing in court on behalf of Her Majesty in civil and criminal cases, drafting legislation and offering counsel to governmental agencies; he also began a codification of Swazi law and custom at the request of the government.

From 1967 to 1969, **William Whitford** was a Fulbright Lecturer at the University of Dar es Salaam, Tanzania. Honored again with a Fulbright in 1975, he spent a year researching and lecturing at the University of Nairobi.

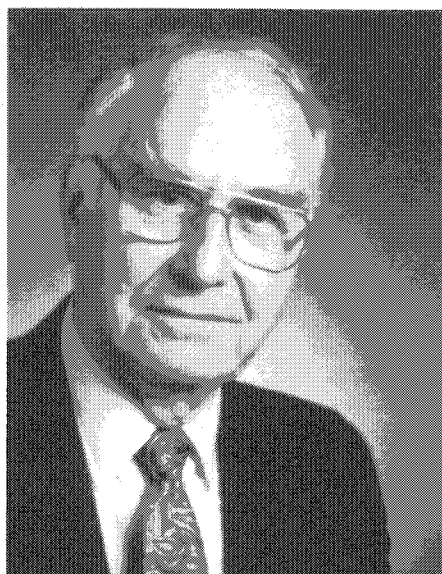
Zigurds Zile originally hails from Latvia. From 1949-1950 he worked as an administrative assistant with the International Refugee Organization in West Germany. He moved to the United States in 1950. Since that time he has worked with a cooperative project in legal education in Peru (1968-1973); in 1977 he received a Fulbright-Hays Grant to do research at the University of Helsinki. In 1982 he returned to Helsinki as a visiting professor. He is one of the organizers of, and teachers in the summer program in United States Law and Legal Institutions for foreign lawyers, offered annually on the Madison campus. In the spring of 1985, Mr. Zile taught a short course on Product Safety and Liability Law at Justus-Liebig-Universitaet in Giessen, West Germany. Most of his publications concern Soviet Law.

The great wealth of international experience displayed here adds an important dimension to the UW Law program. Together with those faculty members who have chosen to concentrate on issues of domestic law, these travelers constitute a scholarly and concerned faculty which provides the student body with the experience, challenge and insight so essential to a good law program.

Distinguished Service Awards Presented



Francis J. Wilcox



Patrick W. Cotter

At its Spring Program, the Wisconsin Law Alumni Association presented its 35th and 36th Distinguished Service Awards to Francis J. Wilcox ('32) and Patrick W. Cotter ('40). The award, presented since 1967, recognizes "... an outstanding contribution to the profession ... as a practitioner, teacher, judge or in government."

In his presentation, Robert B. L. Murphy ('32) noted that Frank Wilcox excelled in Law School, as a member of the Law Review and Coif, while still managing to graduate in only two years. This was an early example, Bob believes, of the three driving principles of Frank's character and career: exacting self-discipline, determination to excel and a clear sense of obligation to community, profession and person. Among his many previous honors and offices are service as President of the State Bar of Wisconsin (1963-64), Chairman of the American Cancer Society, and various church activities culminating in appointment to the Order of the Knights of St. Gregory, the highest honor afforded a Catholic layman.

Harry F. Franke, ('49) made the presentation to Patrick Cotter. Pat's civic and professional service made a list too long to recite in full, but included membership on the "Goals for Milwaukee 2000" committee, chairman of United Way of Milwaukee, and President of the Milwaukee Bar

Association. Pat is also the only person to serve two terms as President of the Law Alumni Association.

Both recipients have distinguished not only themselves by their lives and careers, but have also earned additional credit to their Law School.

Previous Distinguished Service Award Recipients

1967	Theodore W. Brazeau	1972	Arthur W. Kopp
	Oliver S. Rundell		Nathan P. Feinsinger
	John D. Wickhem		
1968	F. Ryan Duffy, Sr.	1973	Charles Bunn
			W. Wade Boardman
1969	William Herbert Page	1974	Lloyd K. Garrison
	Harland B. Rogers		Dorothy Walker
1970	Ray A. Brown	1975	Lester S. Clemons
	George R. Currie		Abner Brodie
1971	Ralph M. Hoyt	1976	Glen R. Campbell
	Jacob H. Beuscher		William G. Rice

1977
Warren H. Resh
Richard V. Campbell

1978
J. Willard Hurst
J. Ward Rector

1979
John E. Conway
Robert B. L. Murphy

1980
Catherine B. Cleary
Ray T. McCann

1981
Gordon E. Sinykin
Thomas E. Fairchild

1982
Bruce F. Beilfuss
George H. Young

1983
Warren P. Knowles

1984
Richard W. Orton

Notes on Alums

John C. Wickhem ('49) and **Louis D. Gage** ('47) have formed Wickhem and Gage, S. C., for general and trial practice in Janesville.

Howard J. Otis ('48) reports that he will be retiring from the active Colorado judiciary to enter Senior Judge status, and he adds that in the near future he hopes to visit Wisconsin.

Nancy Murry Barkla ('55) River Falls, Wisconsin, is now a full time staff attorney with the Wisconsin Judicare, Inc., working as an attorney and advocate in a twelve county area of western Wisconsin. In addition, she was recently elected a Vice-President of the Saint Croix Valley Bar Association.

John R. Race ('60) was called from his private practice in Elkhorn, Wisconsin in August of 1984 by Governor Earl to succeed the retiring Judge John Byrnes as Walworth County Circuit Judge for Branch III. In April of this year he was elected to a full six year term.

William M. Shernoff ('62) was recently credited by the New York Times as a founder of the new legal specialty of suing insurers who refuse to pay claims. Bill is deemed a leader in the "burgeoning legal field known as 'insurance bad faith' litigation." His most celebrated victory concerned the MGM Grand Hotel case, in which a \$76 million settlement was reached in the Hotel's suit against a consortium of insurance companies.

Robert B. Moberly ('66) a professor at the University of Florida College of Law, delivered the third annual Dunbar Lecture at the University of West Virginia College of Law. His lecture was entitled "New Directions in Worker Participation and Collective Bargaining."

Hanford O'Hara ('69) has become a partner in the Washington, D. C. firm of Mac-

Donald, McInerny, Guandolo, Jordan and Crampton.

Seward M. Cooper ('78) has, since 1983, been a managing partner at the Tubman Law Firm in Monrovia, Liberia. In 1984, he was also a lecturer on business law at the University of Liberia.

Judy Johnson ('80) has been selected a Bush Leadership Fellow and Merchant Scholar for 1985-86, and will be in residence at the John F. Kennedy School of Government at Harvard University pursuing advanced studies at the Law School, Business School and School of Government. She received her CPA and CMA in 1984, and is a member of the University of Minnesota tax faculty. She practices law and accounting in Minneapolis.

Terrance C. Meade ('81) is a member of the firm of Gust, Rosenfeld, Divelbess and Henderson in Phoenix, Arizona. While practicing law there, he also produces the firm's *Legal Notes*, a newsletter designed to keep clients abreast of newly emerging legal issues and concerns.

Faculty Note

W. Lawrence Church received a University of Wisconsin-Madison Distinguished Teaching Award for 1985. On April 18 at the University Center, Larry was presented with a \$2,500 cash award for "distinctive contributions to advancing the cause of good teaching at the University" by UW-Madison Chancellor Irving Shain.

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Wisconsin Law Alumni Association

1985-86

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- 1950 **William Rosenbaum**
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- 1977 **Sandra K. Stern**
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Madison, WI 53703
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1985-85

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Editor's Note

The recent story on Lavinia Goodell brought a flurry of letters. A number of you wrote offering further information on Lavinia, the first woman admitted to practice law by the Wisconsin Supreme Court. **Nancy Wheeler** ('77), **Nancy Barkla** ('55), **Nancy Kopp** ('84) and **Jackie Macaulay** ('83) all sent extensive historical information. Miss Goodell had an illustrious career even before her admission to the bar as an editor and a teacher. Unfortunately, just one year after finally being admitted in June 1879, Miss Goodell died at the age of 41. At the time of her death she was a member of what certainly was Wisconsin's first all-woman law firm, Goodell & King, in Janesville, Wisconsin. Angela Josephine King attended the University of Chicago Law School in 1871, studied privately in Janesville and was admitted to practice in Rock county Circuit Court in 1879. Shortly after becoming partners, the two women successfully appealed a criminal case to the Wisconsin Supreme Court. Angie King continued to practice in Janesville until her death in 1913.

Volume 16, number 1 contained the first color photo in the fifteen year history of the GARGOYLE. For more than 40 years the Curry mural has dominated the library's Old Reading Room. Last summer a newspaper photographer who spent a

day here said that the mural and the gargoyle itself (the stone one, not the magazine) were the only two memorable images he could find! This photo was taken for us by Gary Schultz of the UW Photo Media Center. Gary has taken most of the pictures we have used these last 15 years, but this is his last—Gary has retired, probably to wander the country with two or three cameras hanging from his neck.

Recently Dean Thompson called for "Herbie Page" stories. A recent letter from **Jim Drill** ('61) offered a few recollections of other venerable professors.

Lenny Dubin ('62) and Jim took Legal Process from Prof. Sam Mermin. The course materials included writings by Carl Llewellyn.

During the final exam, Dubin asked Prof. Mermin, "What type of answer would you like?"

"Answer it as Llewellyn would," Mermin replied.

As he walked away, Drill reports that Dubin was muttering, "Who the hell is Llewellyn?"

Jim also took Bills and Notes and was surprised to find Nate Feinsinger teaching it. Jim says Nate performed very well although he may not have had any more prior knowledge of the subject than did his students. The following semester they

met again in Labor Law.

On the first day of class, Feinsinger announced, "Some of you were with me in Bills and Notes last semester. We had a good time and I enjoyed learning with you. But this course is Labor Law, and you should understand that *no one in the world knows more about labor law than I do!*"

Finally the "mystery picture" in Volume 15, Number 4 is a mystery no longer. **Henry Buslee** ('52), **Joe Shutkin** ('52) and **Richard Murphy** ('52) each provided a solution. Joe is in the middle of the group flanked on the right by **George Sestack** ('52) and **Ellen Ziemann** ('52). Dean Oliver Rundell is handing a diploma to Sestack and Wisconsin Supreme Court Chief Justice Oscar Fritz is shaking Ms. Ziemann's hand. The picture was taken in the Court chambers on or about February 2, 1952 at the swearing-in ceremony. Joe Shutkin recalls that his first "case" came before this ceremony. Joe received his first law degree from George Washington University, and an LL.M. from UW-Madison. He successfully argued that the diploma privilege required only "a law degree" from a Wisconsin Law School. Successful yes, but was it also unauthorized practice?

Mystery Picture

Recognize anyone? Recognize yourself? Are you willing to admit it?

In recent years one of the highlights of homecoming has been a short skit by law students that interrupts Friday classes before the big game. In the interest of anonymity, we won't name those featured here, but will tell you that this photo dates from the late 1970's, sufficiently in the past for the statute to have run on this group.

