

University of Wisconsin Law School Forum

GARGOYLE



Volume XIX Number 4.

Spring 1989



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Prof. Richard Effland (1916-1988)

News Flashes (Relatively Speaking)

As this issue of the Gargoyle was going to press (and one must remember that alumni/ae magazines have a stately if not stale production schedule), there were two newsflashes to share with you.

I. By a margin of 309 to 302, the student body supported the proposed tuition increase which would be returned entirely to the Law School for its library's needs, as described by Dean Cliff Thompson in the preceding Gargoyle. There had been considerable publicity and many meetings last fall on this topic, which resulted in a 65% voter turnout. After the referendum, the Student Bar Council passed a resolution in support by a 14 to 2 vote. These developments were surprising to many, and should be helpful in gaining the support of the legislature, which will act upon the proposal during the current legislative session.

II. The Society of American Law Teachers announced that its national award for 1988 would go to the University of Wisconsin Law School. The following newspaper story appeared in Madison and in many other places nationally:

Wisconsin Law School Honored

"The Society of American Law Teachers (SALT) is recognizing the UW Law School with its annual award because its 'minority faculty recruitment efforts go beyond tokenism,' said Charles Lawrence, the society's president and Stanford University law professor.

"Of the 45 UW law faculty, seven are members of minority groups, including Blacks, American Indians and Hispanics.

"Recent additions to the law school faculty include Richard Delgado, who is Mexican-American; Rennard Strickland, a Native American; and Linda Greene and Patricia Williams, who are both Black.

"The Wisconsin experience is nationally significant because it demonstrates the potential for racial and cultural diversity currently lacking at most other law schools in the country,' said Lawrence. 'SALT would like to express its support for a model of hiring which goes beyond tokenism.'

"UW Law Professor Frank Remington, past chair of the recruiting committee, said the recent hiring of four minority professors reflects not only faculty efforts, but the university administration's genuine commitment to affirmative action.

"UW-Madison Chancellor Donna Shalala has set a goal of hiring at least 70 minority faculty members by 1991 under the Madison Plan.

"Another reason Remington cited for the successful recruitment effort is the UW Law School's commitment to a research, teaching and public service program especially tailored to minority concerns.

"The wisdom, years ago, to hire Jim Jones [a Black law professor] who has been for many of us, the model and the conscience of this faculty, is another significant reason,' he said. 'He served as a continuing reminder of what we ought to do and of how much there is to be gained by those who have the courage to make an all-out effort.'

"The awards banquet will be held on Jan. 7, in New Orleans."

The four newly-hired persons are all established scholars with outstanding national reputations. A profile of Professor Delgado appeared in the last Gargoyle, and profiles of the others will appear in the Gargoyle after they join us this fall.

The Institute for Legal Studies

The Institute for Legal Studies at the Law School has now completed four years of operations. Created in January 1985, the Institute continues a long tradition of interdisciplinary legal studies on the University of Wisconsin campus. Organized by the Law School with support from the Madison Chancellor's office and administered by faculty from Law and other disciplines, it carries on a tradition of scholarship in law that goes back over fifty years.

The Institute's major function is to mobilize academic knowledge from many fields on topics of professional importance. It performs this mission by organizing and conducting interdisciplinary research projects on the meaning law has in our society and the impact it has on our lives. It trains younger scholars and practitioners through its fellowship program and special teaching seminars which draw upon ongoing faculty research. Institute sponsored workshops, colloquia and conferences focus academic and professional attention on major topics. Finally, the Institute serves as an "incubator" for major projects. It provides seed money, administrative support and assistance in fund raising to faculty who choose to associate with the Institute to work on collective legal studies projects.

The Institute and the Law Faculty recently conducted an extensive review of its activities and accomplishments since 1985, in order to decide whether to make it a permanent part of the Law School and the University. The review was in part retrospective, but much of the effort helped develop new ideas for future work. The review revealed that the Institute already has acquired an international reputation as a premiere center for the study of law and society, won \$1 million in competitive grants and serves as a model for other law schools, who now seek to emulate it. In recognition of these accomplishments the Law faculty voted to make the Institute permanent. Shortly after this occurred, the UW Board of Regents added an additional accolade to the Institute by naming it a Center of Excellence, one of 49 centers within the state-wide UW System.

The Institute emerged from this review with renewed Faculty, campus

and scholarly support, assured budget support for the next three years, a strengthened administrative and governance structure and a rich set of ideas for future programs and projects. This article provides a brief history of the Institute's emergence and progress, summarizes its activities and accomplishments since 1985, and outlines plans for the future.

The Institute's Role in the Law School and the University

Legal Studies and the "Wisconsin Tradition"

The scholarly tradition to which the Institute is committed animates all the efforts of the Law School and helps make us unique among American law schools. Sometimes called the "law-in-action" approach, this tradition draws upon the insights of Legal Realism, the political vision of the Progressive movement in Wisconsin, and the Wisconsin Idea in higher education. It stresses the view that law is a pragmatic enterprise carried out in a social context for democratically determined ends. It underscores the importance of analyzing policy questions, understanding social contexts, and developing democratic visions. This tradition influences the Law School's curriculum, pedagogy, research orientation, and service commitments. It explains the School's interest in experiential learning through clinical education as well as its concern to integrate law and other social disciplines.

One dimension of this "law-in-action" tradition is the commitment to interdisciplinary legal studies. To study law as a pragmatic enterprise is to study what it does. And to understand fully law's history, context and impact requires the skills and insights of many academic disciplines. For this reason the Law School has probably hired more people whose training includes both law and other disciplines, and maintained closer ties with other departments in the University, than has any other American law school. The large interdisciplinary legal studies community on the UW-Madison campus is



Institute Executive Committee: Profs. Stewart Macaulay, Chair; and David Trubek, Executive Director

the result of decades of effort to institutionalize this key facet of Wisconsin's unique approach to the education of lawyers, research on law, and service to the community.

Institute Furthers the Law School's Research Mission

The Institute is the latest expression of this commitment to institutionalize legal studies. It supports those members of the Law School faculty and other departments who want to work together on research that examines the history, meaning and impact of law. It seeks to tie the efforts of the legal studies community more closely to the Law School's overall mission of education, research and service. It mobilizes resources needed to implement the legal studies dimension of the Law School's overall program.

Exactly what does the Institute do? The Institute supports collective work by groups of faculty members who request its assistance and choose to affiliate with its programs. It's a voluntary association: participation is open to all who wish to work together on projects of mutual interest. Its core resources are three-fold: (1) a modest annual core funds budget (\$20,000-25,000 per year) to be used largely as seed money for new faculty group projects, (2) the services of a small

but growing staff experienced in research administration, and (3) the collective energies of faculty and students who choose to associate with the Institute.

David M. Trubek, Voss-Bascom Professor of Law, is the Institute's Director. He works closely with an Administrative Committee consisting of Institute staff, program and project directors and the chair of the Law School Research Committee to deal with ongoing administrative tasks. An Executive Committee appointed by the Dean of the Law School consisting of participating faculty members from law and other disciplines, representatives of the Law School community, and people from other departments meets 2-3 times a year to monitor overall operations, review annual operating budgets and approve triennial budget requests from the Law School.

While the Institute gives modest support to faculty initiatives, most of the resources it deploys are contributed by participating faculty in the form of the time they devote to activities and the extra-mural funds they raise. In one sense it is the individual faculty members who support the Institute by affiliating with it. The Institute aids this effort by providing substantial help in organizing projects and events and raising money. In turn, the workshops, conferences and colloquia the Institute organizes and the grants it helps people secure provide the material and intellectual sustenance essential for a successful interdisciplinary research effort.

University Support for Legal Studies Research and Teaching

The University first recognized the need to support legal studies efforts over two decades ago. In the 1960s the Law School and several departments in the Graduate School joined together to form the Center for Law and the Behavioral Sciences. This Center provided an initial home for the interdisciplinary legal studies community and initiated an undergraduate program in legal studies. Today, the Center continues but its primary mission is the operation of a flourishing undergraduate program which currently boasts over 100 majors.

In the 1970's the institutional emphasis on campus changed. Two developments made it necessary to expand the degree of support for legal studies and alter its institutional nature. On the one hand, as "legal studies" became more sophisticated and specialized, it became necessary to create programs to deal with



Prof. Marc Galanter

specific facets of the overall legal studies effort. In response to this need, the Law School and other departments created the Disputes Processing Research Program (1977) and the Legal History Program (1980). On the other hand, the "density" of legal studies work in the Law School grew. To cope with the Law School faculty's need for support services, more effective linkage with other departments, and extra-mural funding, the Law School created the Office of the Associate Dean for Research.

This system worked well for a while. But it became clear that the university-wide legal studies mission could be more effectively performed by an umbrella-organization that could tie together efforts in the Law School and other departments and mobilize extra-mural funds more effectively. This recognition led Dean Helstad and the Law Faculty in 1982 to form an Ad Hoc Committee to examine the desirability of creating an Institute for Legal Studies. The Committee concluded that such an organization would enhance the research efforts of the Law School and recommended to the faculty and the Dean that the Institute be created.

When Dean Thompson took office in 1983, he reviewed this recommendation and agreed with the Committee's conclu-

sion. Under his leadership, the Institute was organized and initial funding secured from Law School alumni sources and \$50,000 seed money from the Graduate School. Following formal approval by the Law School faculty in May 1984 and the UW System Administration in December 1984, the Institute began "start-up" operations on January 1, 1985. The first full year of activities commenced on July 1, 1985.

University support for legal studies research has continued since 1985. Individual faculty members annually receive generous support from the Graduate School for summer research projects, some of which are tied into Institute activities. The Graduate School recently also provided funds to support two graduate student assistantships for a major Institute research study of American business disputing practices, and the Institute is working with the Graduate School on ways to institutionalize this type of support in the future.

More recently, UW-Madison Chancellor Donna Shalala has provided encouragement and financial support for several projects that are associated with the Institute and the Law School. In particular the Chancellor provided funds for the Law School's recent appointment of four senior minority law professors as part of the "Madison Plan," and is contributing generously to an upcoming national conference on civil rights to be held in the fall 1989. That conference is being co-sponsored by the Department of Afro-American Studies, the Law School and the Institute, with the latter as the conference's administrative office. The UW System has been equally supportive of the same conference, and its aforementioned recognition of the Institute as a Center of Excellence has already been mentioned. The Institute hopes to enhance these encouraging relationships in the months to come.

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Current Institute Activities

The Institute has sponsored numerous events and research activities since 1985. Only the briefest summary can be provided here. More information is provided in detailed reports produced by Institute programs and in three Annual Reports, available from the Institute administrative office.

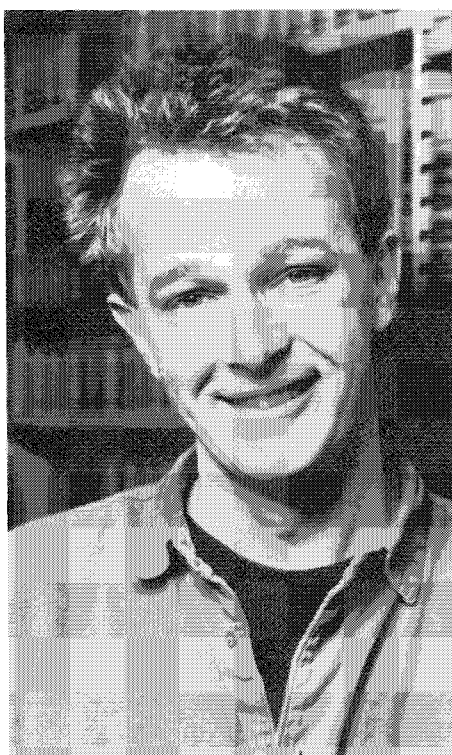
Programs

Three programs operate under the general administrative umbrella of the Institute: the Disputes Processing Research Program (DPRP), the Legal History Program (LHP) and the Family Policy and Law Program (FPLP). All three programs have secured major extra-mural grants and received national attention and acclaim.

Disputes Processing Research Program

DPRP began in 1977 as an informal association of Madison faculty working on convergent research topics on disputing, courts and litigation. DPRP associates obtained significant extra-mural funding between 1977-1983 to conduct research on ordinary civil litigation, the varieties of disputing patterns and the negotiation process. Research products from such early (and now famous) projects as the Civil Litigation Research Project (CLRP) and Marc Galanter's study of the "landscape of disputes" have contributed greatly to our general understanding of how disputes arise and how they are processed and/or resolved. Other work in the areas of dispute transformation, party capabilities, mediation, lawyer litigating patterns and practices, and comparative studies of disputing have enhanced the same. In addition to direct research, DPRP has supported national meetings, Madison based lectures and colloquia, publications and a small but unique library of research

The current LHP emerged from a tradition of social inquiry into the history of law and legal institutions that extends back two generations and builds upon a reputation derived in large measure from the work of J. Willard Hurst.



Prof. Joel Rogers

materials on dispute processing, the courts and alternatives to formal litigation. From 1985-1987 DPRP also ran the Dispute Resolution Clearinghouse with support from the National Institute for Dispute Resolution.

In 1986 DPRP received a \$300,000 two-year program grant from the William and Flora Hewlett Foundation. This grant was renewed in 1988 for an additional two years. Hewlett Foundation support has permitted DPRP to expand its efforts and support new projects. Especially noteworthy were the 1987 workshop on dispute resolution theory and practice in Europe, and the 1987 national conference on identifying and measuring quality issues in dispute resolution processes and outcomes. Both events attracted attention from academic and practicing professionals, individual attorneys and state and national bar groups, and will lead to publications in 1989.

DPRP is now embarking on a major study of the transformation of business disputing, including corresponding changes in the provision of legal services to businesses. Law Professors Marc Galanter (DPRP Director), Stewart Macaulay, Tom Palay and Joel Rogers (DPRP Co-Director and also Professor of Sociology) will work on the multi-faceted project, which will describe and explain

noticeably dramatic changes in customary business practice and the use of alternative dispute processes. They anticipate significant outreach and interaction with practitioners and collaboration with other scholars over the course of the multi-year project.

Other ongoing DPRP projects include a comparative study of the construction and transformation of ordinary civil litigation in the U.S. and Canada (Bert Kritzer, Political Science); a comparative study of the "propensity to sue" in the U.S. and England (Bert Kritzer, Political Science); a study of Wisconsin's mandatory mediation of medical malpractice claims (Catherine S. Meschievitz, Institute Assistant Director and DPRP Coordinator); a study of the implementation of civil rights law in large organizations (Lauren Edelman, Sociology and Law) and a study of the role of in-house counsel in large organizations (Lauren Edelman and Liz Chambliss, both in Sociology and Law).

In 1986 DPRP established the Hewlett Fellowship in Dispute Resolution. The fellowship provides an advanced graduate student with a stipend for one year. The student conducts research on an approved topic and assists the Director on DPRP projects and activities. Hewlett Fellows thus far have been Elizabeth Chambliss, UW Law School and Department of Sociology (1986-87) John Esser, UW Department of Sociology (1987-88) and Lisa Bower, UW Department of Political Science (1987-88).

Legal History Program

The current LHP emerged from a tradition of social inquiry into the history of law and legal institutions that extends back two generations and builds upon a reputation derived in large measure from the work of J. Willard Hurst. The modern Program was established in 1980 with National Endowment for Humanities support for a series of annual summer seminars which focused initially on the history of economic regulation.

In 1984 the Program adopted a new direction, emphasizing the emerging field of the family in American legal history. With additional NEH support, and generous gifts from UW Law School alumni, LHP took advantage of UW faculty interest in family law, the emergence of the family as a symbol in policy debates, new work in women's and family history, and feminist legal theory. For three summers legal scholars and historians came to Madison to work with UW faculty in the development of this promising field of

legal history. Professors Martha L. Fineman, Hendrik Hartog and Stanley Kutler (History and Law) co-directed activities during this period.

The Program started its own working paper series under the auspices of the Institute, and sponsored other research on labor law history and the history of the corporation. National events co-sponsored by LHP took place in 1986 (a workshop on the legal history of the corporation co-sponsored by the American Bar Foundation) and 1987 (a workshop on labor law history co-sponsored by Georgetown University Law Center).

Current programmatic emphases include research in the area of constitutionalism and social movements (Dirk Hartog) and plans for a national conference and book project on family law in American society (Martha Fineman and Dirk Hartog). The Legal History Fellowship, the first program fellowship to be created under Institute auspices, is presently supported with funds from the Law School and remaining alumni gift funds. Legal History Fellows typically have been law graduates working on a dissertation for the Ph.D. in American history: Elizabeth Clark (1985-86) is now Assistant Professor of Law at Cardozo Law School and Daniel Ernst (1986-87 and 1987-88) is Assistant Professor of Law at Georgetown University Law Center. The 1988-89 Fellow is William Novak, a Ph.D. candidate in American History at Brandeis University.

Family Policy and Law Program

The FPLP began operations in Spring 1988 under the direction of Professor Martha L. Fineman. The Program will promote interdisciplinary research on legal issues affecting contemporary American families. It emerges from research on women, children, families and the role of the state in women's lives. LHP's three-year project on legal history and the family played a major role in the evolution of the new Program: at its base is a recognition of the need for more sustained research on the condition of working class and low income families, especially families in which single women head the home.

The Program has established a fellowship for an advanced graduate student, modeled after those of other Institute Programs. The first major event sponsored by the Program will be a summer 1989 conference entitled "Women and the Welfare State." Coordinated with the UW Women's History Program and the Women's Studies Department, the conference will explore connections between gender and race, and the welfare state. The Program has also received a grant



Prof. Peter Carstensen

from the American Bar Foundation to conduct an empirical investigation of state intervention and paternalism in the welfare context. The project will examine a typical federally funded welfare program—the Women-Infant-Children (WIC) nutrition program—to explain how the state intervenes and redefines mothering, and identify program recipients' perceptions and reactions to these state efforts.

Projects and Workshops

The Institute supports faculty research in new developing areas of faculty interest through its various projects and workshops. Projects are newly identified areas of collaborative faculty research interest primarily supported by seed money from the Institute. Workshops are informal vehicles for collective faculty exchange and new project development, with an emphasis on group discussion of individual research efforts.

Feminism and Legal Theory Project

Directed by Professor Martha L. Fineman and founded in 1985, this project provides an opportunity for academics to participate in an open, constructive and yet critical assessment of feminist theory as it relates to law. The project's four summer workshops (1985-88) dealt with the topics of women and dependency, differences, intimacy, and power. Each sum-

mer program has complemented those that preceded it, allowing feminist scholars in attendance to explore feminist theory in the context of current women's experiences. Many working papers and published articles have resulted, including an entire volume of papers from the 1986 summer conference as a special issue of the Wisconsin Women's Law Journal. Professor Fineman is planning to edit selected papers from all four years for a book, to be published by the University of Wisconsin Press.

Corporate Governance Workshop

The present Corporate Governance Workshop originally took the form of a "project" in 1985. It was and still is the outgrowth of shared interests of a number of faculty in the scope and allocation of decision-making power within the large, publicly-held corporation, and the role that law and legal institutions may play in regulating and structuring allocation of that power. Several individual studies did result, e.g. Peter Carstensen's work on takeovers, and William Whitford and Lynn LoPucki's major study of the experience of publicly-held corporations in Chapter 11 reorganization.

Law faculty members Peter Carstensen (Workshop Coordinator), Ken Davis, Lynn Lopucki, Tom Palay and Bill Whitford now form the core group. The group will pursue individual research projects but maintain the workshop as a forum for scholarly exchange.

Interpretation Workshop

The Interpretation Workshop began in 1986 as a core community of campus scholars interested in discussing new views of textual analysis. The workshop was organized to examine theories of how we appropriate, interpret and understand indeterminate normative texts, legal and otherwise. Professor Len Kaplan serves as workshop coordinator.

The workshop has met regularly for three years; readings are distributed prior to the meeting. Faculty from the departments of Comparative Literature, French and Italian, History, Political Science, Communication Arts, Philosophy and the Law School participate. The workshop has encountered and sought to deal with the problem of finding a common vocabulary that people from many fields can employ and relate various knowledges to issues of legal analysis. In 1988, the group decided to turn their attention to the basic texts, before post-modernism and structuralism, in order to explore "interpretation" from both literary and legal perspectives (and so see if such a restriction can be made).

The Affirmative State Workshop

In 1987-88 the Institute approved the development of a new workshop on the affirmative state. Emerging in part from widespread faculty interest in the current malaise and problems of the welfare state, the workshop will look at the "micro-foundations" of state intervention in the economy and social life of governments in advanced capitalist democracies. "Micro-foundations" is used here to identify those elements that might provide an intentional, as opposed to a functional, explanation of the "welfare state." An interdisciplinary group of faculty and advanced graduate students on the Madison campus began meeting this fall to discuss topics of mutual concern. Professor Joel Rogers is coordinating the workshop.

Other Activities

Legal Studies Colloquium

The Institute sponsors informal talks and lectures throughout the year in the Legal Studies Colloquium. A campus-wide network of scholars and students (sometimes joined by judges and practitioners) meet approximately once a week to hear talks by U.W. faculty, invited guests, or visiting fellows and scholars. The colloquium is a means of both maintaining and expanding the legal studies community.

Support for Future Legal Studies Scholars

The Institute fosters the development and training of promising young scholars in at least four ways. The three Institute Program Fellowships, which provide a talented legal studies scholar with research support, have already been described. The Institute also invites scholars to spend time in residence as Honorary Fellows. Honorary Fellows are typically junior scholars, many from abroad, who receive stipend support from their home institutions. The Institute provides staff assistance and faculty advice as they work on their individual projects. The Institute has sponsored over a fifteen Honorary Fellows to date, including Eric Balate and Monique Goyens (Belgium), Virginia Ferreira (Portugal), Gridley Hall (U.S.), Konstanze Plett (West Germany), Fernando Rojas (Colombia), Alexandrina S. Sobreira de Moura (Brazil), Sigurm Skogly (Norway), and Gordon Woodman (England).

Institute Programs and Projects also provide advanced graduate students employment on ongoing research studies. Flexible arrangements with the Law School's Graduate Research Committee, the Dean, the Graduate School and extramural awards have provided numerous



Prof. Martha Fineman

students first hand research and writing experience. The Institute is working closely with the Graduate School to institutionalize these ad hoc arrangements, in order to better serve those who strive for a career in legal studies teaching and research. As part of that effort, this year the Institute provided seed money and organizational assistance to resident Fellows and graduate students to organize the "Fellows Club." The Club meets regularly to discuss the work of group members in a supportive, constructive environment.

Visiting Scholars

The Institute has hosted nine distinguished academics as Visiting Scholars since 1985. These visitors have been well established scholars working in areas of interest to the law faculty and other members of the legal studies community. Their visits promote exchange of ideas and research findings and help maintain ties with other institutions and universities in the U.S. and abroad. Visiting as Scholars since 1985 have been Kimberle Crenshaw and Carrie Menkel-Meadow (UCLA Law School), Udo Reifner (West Germany), Carol Smart and David Sugarman (England), Fernando de Trazegnies Granda (Peru), Gunther Tuebner (West Germany), Mark Tushnet (Georgetown Law Center), and William Twining (England).

Relations with Other Institutions

The Institute works closely with scholars from other institutions in the U.S. and abroad to sponsor conferences and workshops and develop research studies. Examples of successful joint ventures include the previously mentioned 1985 DPRP-American Bar Foundation workshop on the judicial promotion of settlements; the 1986 Legal History Program-American Bar Foundation workshop on the legal history of the corporation; the 1987 Legal History Program-Georgetown University Law Center workshop on labor law history; the 1987 DPRP-University of Bremen (ZERP) workshop on European dispute resolution research and theory; and the DPRP-NIDR workshop on quality issues in dispute resolution.

The Institute itself has also co-sponsored other workshops and conferences. In 1986 the Institute worked closely with the University of Bremen (ZERP) to organize and participate in a conference on German-American traditions of sociological jurisprudence and the critique of law. In 1987 faculty from UCLA Law School and Yale Law School worked with the Institute to co-sponsor the "Women in Law" workshop which was held in Madison in August 1987. In 1988 faculty helped plan and participated in a conference on "Professionalism, Ethics and Economic change" held at the American Bar Foundation. These relationships and others have expanded the Institute's ability to support new projects and develop new insights. They also enhance the reputation and visibility of Wisconsin in the U.S. and abroad.

Publications

A major goal of the Institute is to disseminate the research findings of associated faculty, programs and projects. The publications program is designed specifically for this purpose. Three different working paper series have been started, and nearly 50 working papers have been produced. Working papers are works in progress that are distributed widely to allow the authors to get feedback prior to formal publication. In addition the Institute produces special publications, e.g. monographs, conference reports, reprints and bibliographies. Twenty-one different special publications have been produced since 1985.

The publications program distributes free copies of all working papers and most special publications to leading centers of research and selected academic leaders. Additional copies of each publication are sold at cost to scholars, libraries, judges and state court administrators and other legal professionals.

New Directions for the Future

The Institute devoted much of its time in 1987-88 looking ahead to future research needs and possibilities. The self-study and review involved the preparation of long term research plans for existing projects and programs. Some of these have already been mentioned. In addition we started new areas in which programs and projects might be added. These efforts identified three major fields into which the Institute would consider expanding: the legal profession, race, and poverty.

The Legal Profession

Studies of the legal profession have been part of the Institute's concerns from the beginning. In 1987-88 this work intensified and several major projects were outlined. Some of these will be underway during 1988-89; others are targeted to emerge at a later date.

Professors Trubek, Galanter and Palay conducted studies of the legal profession which were presented at the previously mentioned ABF conference on "Professionalism, Ethics and Economic Change." This conference will lead to a book entitled *Lawyers' Ideals and Lawyers' Practices* which Professor Trubek will co-edit. Other ongoing research has resulted in several recent Institute working papers, including papers by Professor Lynn LoPucki (Wisconsin) on bankruptcy lawyers, Marjorie Murphy (University of Cincinnati and now practicing in Florida) on second opinions and legal consumers, Ted Schneyer (University of Arizona and former UW Law Faculty member) on in-house counsel and professional ethics, and Bert Kritzer (UW) on lawyers who litigate.

The Institute recently prepared a proposal for a multi-faceted study of the role of lawyers in implementing and retarding major public policy initiatives in a wide range of fields. The thesis of this project is that lawyers in private practice and government play a vital role in the implementation of public policy, and that little is known about how lawyers deal with the complex issues faced in such situations. This proposal was submitted to the UW System as the basis for the Institute's successful application for designation as a Center of Excellence. CE designation makes the Institute potentially eligible for state funding under the Centers of Excellence program; if such funding is approved by the legislature it will be used for legal profession research.

The Institute continues to work with the ABF on legal profession questions. Several faculty members are exploring



Prof. Thomas Palay

collaboration with the ABF on studies of corporate law firms and the legal workplace. The Institute and the ABF will establish a summer workshop on these topics to be held in Madison beginning in 1989.

Race

The Department of Afro-American Studies, the Law School and the Institute worked together this year to develop research connections and projects examining law and race relations. The goal of this collective endeavor is the creation of a major center on campus to further research on the history and impact of civil rights and anti-discrimination law and to explore new directions for legal doctrine and practice. In the light of renewed awareness and discussion at the UW-Madison about racism in our lives and the adoption of the "Madison Plan" presented by Madison Chancellor Donna Shalala, the development of such a center and related projects have received broad support and indications of interest.

The Law School's recent hiring of four distinguished minority law professors has

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enhanced the likelihood of success: it is hoped that Professors Richard Delgado, Linda Greene, Rennard Strickland, and Patricia Williams will further the project with their participation. Professors Delgado and Williams have participated in Institute events in previous years.

Several events are already being organized. UW Professor Herbert Hill (Afro-American Studies and Industrial Relations), Carl Grant (Afro-American Studies and Education), and James E. Jones, Jr. (Law and Industrial Relations) have organized a national conference on "A Century of Civil Rights Struggle" to be held in Madison in fall 1989. The conference will use the 35th and 25th anniversaries of the U.S. Supreme Court decision in *Brown vs. Board of Education* and the Civil Rights Act of 1964 to discuss contemporary issues concerning civil rights and racial justice in the U.S. The conference is supported by generous grants from the UW Madison Chancellor's Office, UW Systems, the Law School and other sources. The Institute is serving as the administrative office for this event.

In addition to this conference, the Institute will run a 1989 summer workshop on New Race Theory and Politics. Organized by Professors Richard Delgado (UW), Kimberle Crenshaw (UCLA) and Stephanie Phillips (1988 Hastie Fellow at the Law School and now Professor at SUNY-Buffalo) the workshop will be modeled after the Institute's successful Feminism and Legal Theory summer workshops. Scholars will be invited to Madison to present new work and discuss recently published work on this topic. Professor Crenshaw helped develop this project while in residence as the Institute's Visiting Scholar last fall.

Poverty

The Institute began to explore possibilities for expanded efforts on legal issues affecting the poor and the delivery of legal services to the poor. These efforts are a follow up to an earlier Institute conference and resulting publication on *Poor Clients Without Lawyers* [SPR-6, originally published as a symposium in 19 Clearinghouse Review 367 (1985)] which outlined innovative delivery systems for poverty lawyering. These initial efforts have led to the formation of an inter-university consortium on poverty law which includes Harvard, UCLA and Wisconsin. The Institute is coordinating UW participation in this consortium and will work with the Center for Public Representation (a Wisconsin public interest law firm) and other legal services providers in Wisconsin to develop an action-oriented project on Families, Poverty and the Law.

Law School Convocation Addresses

May 13, 1988

Shirley S. Abrahamson

Justice, Wisconsin Supreme Court

"What You Do, Do Well"

Dean Thompson, Faculty, Class of 1988, and their guests. It is always a great pleasure for me to attend a law school function. It is a special treat to be here tonight and congratulate the J.D. candidates on their completion of law school. Congratulations and best wishes also go to the parents and families of the J.D. candidates. You have supported the graduates, financially and otherwise, for three tough years and part of the diploma is yours. I feel very strongly about that because my son will start law school in September.

A commencement is a happy occasion for almost everyone. The graduating students are pleased, some with their academic achievements, others with the fact that they survived. Parents, spouses, and children are obviously pleased with the loved one's progress. The professors have, I hope, finished grading the blue books. They may even have assured themselves that their teaching serves worthwhile purposes, producing useful members of society.

Three people are not too happy tonight and those are the three speakers. Of all forms of public speaking, the convocation address is the most difficult and the most demanding. We are expected to deliver a message without orating, without appearing to do so too obviously; to express familiar thoughts, while being fresh and novel; we have to speak to the occasion and are therefore circumscribed by it, while trying to rise above the limitations. I am the third speaker this evening. That makes the task even more difficult.

What saves the evening is that all of you are so absorbed in your thoughts about the past and the future, so wrapped up in memories, regrets, and apprehensions, that very few of you are paying much attention.

I am sure each of you graduates is aware that your academic credentials are excellent. And although the pains of the classroom and examinations and thoughts about going out into the world may be too fresh now for you to have a

balanced view of your experiences in the law school, in the years to come each of you will feel a deep sense of gratitude and commitment to the University of Wisconsin Law School and to the faculty of this outstanding institution. You have received a wonderful education that will provide you with a sound foundation for beginning your careers and dealing with the large problems we all confront in delivering legal services.

Your images of law and lawyers have been formed by this law school and by your personal experiences in the clinical programs and your work in law offices across this state and country. In contrast, most Americans learn about the legal system through television and film, not through first-hand experience. Few citizens have been in a squad car or have visited a jail, a courtroom, a lawyer's office or a legislative hearing. But, according to one commentator, in a normal week the average television viewer sees close-up approximately thirty police officers, seven lawyers and three judges in prime time TV. These figures do not include such syndicated courtroom dramas as *Divorce Court*, *People's Court*, *Superior Court*, or *Miller's Court*.

We all know that film and TV offer entertainment, not real life experiences. TV drama does not portray the results of empirical social science research about lawyers in the United States. We understand that TV representations of the legal system are in many respects glamorized, oversimplified, conflicting and misleading. You and I know that in one TV season, Michael Kuzak of the Los Angeles firm of McKenzie Brackman on "L.A. Law" handles more interesting cases than most lawyers encounter in a lifetime.

the public's opinion of lawyers and the legal system. And we all know that the TV images have the power to change the public's perception of lawyers and the legal system. Indeed, many admissions officers at law schools attribute the upsurge of applicants to law schools in the last two years to L.A. Law.

More importantly, the TV images of the legal system also reflect kernels of reality. It is these kernels that make the TV shows compelling.

I draw on these TV images, these pub-



Justice Shirley Abrahamson

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lic perceptions of lawyers, these kernels of reality for my message to you tonight as you begin your legal careers. My message comes filtered through the TV tube. I looked to the lawyers of TV-land to help us decide what kind of lawyers we should be. I found three messages: First, do your work well; second, do some good; third, have some fun.

Your first motto should be, What you do, do well. To do it well, you may need to work hard. But, as President Ford once observed, "The harder you work, the luckier you get."

The public needs lawyers who love the law and are committed to the idea that the profession serves the needs of the public to whom we are responsible.

The measure of a lawyer is the ability to assimilate information, to think clearly, and to communicate persuasively and precisely. Legal competency also includes qualities of sensitivity, understanding, and compassion.

Remember Perry Mason? He made the lawyer the hero. And why is he the hero? Because he does his job well. No stone is left unturned when he works on a case. Furthermore, Perry Mason has a kindly demeanor and he is reassuring to a client. He shows compassion and civility. He is the consummate counselor. Perry Mason, of course, is fortunate that he can concentrate on one client at a time, and a client who is always innocent, at that. He doesn't have to jump through the hoops of discovery, he doesn't have to learn how to use Lexis. Perry Mason tells the simple story of winner taking victory.

The real world is many shades of gray. Your case is more likely to be a Roxanne Melman, who is doing battle with the IRS, negotiating the rocky shoals of a Chapter 13 wage earner plan with all the feelings of personal failure and frustration that accompany it.

If you're going to do it, do it well. Many lawyers get in trouble because they undertake a task but do not do the job at all. The TV lawyer teaches us—do the work and do it well.

Your second motto should be, Do some good. The TV programs show the insularity of our profession, and our profession's obsession with power and money. But the TV image also shows lawyers extending efforts to give a voice to individuals and groups whose voices are not heard, whose needs must be recognized and protected.

In a complex society, in a society depending on the adversary system, lawyers are increasingly important. Without

a lawyer an individual cannot have access to the legal system. Equal justice requires representation. The private bar must play a substantial role in meeting the legal needs of the poor and under-represented through pro bono contributions of time and service.

The public needs lawyers who love the law and are committed to the idea that the profession serves the needs of the public to whom we are responsible. We have to work for a world free of crime, free of drugs, free of poverty, and free of bigotry—a world of justice and peace. One person can make a difference. And when the role is called I hope that person will be you. I urge that you work toward leaving a better world to your children than the world we pass on to you.

Third, your motto should be, Have some fun. Tom and Chuck Irish called it perspective. I call it fun. Have fun in your career. See the light side. Take yourself with a bit of humor, while you take lawyering seriously.

Raymond Burr, who plays Perry Mason, says life as Perry Mason was no laughs at all, just long hours. Perry Mason never once, in nine years, displayed a sense of humor. Perry Mason never once, in nine years, had a single good friend.

You should have some fun in your personal lives. Now, mind you, I don't know many people whose personal lives are as crowded and exciting, if you will, as Arnie Becker's. In fact, most lawyers I know are too exhausted at the end of the day to pursue the madcap social world that Arnie inhabits.

Build your own ladders to climb rather than climbing ladders and measuring success by the ladders others have placed before you. You should be people who have a commitment to your families as well as to the job. You can combine family and careers, although you will never hear a male lawyer being asked how he manages to combine marriage with a career.

I hope I have conveyed the message that the new graduates' role as new lawyers is not merely to practice law and to enhance their careers, but to participate actively in making our system of justice truly just.

This convocation is not merely the

Build your own ladders to climb rather than climbing ladders and measuring success by the ladders others have placed before you. You should be people who have a commitment to your families as well as to the job.

occasion to ask the new lawyers to make a commitment to community service. This convocation presents an occasion to ask the older generation here today to make a commitment to community service. My message to the parents, spouses, and friends as well as the faculty of the new graduates is the same as to the graduates. My message is that we the elders cannot sit with hands folded and ask the new law graduates, and the new graduates alone, to do good—to change the direction of this world. We the elders must do our share.

I am reminded of a story about two men on a tandem bicycle. They came to a very long, steep hill and they had an extremely difficult time pedaling up. When they reached the top, they stopped to recuperate. The front man—the younger man—wiped his forehead and sighed, "I thought we'd never make it." The number two man—the older man—answered, "I didn't either—and I bet we'd have slipped all the way back if I hadn't kept my foot on the brake." We the elders should not be the brakemen.

I believe each of us, lawyer and non-lawyer, young and older, has been given an opportunity for our lives to have meaning beyond our own personal pleasure and comfort.

My wish for each of us tonight is that we all use our given days wisely and do honor to this institution, to our families and friends, and to ourselves.

I will conclude by saying to the law graduates that this is your night. You have earned it. I am delighted you asked me to share this important event with you. I congratulate you and wish you well. Good luck and godspeed.

Tom Ogorchock ('88)

"Always Take Care of the Little Things"

Ladies and gentlemen, fellow graduates, and law school faculty. When I was elected to give the speech this evening I was informed that I had 15 minutes to speak. I thought to myself—15 minutes, is that really enough time to say everything I want to say about law school and what has happened these last three years? So I checked with the Law Revue people from Phi Delta Phi and they assured me that time limits are mere suggestions. That when you are putting on a show here at the Union Theater you can keep the audience in their seats for as long as you please. So in the fine tradition of Law Revue, the play not the book, I resolve to keep all of you here in your seats until at least midnight.

The next question I asked myself was—what should I speak about? I decided that given only fifteen minutes I would, to a large extent focus my topic on my philosophy of surviving law school. A philosophy I tried to live these past three years. And a philosophy I hope to maintain throughout my legal career.

As part of that philosophy, I classified my schoolwork into two categories: "Work which had to be done" and "Work which should be done." Now, work that had to be done was top priority—religiously completed on a day-to-day basis. For example, cases in Torts and Property fit into this category if you had Professor Palay. No one enjoyed having to pass in his class, and having him look back at you, and say "maybe."

Then there was that whole separate category of work that should be done. This was the lower priority work that was done as long as it wasn't a football Saturday or people weren't playing darts at Joe Hart's. This category included assignments in my section of contracts I—enough said about that. Reading the Mysterious Mr. Ripley for criminal law was work that should be done. Or so we thought. Unfortunately, we didn't realize that our criminal law final would be a slight variation from English literature exams we left behind in undergrad.

But despite my hopes of consistently categorizing everything in law school, I realized that most students' attitudes towards studying changed over the three years that we spent here. First year was, of course, the year that we were scared to death. All work, regardless of its relevance, was completed on time, often at the expense of the little things in life, like eating. Most first years had to be constantly reminded that three cups of union

coffee per day did not satisfy the recommended daily allowance of vitamins and minerals.

Second year was different from first year—which is like saying there is a difference in the amount of pain in having your leg removed or your arm cut off. The attitudes of the students did change slightly, however. It was not just school that scared us, but also the large groups of students that gathered in the placement office each day. As second years, we had to handle 17 credits of fun courses like Taxation of Limited Partnerships Based in the Bahamas. At the same time we had to deal with interviews and interviewers. I was a zoology major in undergrad. This, of course led to the stock question in every interview—"Zoology to law, now how did that happen?" I had to explain to every interviewer that came here that I had lost my desire to feed the polar bears at Vilas Park Zoo and I really was not interested in pursuing a legal career.

And yes, it is important to be the best attorney that we can be. We owe it to our clients, we owe it to ourselves, we owe it to our profession to not handle our work in a sloppy unprofessional manner.

This year was the time that most law students experimented with the practice of being an academic minimalist. It was the year we created a whole new category of work and packed it into an entire course known as general practice.

But it was work of this type that allowed us to keep this whole mess in perspective. Perspective was what allowed us to take our general practice "Volume Threes" and file them away for awhile if our family, or friends needed some of our time. That's what can prevent law students from becoming lifeless, hornbook-like robots.

Perspective even allowed me to have fun during first year when traditionally law students are not supposed to have fun. That year, I was a good little law student and joined a study group. Now, a study group is usually designed to help focus attention while studying. To help first years keep their minds on school work as exams approach.

So my little group of three met to argue the psychology of criminal law—to outline the intricacies of the UCC—and most importantly, we met to imitate our

At the same time we had to deal with interviews and interviewers. I was a zoology major in undergrad. This, of course led to the stock question in every interview—"Zoology to law, now how did that happen?"

professors. Torts was discussed at length in my study group—"Where was the contact in *Garrett v. Dailey*? Why was Putney held liable for just one little kick at Vosburg? And we effectively dealt with these questions. I would look at my two partners and simply say maybe this case is just wrong? Or in criminal law we resolved issues of how emasculated the 4th amendment had become by saying, "Well, it's a slippery slope and it all depends on whose ox is being gored." Sure it was a study group, but it was actually fun. It helped us realize that despite the importance of what we were doing, there were a lot of things around us to laugh at.

And keeping things in proper perspective is so important, and at times it is something that we unfortunately cannot laugh at. There is a whole world beyond law school—a world more important than our little enclosed legal community. And despite our desire to immerse ourselves in nothing but the law, we realize that classmates can die and that friends can die—all at a time and age when people are supposed to live forever. That hurts. And no amount of scholarly legal work, legal research, or all that money we as lawyers will be given in our lifetime can change that.

And yes, it is important to be the best attorney that we can be. We owe it to our clients, we owe it to ourselves, we owe it to our profession not to handle our work in a sloppy unprofessional manner.

But there are lessons of perspective to be learned in life. Lessons that tell us that we can spend countless hours devoting our entire life to a legal career, and miss out on what may seem like the little things in life, when in reality the little things are the most important.

Take for example the case of the Berrigan Brothers. The Berrigan Brothers were two Catholic priests who, along with several other people, were tried in 1971 for plotting to kidnap Henry Kissinger, planning to blow up electrical service tunnels under Washington D.C., and destroying draft records.

The defense came up with an interesting plan for winning the case. They decided that they were not going to put on a defense of their own. They actually did not call any witnesses at trial. Instead they decided to select a jury so carefully, based on the soundest principles of "social sciences" that there was absolutely no way that the jury could convict their clients. So the defense assembled a team of psychologists, social scientists and assorted legal and human behavior experts. The team spent literally months contacting people in the community where the trial was to be held—polling them about their beliefs, attitudes, and backgrounds. From this research, the defense had the profile of what they believed to be the perfect juror—jurors who under no circumstance could convict their clients of these crimes. The defense then selected a jury from a prospective panel of 450 people that so closely fit the description of what they wanted, there was absolutely no way they could lose.

Well, it worked. The Berrigan Brothers were acquitted on two of the counts. The jury hung on the third count but the Berrigan Brothers were not retried. The defense and social science had their victories. Articles were written lauding the new, foolproof, scientific method of picking a jury. The months of hard labor and the thousands of dollars spent had paid off.

Or so it seemed. Several years later, Psychology Today magazine did a follow up story on the trial. They spoke with several of the jurors to find out exactly what had happened. What they found was that despite all the months of research, despite all the dollars spent, and despite all the claims of victory by the social scientists, the Berrigan brothers were acquitted for other reasons.

The jurors had merely misread a jury instruction. This perfect jury that was guaranteed to acquit the Berrigan Brothers had misunderstood the law of conspiracy. Months of research, piles of

money and reams of articles and papers—all placed in the circular file.

This is something we must keep in mind as we pursue our legal careers. We cannot allow ourselves to forget about what may seem to be the less important things in life. Yet, during the crunch of deadlines, or the pressure of making partner, we might forget that there are friends around us. Friends who are getting kicked when they are already down. Friends who were there for us when we felt lonely, helpless, and scared these past three years. That is the time when it is so important that we keep the law in its proper perspective. A time when we must realize that the law is a profession and nothing more. It is a way for you and me and the 700,000 other lawyers in this country to make a living and maybe try to make a difference in society.

We also might forget at times about the important role that our families played these past three years; and will play during our lives. Brothers and sisters who were only a phone call away the night before a Con Law final when we couldn't remember whether or not Bakke was ever admitted to med school. Husbands and wives who endured endless stretches of exam time and became more intimate with the concept of *res ipsa loquitur* than with their spouses. And there were my parents who had to put up with two of my sisters, who are lawyers, and me arguing during Thanksgiving dinner about the proper way to *voir dire* a jury.

These are the most important things in life. They are the things that can help solve your problems and help you through the difficult times. Problems and hard times that can't be cured by a \$60,000 a year salary, a Volvo, or even by winning your first case. Besides, we all caught our canes so this class is already about 250 and 0.

But we do need to heed the warning of that little jury instruction in the Berrigan brothers case. It reminds me of what a wise man once told me. He said, "Tom, always take care of the little things." Well, that wise man is also a very happy man right now, because for the first time in almost eight years I'll no longer have to ask him for tuition or rent money in September.

But I've been thinking lately about what that wise man told me. About maybe there is more to that quote than what he actually said. Maybe the quote means something very different if one

Supreme Court Justice John Paul Stevens even noted in a dissent to a recent case that "a careful reading of the context will reveal, Shakespeare insightfully realized that disposing of lawyers is a step in the direction of totalitarian government." Makes us look a little better, doesn't it?

looks at its context. It's like that old quote from Shakespeare. I'm sure you have all heard the saying, "the first thing we do, let's kill all the lawyers." A lot of people don't know the context that Shakespeare intended for that quote. The words were uttered by Dick the Butcher in Henry VI, Part II. Dick the Butcher made the statement to Jack Cade, who is portrayed in the play as an ignorant and boastful rebel and terrorist. Shakespeare used Dick the Butcher to mock some of the boasts made by Cade. When Cade proposed that he be King and eliminate laws and money, and even dress everyone alike, Dick the butcher uttered his famous line, "The first thing we do, let's kill all the lawyers." Shakespeare was saying that by killing all the lawyers the country would be doomed to anarchy and lawlessness. Supreme Court Justice John Paul Stevens even noted in a dissent to a recent case that "a careful reading of the context will reveal, Shakespeare insightfully realized that disposing of lawyers is a step in the direction of totalitarian government." Makes us look a little better, doesn't it?

So maybe we do have to look at the context of that quote from the now famous wise man. Maybe in a Shakespearean sense there is more to that quote than just "Tom, always take care of the little things." Indeed, if Justice Stevens could paraphrase that quote in a future case I think he might write something like, "Tom, always take care of the little things, because in the long run it's the little things in life that are the most important."

Well, that wise man is also a very happy man right now, because for the first time in almost eight years I'll no longer have to ask him for tuition or rent money in September.

Prof. Charles Irish

"Next Year Will You Get A Desk?"

It is a pleasure to be here tonight. This really is a big celebration.

You graduates are celebrating your release from the hours of mind-numbing drudgery and the moments of stark terror that seem to make up a law school career.

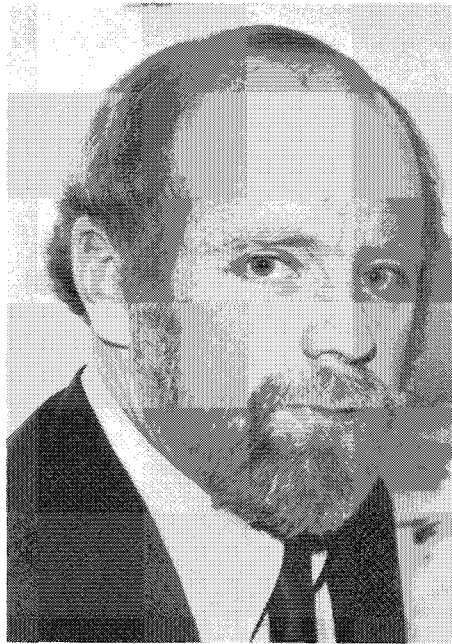
Your parents, spouses, siblings, children and others are very proud of you, but they are also happy that at last you're going to get a job and start supporting them in the fashion to which they would like to become accustomed.

And so it was with a celebration in mind that I sat down to decide what to say to you tonight. I thought long and hard about it. It was a great blow to my ego when I realized that the thing you would most like me to do is tell a funny story and then sit down.

This was made very clear to me when I told my wife I was asked to speak at the convocation. She said that I must be very proud. She then gave me a present—an Egg Timer!

Well, I have to do just a bit more than tell a story because I have an obligation. An obligation to my colleagues on the faculty not to let pass this last opportunity to speak to you as teacher to student. I want to talk with you about maintaining a sense of perspective, about not getting so caught up in your sense of self-importance as you surge through your professional responsibilities that you lose sight of who you are—a human being with about as many good traits and bad traits

I want to talk with you about maintaining a sense of perspective, about not getting so caught up in your sense of self-importance as you surge through your professional responsibilities that you lose sight of who you are—a human being with about as many good traits and bad traits as the rest of the human beings in the world.



Prof. Charles Irish

as the rest of the human beings in the world.

Now you are about to graduate and with a law degree from Wisconsin. You are well-equipped to play an important role in your community, your state, your country or possibly even the world. In fact, some people might say that as a result of you being privileged to have this education you have an obligation to play a significant role in your community. So it is really a given—that you should make use of your talents, work hard, think hard, and do the best work you can in whatever you choose.

The problem is that we lawyers have a tendency to get caught up in our own pomposity. We lose sight of what's really important. Too often, we lose our sense of perspective and we become pains in the ass.

For example: Tomorrow I'm off to West Africa. People there are well educated, but very warm and hospitable as well. When I was last there a couple of years ago I arrived on a Sunday, a day of great excitement. It was the biggest soccer game of the year, matching the two best teams in the country.

My host, who was an important person in this country, had gotten very good seats right at the mid-field line. His car drove us through the crowd right up to a

special gate. I got out of the car, the gate opened and, at this point, I was feeling pretty important. Then we walked through a tunnel and out towards our seats. And as we emerged from the tunnel the stadium was jammed with people. As we came out toward our seats the crowd, all together let out a loud cheer and jumped to their feet. "My," I said to myself, "I am very important." But, at that point, I detected movement down on the field. Just below our seats the home team's mascot emerged, a juggler, and that is what the people were cheering. They, not surprisingly, had not even noticed my presence.

Earlier this week in Washington, I had a dinner with several graduates of this law school. One of them works in the tax department of a big-time law firm in Washington. She told this story. The day after a terrible airplane crash one of the senior partners in the tax department was overheard to say, "Oh what a terrible, really terrible event! Because of the crash, the airline would have to recapture the ITC which would have significant adverse consequences!" I think this demonstrates how busy lawyers can lose their perspective and fail to see that which is really important in such a circumstance.

Most of you have had a basic course in Tax (if you haven't, you should have). When Prof. Whitford tells you that Aunt Bertha died last night, don't you say, "my God, mom do you know what that means. Aunt Bertha's income tax year ends!" If you do, you've lost your sense of perspective. Be human first. React to people as a person not like some automation trained in the law.

Two years ago the University honored me with an endowed chair. I came home absolutely brimming with pride and probably not a little self-importance. I gathered my family together to tell them the great news. My daughter, who was 14 at the time, said, "Gee Dad, that's great. Does that mean that next year you will get a desk?"

And so the message I leave with you is simple. As you surge forward in your careers—maintain a sense of perspective about who you are and what's really important. Remember that a sense of humor helps that perspective, but it only helps if the sense of humor includes an ability to laugh at yourself.

Memories of Dick Effland (1916-1989)

Walter B. Raushenbush

Richard W. Effland, friend and mentor to two decades of Wisconsin Law students, died on October 17, 1988, in Arizona. He died as he lived, happy and at work—of a sudden heart attack while painting his mountain cabin near Flagstaff. He was 72, recently retired from the Law Faculty at Arizona State University, where he had gone in 1967 as one of the founding faculty members of the new Law School. He was a star of the faculty at ASU, as he had been at UW. A memorial program in Dick's honor was held in Tempe, Arizona, on January 21, 1989; I had the honor of representing the University of Wisconsin Law School.

The basic facts of Dick's career are impressive enough: A native of Moline, Illinois, he grew up in Pine Bluff, Arkansas, and Milwaukee, then came to Madison and earned his bachelor's degree in 1938 and his law degree in 1940. A brilliant student, he achieved the third highest average in the entire history of the Law School. He went on to an LL.M. at Columbia, brief private practice, and then key wartime service in Washington: State Department Liaison to the War Production Board, 1941-44; Secretary and Counsel for the Export-Import Bank, 1944-46. He then joined the Wisconsin Law faculty, where he served for 21 years.

Dick taught many courses, but became an expert in Property, Trusts, Wills, and Estates, and did most of his teaching in those subjects. With Professor Jim MacDonald, he rewrote the Wisconsin probate statutes. The work led MacDonald and Effland to be key figures in drafting the Uniform Probate Code promulgated by the National Conference of Commissioners on Uniform State Laws. Dick also was the reporter/draftsman working with the State Bar of Wisconsin on a major redraft of Wisconsin's property, trust, landlord-tenant, and conveyancing statutes.

At Arizona State, Dick was a popular teacher and a faculty leader. Before long he had redrafted the Arizona probate statutes. He added Community Property, a part of Arizona law, to his teaching responsibilities. His expertise brought him back to Wisconsin as a major consultant during the formative years of what became the Wisconsin Marital Property Act—one of the major property law developments in recent decades.

But those who knew Dick will agree that a list of achievements does not do justice to the man. When I came to the Law School in September 1950, he was in his fifth year of teaching, already reputed to be tough, fair, and fun. In the second semester, he was my teacher for Real Property. He taught rather a classical property course, but in a modern and memorable way. Would we remember the Statute *Quia Emptores*? Perhaps even the Statute *de Donis Conditionalibus*? At the time, it seemed the prudent thing to do. But we learned the latest problems in landlord-tenant law, too, and had more work in applying statutes as well as cases than many law school courses then offered. The next autumn, with many others, I enrolled in four credits of Trusts. Just Trusts. Not wholly rational, perhaps—but Effland was teaching it! And it was tough. But we all showed up for the exam, on the very last day of the exam period. There he was at the podium, looking at us through those thick spectacles with a characteristic look, equally quizzical, kind, and amused. He said, "You've had the rest, now it's time for dessert!" A voice from the rear: "Couldn't we just skip dessert?" He laughed with us, not at us.

Dick taught seven of my faculty colleagues, at times ranging from the late 1940's to the mid-1960's. Their recollections mirror mine: The image that abides is of a gentle, helpful, tolerant, patient man—but also of a persistently demanding teacher. He represented the best of the Wisconsin Law School teaching tradition.

Five years after graduating from the Law School, I became Dick's colleague on the faculty. Our teaching interests overlapped. No one could have been a more constructive and supportive colleague and friend. We who worked with him on the faculty especially valued his role in the governance of the school. A moderate conservative, he relied not on ideology but on thoughtful examination and considered judgment as to the merits of any proposition. His strong presence as a wise and helpful faculty meeting voice and a devoted committee worker was a comforting constant at the Law School. It was a shock when he chose the new challenge of Arizona State. But the ensuing four years saw the worst of the Vietnam War era troubles on the Madi-



Prof. Richard Effland

son campus. I remember feeling glad for Dick that he was not here. The disruptions, whatever one thought about their causes, would have been especially hard for one of his kindness, civility, and tough educational standards.

My next memory of Dick is writing to him in late 1975, asking about the possibility of a visiting semester at Arizona State in 1976-77. My wife's mother was ill in the Phoenix area; a semester at Tempe would give us a chance to see more of her. And in January 1977, there I was teaching at ASU for a semester made especially enjoyable by the hospitality of Dick and Virginia Effland and their colleagues. It was gratifying, even if entirely predictable, to see at first-hand the high regard for Dick there too.

We were occasionally in touch after that. And then I followed Dick to the West again, to California and Pepperdine University School of Law, in 1987. A spot was open there, because Dick had been asked to come to Malibu for the 1986-87 academic year as Distinguished Visiting Professor of Law. Dick and Virginia preferred to visit for one semester, so Dick recommended me for the other. During my first week at Pepperdine, I remarked to a law faculty leader that I was grateful to Effland as well as to Pepperdine for the chance to be there. He looked meaningfully at me, and said "That's a hard act to follow; Dick was really loved here." I had an answer. I nodded: "That's been his custom."

Faculty Notes

Ann Althouse is about to publish an article in the NYU Law Review entitled "The Misguided Search for State Interest in Abstention Cases: Observations on the Occasion of *Pennzoil v. Texaco*."

Gordon Baldwin acted as consultant for the National Conference of Bar Examiners Committee drafting essay questions for the Multistate Bar exam. On March 7th, he will give a lecture to the Dane County Bar reviewing recent U.S. Supreme Court decisions. Professor Baldwin is also keeping busy as chairman of the Admissions Committee.

Richard Bilder recently attended the Ditchley Foundation Conference on Antarctic problems in England. He also attended a conference on U.S./Canadian problems at the University of Toronto, Canada.

Walter Dickey spoke on probation to the National Center for Juvenile Justice in Pittsburgh. He is currently working on two chapters of a book about juvenile probation.

Herman Goldstein spoke at the National Executive Session on Policing at Harvard's Kennedy School of Government in December. Goldstein has been a member of a group of police leaders, mayors, and academicians who, under the Kennedy School's sponsorship, have been meeting periodically over the past three years for discussion of the major current issues in policing. In Wisconsin, Professor Goldstein was appointed to Attorney General Donald Hanaway's Law Enforcement Advisory Council and lent support to current police experiments in Beloit and Madison. Finally, the February issue of *The Atlantic Monthly* carries an article entitled, "Making Neighborhoods Safe," that recognizes Prof. Goldstein's pioneering work in "community-oriented policing."

Hendrik Hartog has published an article entitled "Mrs. Packard on Dependency," which will appear as part of the inaugural issue of the *Yale Journal of Law and Humanities*. He has also published a comment, "The End(s) of Critical Empiricism" which will appear in *Law and Social Inquiry*. Mr. Hartog is a member of the Graduate School Research Committee.

Lynn LoPucki, currently on-leave to the University of Miami Law School, is the editor of the 1989 edition of "Directory of Bankruptcy Attorneys," published by Prentice Hall.

Stewart Macaulay gave three talks on private government entitled "Images of Law on Television" at the University of Comdia in Portugal.

Tom Palay recently had an article published in *Law and Contemporary Problems* entitled "Diversifying Physician Risk Through Contract: An Exercise in Private Government." Professor Palay, along with Marc Galanter, also gave two presentations and workshops on their co-authored papers "Why Law Firms Have to Grow" and "The Transformation of the Large Law Firm."

Walter Raushenbush and MacDonald's book *Wisconsin Real Estate Law* was published in January.

Frank Remington delivered a paper at the Institute on Judicial Administration Colloquium on Federal Habeas Corpus Review of State Criminal Convictions at New York University. The paper will be published in the spring issue of *New York University Review of Law and Social Change*.

Joseph Thome attended a conference and chaired a panel on "Legal Services for the Poor in Latin America" in Bogota, Colombia, in December.

June Weisberger's article entitled "1988 Amendments to the Wisconsin Marital Property Act" was published in the January edition of *The Community Property Journal*.

Alumni Notes

Robert J. Smith ('74), a member of the Madison law firm of Wickwire, Gavin & Gibbs, has been named to a committee of the National Academy of Science. The committee will recommend contracting practices for the design and construction of the Superconducting Super Collider.

J. Kathleen Learned ('74) has been elected to the bench of the King County Superior Court in Seattle, Washington. Prior to joining the bench she was a member of the Schroeter, Goldmark and Bender firm.

Tomas M. Russell ('67), with Hopkins & Sutter in Chicago, has been elected Vice Chairman of the Illinois Institute for Continuing Legal Education. He also recently argued a case before the US Supreme Court (No. 87-1346).

Robert W. Kastenmeier ('52), who was re-elected in November to his 16th term in the US House of Representatives from Wisconsin, has been named by Chief Justice William H. Rehnquist to a special committee that will develop a long-range plan for the federal court system. Rep. Kastenmeier is chairman of the House Judiciary subcommittee on courts, civil liberties and the administration of justice.

Albert M. Witte ('55), a law professor at the University of Arkansas-Fayetteville, is the new President of the National Collegiate Athletics Association (NCAA).

Warren D. Woessner ('81) has become a shareholder in the Minneapolis firm of Merchant & Gould. He practices in the area of chemical patent law.

Russell D. Cleary ('57), has announced his resignation as president of the G. Heileman Brewing Company. During his tenure, Heilman increased its sales from \$100 million to more than \$1.3 billion, and became one of the largest brewers in the US.

Susan S. Engeleiter ('81), currently a Wisconsin State Senator, has been nominated by President George Bush, to serve as the Administrator of the Small Business Administration.

Roy B. Evans ('79) has been named staff associate for Academic Affairs at Milwaukee Area Technical College. He will be responsible for policy research and the development of reports, particularly those related to student affairs and services.

Prof. Delmar Karlen, who taught at our Law School in the late 1940s and early 1950s, recently passed away at his home in Williamsburg, VA. After leaving Wisconsin, Prof. Karlen taught at NYU and at William & Mary.



Prof. Margo Melli with ABA President-elect **Stanley Chauvin** during his visit to the Law School.



46th Annual Spring Program

Madison, Wisconsin
Friday & Saturday
April 28–29, 1989

Friday Evening
Benchers Society Dinner
(members and guests)

Saturday Luncheon
(all alumni and guests)
Featuring presentation of
the Distinguished Service Award
to Chief Justice Nathan S. Heffernan

Annual Meeting of the Wisconsin
Law Alumni Association

Recognition of reunion classes:
1939, 1944, 1949, 1954, 1959,
1964, 1969, 1974, 1979

Details, and reservation forms, will be mailed by 1 April.

WHLA WISCONSIN HEALTH LAW ASSOCIATION

UNIVERSITY OF WISCONSIN LAW SCHOOL, MADISON, WISCONSIN 53706

April, 1989

Dear Advocate:

Several factors indicate that health law will be the legal darling of the 1990's. Current legislation and administrative attention is focused on health insurance pilots, issues of quality and delivery of care under public benefit programs, and rural health problems. In the private sector, law firms are now listing health law as a field of practice and even a specialty. The UW Law School has itself become part of the movement with the recent increase in health law faculty, and the support of the Wisconsin Health Law Association (WHLA) activities and goals.

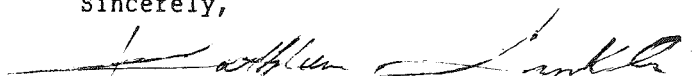
WHLA is a student organization geared primarily toward educating and disseminating information to law students. In pursuit of these goals WHLA concentrates on programming to provide forums, seminars, and speakers. The association is also intent on expanding the health law curriculum, and improving availability of materials and resources. There is an emphasis on interdisciplinary involvement to the extent that students from the medical, nursing, philosophy and sociology schools are encouraged to attend events and suggest joint ventures.

WHLA currently consists of about 25 students who work on at least one of the following committees. The Bioethics Committee pursues the esoteric juncture between law and medicine by investigating issues of abortion, Acquired Immune Deficiency Syndrome, Euthanasia, fetal tissue research, genetic engineering, human subject research, and rights to and against treatment. The Career Opportunities Committee concentrates efforts on the practical matters of determining what types of jobs are available for lawyers interested in health law, and how to get into them. The Professional Relations Committee investigates issues surrounding medical and legal malpractice, and related insurance costs and availability. Health Care Finance and Corporations Committee, perhaps the most pragmatic group, is geared toward improving the understanding of HMO set-up, private versus public health insurance, and other issues.

Funded in part by the Student Bar Association, and through membership dues of \$10.00, WHLA sponsors several events during the year. The first of those projects this year was the Spring Conference on current controversies in bioethics. The agenda included legal and ethical issues surrounding developmental disabilities, artificial insemination, surrogate parenting, right to refuse treatment, and ethics committees. The conference was held at the Law School Friday, February 17th, 1989.

If you would like more information, or if you want your name or that of your organization to be put on our mailing list, please contact me at the address above. Your questions, suggestions, and contributions are always welcome. Thank you for your interest in and support of our efforts to make health law a viable legal field.

Sincerely,



Kathleen Conklin, Chair
Bioethics Committee

BIOETHICS

CAREER OPPORTUNITIES

FINANCE & CORPORATIONS

PROFESSIONAL

Editor's Note

This morning the spring semester began, and it really does seem like spring. After a cold start to winter, we have been experiencing March weather throughout December and January. Our only complaint has been a lack of snow and abundance of ice. With a warm, dry winter what will next summer be like?

In the last issue you read about how our Law School interacts with the international community. While we mentioned some individual faculty interests, Prof. Joseph Thome correctly reminded me that we failed to mention Law School efforts in Latin America. Prof. Thome's reaction is understandable since he has been working on Latin American legal issues since he arrived here in 1965! During that time he has done research, consulted and worked in the field throughout the area and on issues ranging from land reform to water rights. He also served as an advisor to a number of graduate students who now hold important positions in government, business and international organizations.

Dean Thompson has been busy traveling to a number of alumni activities during this semester break. At the Association of American Law School's meeting in New Orleans, some of the more than 100 alumni and former teachers at this School gathered for breakfast. We now boast of alumni in at least 80 other law schools. The Dean then made a swing through California, with stops in San Diego, Los Angeles and San Francisco, and another in Phoenix, Arizona. This week we will have one of our largest out-of-state gatherings with a cocktail party in Chicago. I suspect that our WLAA President, Joel Haber, must twist a few arms, but a good share of our 500+ alums in Illinois are likely to attend. Later in the spring we hope to visit Minneapolis-St. Paul, New York and Washington, each an area with a concentration of UW Law alumni.

Another popular series of alumni events continues in-state. Last fall we held Appreciation Dinners in Kohler and Milwaukee. This spring we will travel to Green Bay, Appleton and Oconomowoc. At each event, the local bar is invited to help us honor a number of lawyers, alumni and non-alumni, who have helped us with alumni work or teaching

at the Law School, often in the General Practice Course. The response to these dinners has been most encouraging. The non-alumni who attend are often as enthusiastic as any of our own Badgers, particularly in praise of the General Practice Course. Orrin Helstad, the current GPC Director, Stu Gullickson, credited with inventing the current form of the course, and other faculty join with the Dean in these events. We have been particularly pleased that WLAA President Joel Haber has traveled from Chicago to attend virtually every dinner held during his term.

While I am on the subject, before Joel's term ends in April, I would like to publicly thank him for the effort he put into the presidency of the Law Alumni Association. Joel went beyond attending meetings and events, he created ideas and stirred us into action. On behalf of the 8700+ Wisconsin Law grads everywhere, thanks, Joel, for a job unusually well done.

Joel will turn over the reins of the Association to President-elect Jeffrey B. Bartell at the 46th Annual Spring Program in April. Several classes have begun making plans for reunions at the Spring Program. If your class is having a re-

union, give me a call to start plans or to learn what may already be underway.

The mystery picture of Vol. 19, No. 2, was identified by at least one reluctant alum. Mark A. Pennow ('80), of Green Bay, Wisconsin, wrote that, "... either they propped up the cadaver of Alfred Hitchcock in the hallway ... or else I am sitting in line waiting to sign up for an interview." He also notes that he has since lost 30 pounds and bought a new pair of tennis shoes since graduating.

The mystery picture from Vol. 19, No. 3, has not been out long enough for everyone to have a chance, but early reports identify the Aluminum Bullet (aka Terry Mead, '81), Maureen Komisar ('79), and John Beaudine ('81) selling tickets to the Registration Week picnic. Incidentally, the Law School joins the rest of the University by next fall in Touch-Tone Registration, ending the tradition of walking from one end of campus to the other to sign up for classes and pay fees. Looks like we will need some other excuse for a party now.

This mystery picture is a treat for 22 graduates who had their picture taken in the late 1970's at an awards convocation. At least I think they are graduates. You can never tell about those honor students!



Mystery Picture