GARGOYLE

UNIVERSITY OF WISCONSIN LAW SCHOOL FORUM

VOLUME XXIII NUMBER 1 SUMMER 1992

University of Wisconsin Law School
236 Law Building
975 Bascom Mall
Madison, WI 53706-1399

GARGOYLE

UNIVERSITY OF WISCONSIN LAW SCHOOL FORUM

VOLUME XXIII NUMBER 1 SUMMER 1992

CONTENTS

Bulletin of the University of Wisconsin Law School, published quarterly.

Editor: Edward J. Reisner

Design: Earl J. Madden, University Publications

Production Editor: Linda Alston, University Publications

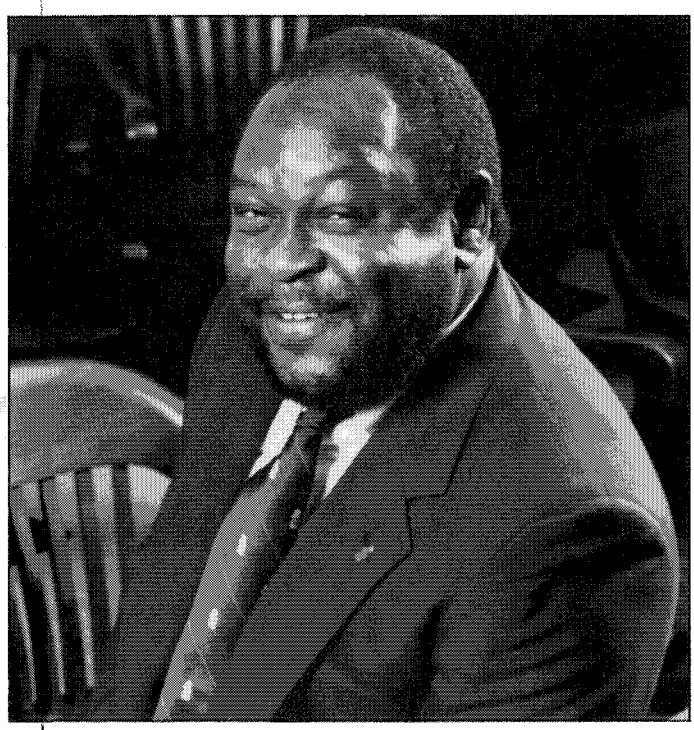
Law School
Publications Office
University of Wisconsin
Madison, WI 53706–1399

Postermaster's note: Please send form 3579 to "GARGOYLE," University of Wisconsin Law School, Madison, WI 53706–1399

SSN 0148–9623 USPS 768–300

Cover Photo: No, it's not an effort to fund the new addition and remodeling project by a wildcat oil well. Planning goes forward with test boring to discover underground conditions.

During the first weekend in May the Law School held its 49th Annual Spring Program which featured, among other things, class reunions. This year we had special reunion events for the Classes of 1942, 1952 and 1967. Several other classes (1957, 1962 and 1982) are holding their reunions this fall in conjunction with football games. Regardless of when they are held, reunions are interesting events from a variety of perspectives.



Dean Daniel O. Bernstine

Each year our reunions bring back groups of old friends who have kept in touch through the years to relive law school memories. For many, the reunion is a trip back in time to when their biggest problems were getting up for class and finding library time to keep up on their reading. Well, there may have been a little more to it, but their memories are almost uniformly positive.

On the other hand, there are the class members who may not have seen Madison or any of their classmates during the intervening years. For them a reunion is a time of great contrasts. The building they remember may be gone and, like me, the hair they remember is either gone or gone gray.

Spouses of graduates form a special group — some shared the law school experience, even financed it. Others became spouses years after their husband or wife graduated. For them reunions are probably something they have to tolerate occasionally.

The Law School encourages reunions because generally they are positive events and foster the "bonding" between

Each year our reunions bring back groups of old friends who have kept in touch through the years to relive law school memories. For many, the reunion is a trip back in time to when their biggest problems were getting up for class and finding library time to keep up on their reading.

the graduate and the School. Increasingly, reunions have also become fund-raising activities. I emphasize, however, that the decision to include a class gift in a reunion is the choice of those members who organize the class events. I usually mention class gifts to the reunion committee but we want our alumni back with or without an organized class gift. Perhaps the finest example of a class gift was that raised by the 50th reunion Class of 1941. Immediately after their reunion members of the Class combined thier resources to make a six-figure gift to the Law School. A similar effort is being organized by the members of the Class of 1967 and a number of other classes have raised significant sums as part of their reunions. The Class of 1972, during its 20th reunion, has already announced plans to raise a class gift to be presented at its 25th!

With the growing importance of reunion activites we are modifying the traditional calendar for such celebrations. To give everyone an extra, albeit non-deductible, excuse for returning for a reunion, we are changing to fall semester reunions during football weekends. Fellow graduate and Athletic Director Pat Richter ('71) is now on the spot to have the football team not only be entertaining but also to win each of the games at which we have reunion groups. As I mentioned, several classes will hold "football" reunions this fall with all reunions to be scheduled for the fall of 1993. In recognition of the popularity of fall reunions, in 1993 we will not hold a "Spring Program". Its events will, however, take place in an "Annual Program" which will coincide with the reunion weekend. Since 1993 is also the fabled multiple anniversary year — 125th year of the School, 100th year on Bascom Hill, 50th Annual Law School Program, and 25th anniversary of the General Practice Course, we not only expect football wins on the weekend we celebrate, we expect that the celebration will continue in Pasadena on New Year's Day. How about that, Pat. A double treat for me would be to have the Badgers play the Golden Bears of the University of California (my undergraduate alma mater) in the Rose Bowl. If that happens, I promise to cheer for the right team.

Dean Bernstine meets with alumni during the 1992 Spring Program

One final word about Law School reunions. If it's your turn, why not come? While problems occasionally crop up — my authority as Dean does not extend to the Wisconsin weather — I don't remember anyone without some positive memory. After a few years even the disasters that occurred in the classroom or library become something to laugh about with friends, old and new.

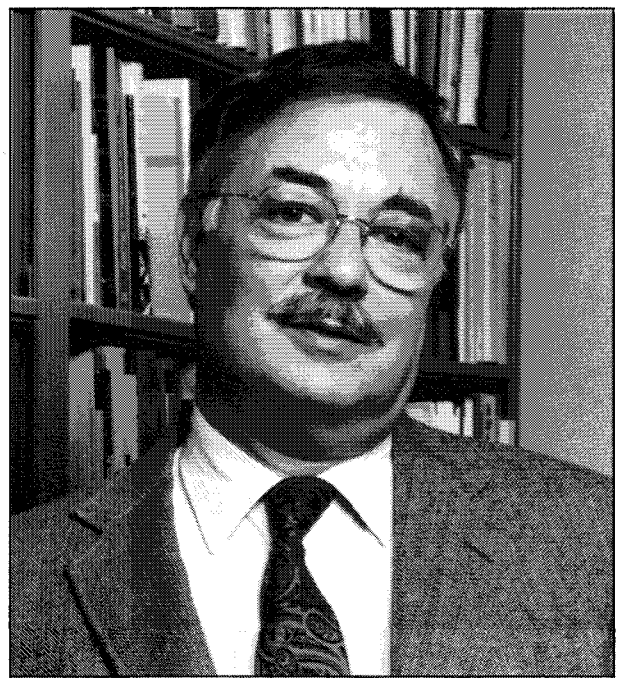
The Debased Debate on Civil Justice

MARC GALANTER
Evjue-Bascom Professor of Law and Director, Institute for Legal Studies

Being ahead of the curve is her stock in trade, so it is not surprising that visionary Jeanne Dixon included in her predictions for 1992: "Anti-lawyer riots will shake the legal profession and force drastic changes in the way attorneys do business." Why the sense that lawyers are due for a comeuppance? A jaundiced but resilient story promoted in many quarters is that lawyers have fostered the legalization of American life, encouraged an oppressive explosion of litigation, and complacently profited from the miseries of a legal system that has "spun out of control."

Public discussion of our civil justice system resounds with a litany of quarter-truths: America is the most litigious society in the course of all human history; Americans sue at the drop of a hat; the courts are brimming over with frivolous lawsuits; resort to courts is a first rather than a last resort; runaway juries make capricious awards to undeserving claimants; immense punitive damage awards are routine; litigation is undermining our ability to compete economically. Each of these is false, but in a complicated way; so let me take up a few of the more specific assertions of those who propound the jaundiced view.

The Seventy Percent Solution: My first example, trivial in itself but revealing about the quality of the indictment of our system of civil justice, is the assertion that the United States is home to seventy percent of the world's lawyers. Dropped casually by Vice President Quayle in his speech last August and parroted by President Bush, Cabinet members, and media experts, this is certainly an alarming figure. It suggests monstrous deviation from the rest of the world and portrays lawyers as a kind of cancerous excrescence on American Society. As someone who has studied lawyers comparatively, I wondered how this percentage was determined. I could find no sign of anything that could be called a calculation. The seventy percent figure seems to be a retread of an item that surfaced a decade ago, having no apparent terrestrial origin, that the United States had two-thirds of the world's lawyers.



Prof. Marc Galanter

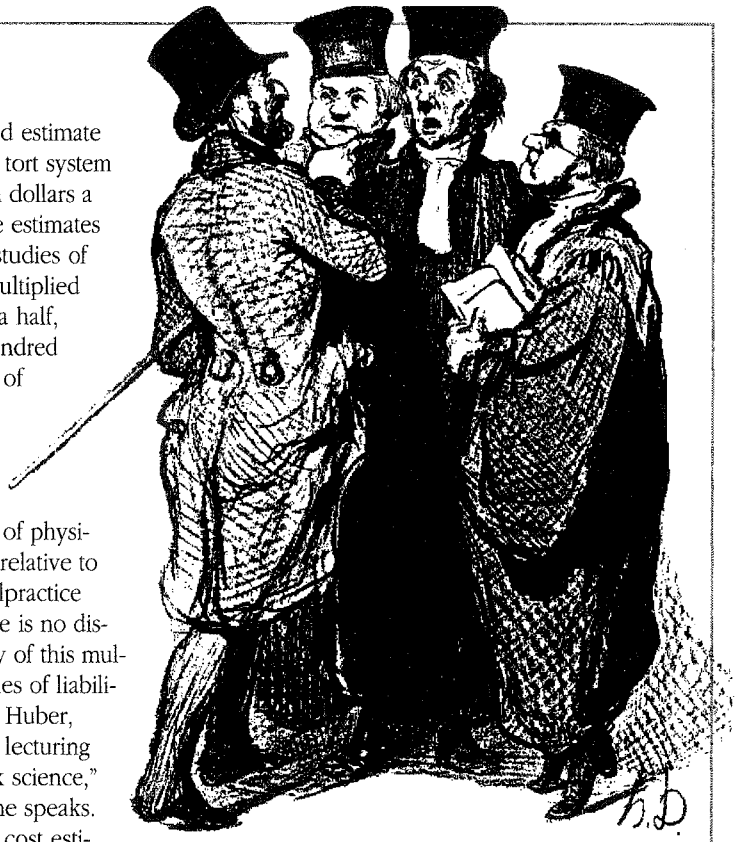
Counting lawyers comparatively is a daunting undertaking, plagued by poor data and a bushel of apples and oranges problems. However these are resolved, it is clear that the seventy percent figure is very far from the mark. An informed guess would be something less than half of that. Counting conservatively, American Lawyers probably make up somewhere between twenty-five and thirty-five percent of all the world's lawyers, using that term to refer to all those in jobs that American lawyers do (including judges, government lawyers and in-house corporate lawyers).

Is that too many? It is roughly the United States proportion of the world's GNP and less than our percentage of the world's expenditures on scientific research and development. America is a highly legalized society that relies on law and courts to do many things that other industrial democracies do differently. But it is worth recalling that one realm in which the United States has remained the leading exporter is what we may call the technology of doing law — constitutionalism, judicial enforcement of rights, the organization of law firms, alternative dispute resolution, public interest law. For all their admitted flaws, American institutions pro-

vide influential (and sometimes inspiring) models for the governance of business relations, the processing of disputes and the protection of citizens.

What is striking about the Seventy Percent figure is not that the estimate was so overblown, but that those who made it had reason to know that it was a tall tale; and that neither the Vice President nor anyone else who thought it was a relevant fact deemed it important to have an informed rather than a wild guess.

The Three Hundred Billion Dollar Bubble: Another funny number: Vice President Quayle and those who beat the anti-lawyer drums tell us that the "legal system now . . . costs Americans an estimated $300 billion a year." Three hundred billion? Where does that come from? The White House takes it from the Vice President, who has it from the Council on Competitiveness, whose Agenda for Civil Justice Reform borrows it from an article in Forbes which in turn takes it from liability guru Peter Huber who, it is fair to say, made it up. From a single sentence of CEO Robert Malott in a 1986 round table discussion of product liability, Huber adopted an unsubstantiated estimate that the direct costs of the tort system were at least eighty billion dollars a year — far higher than the estimates of careful and systematic studies of these costs. Huber then multiplied this surmise by three and a half, rounding it up to three hundred billion as the indirect cost of the tort system. The three and a half multiplier is taken from a mention in an editorial referring to a study of the reported cost of physicians' changes in practice relative to increases in their 1984 malpractice insurance premiums. There is no discussion of the applicability of this multiplier to every other species of liability at every other time. Mr. Huber, who has recently taken to lecturing us on the dangers of "junk science," certainly knows whereof he speaks.



For all their admitted flaws, American institutions provide influential (and sometimes inspiring) models for the governance of business relations, the processing of disputes and the protection of citizens.

So the Vice President's cost estimate is not the product of any investigation or analysis by his Council, or by Forbes, or by Huber, but is a product of casual speculation. The Council on Competitiveness and the Vice President address the entire civil justice system, not just tort, and present these borrowed figures as the cost of all civil litigation to the US economy. They never indicate whether they have scaled down Huber's tort estimate to make room for the costs of the much more abundant non-tort litigation or whether they have concluded that non-tort litigation is costless. Indeed, the Vice President compresses Huber's eighty billion of direct costs and three hundred billion of indirect costs for torts alone into a total cost of three hundred billion for the whole legal system — but what is eighty billion among friends?

As in the case of the Seventy Percent Solution, we find an utterly cavalier treatment of facts, a use of sources that would shame any first year law student, and no attempt whatever to make a serious assessment of what is going on in the world.

The Product Liability Monster: Let me turn to a third example. The Administration proposes to rescue the United States from a civil justice crisis that imposes on us "a self-inflicted competitive disadvantage." Escalating product liability litigation is blamed for discouraging innovation and undermining the competitiveness of American business. That product liability litigation is increasing inexorably, driven by the greed of entrepreneurial lawyers, the wrongheadedness of activist judges, and the rising litigiousness of ordinary Americans is a key tenet of the jaundiced view.

But there is good reason to think that the world of product liability has been shrinking rather than expanding since the mid 1980s. If we put to one side asbestos cases and look at cases involving every other product, we see that filings in the federal courts, which are the heartland of product liability litigation, have fallen substantially, from their high point of eighty-two hundred [8268] in 1985 to fifty-two hundred [5236] in 1991 — a decrease of some thirty-six percent. The companies that make the tens of thousands of other products have experienced a significant decrease in their exposure to product liability cases. These figures are only for filings in federal courts. There is no reason to believe that there has been an offsetting increase in product liability claims in state courts.

Other research findings — and I refer to real research, not to imaginative exercises with unsubstantiated numbers —

also suggest that the world of product liability is shrinking rather than growing:

Since the mid-1980s, plaintiffs have been less successful at trial and defendants have secured favorable opinions from the courts in an increasing portion of cases.

The number of punitive damage awards in non-asbestos product liability cases has fallen sharply since the mid-1980s.

A new report by the General Accounting Office finds that the number of claims per dollar of product liability premiums dropped by almost half from 1984 to 1988.

These studies depict a sustained contraction of product liability exposure rather than the runaway expansion that alarms adherents of the jaundiced view of civil justice. This shrinkage calls into question the supposed mounting litigiousness of the American people. It should induce skepticism about the asserted role of product liability litigation in undermining the competitiveness of American business. So far, serious investigation has found little evidence of any significant effect of America's balance of trade.

What do these outcroppings of the jaundiced view — the Seventy Percent Solution, the Three Hundred Billion Dollar Bubble, and the abominable Product Liability Monster — have in common?

First, in each instance trends that are widespread throughout the industrialized world are treated as if they were peculiarly American, and moreover manifested pathological flaws in American society. In recent decades, there has been a dramatic worldwide legalization of social life, including an increase in litigation and in the number of lawyers — even in Japan, which is so often falsely portrayed as a land without litigation and lawyers. While the number of lawyers per capita remains far higher in the United States than in other countries, the rate of increase in the number of lawyers elsewhere — has outstripped that in the United States.

Second, the jaundiced view portrays America's institutions of remedy and accountability and the lawyers that staff them as burdensome afflictions. They are viewed as costs and thus as deadweight losses. This is bad bookkeeping on two counts:

A significant portion of the wealth that flows through the litigation system is compensation delivered to creditors and wronged parties to which they are entitled under the going rules. This half (or more) of the supposed cost is a cost to defendants, but it is not a cost of the system or a cost to the country, for the wealth is not lost but only transferred to different hands. That it costs so much to effectuate these rightful transfers is a scandal — but controlling these transaction costs should not be confounded with reducing the rights of claimants.

Resentment of lawyers is not a fiction. It is deeply rooted in society's fundamental ambivalence about law and it is accentuated by the discomforts of the increasing legalization of society.

Again, our accounts should reflect not only the costs but the benefits of enforcing such transfers, which afford vindication, induce investments in safety, and deter undesirable behavior. For instance, the sums transferred by successful patent infringement litigation not only are not lost, but maintain the credibility of the patent system which in turn has powerful incentive effects. To put forward estimates of gross costs — even ones that are not make believe — as a guide to policy displays indifference to the vital functions that the law performs.

Each of these examples displays a debased style of public debate in which assertions are made about complex states of affairs without any sense of accountability to some body of reliable information. It seems to be assumed that in addressing the legal system, fibs and fables are acceptable. The response of the legal profession has been feeble, in part because our acuteness in dealing with evidence and inference in specific cases has not carried over to discussion of large social aggregates. We have acquiesced for too long in a style of public discussion of legal policy that tolerates argument by anecdote and assertion without evidence. We have tolerated a legal academy that does not generate basic knowledge about the working of the legal system and has a very limited capacity to assess the effectiveness of legal institutions.

Lawyers have created in the civil justice system a powerful engine of remedy and change, but there is little sense of collective responsibility to support the knowledge base needed to modify and wield it for public good. As professionals we have a joint responsibility to contribute to a cumulative and reliable body of knowledge about the system. Such a knowledge base will not provide definitive answers to questions of policy, for lawyers reflect the conflicting views of their clients, so we should not imagine that we can come up with neutral and purely technical answers. Civil justice issues involve value choices — and that means political choices. But an enhanced knowledge base can rescue us from a debate dominated by bogus questions and fictional facts.

Resentment of lawyers is not a fiction. It is deeply rooted in society's fundamental ambivalence about law and it is accentuated by the discomforts of the increasing legalization of society. Our system of civil justice is beset by many problems, particularly problems of securing justice cheaply and expeditiously for all Americans. But we should be mindful of the accomplishments as well as the discomforts. Increasingly, ordinary people can use this system to hold to account the managers and authorities of society. It is this "litigation up" that fuels the sense of outrage of so many well placed critics because it challenges the leeways and immunities enjoyed by those in charge.

JOHN P. FRANK '40

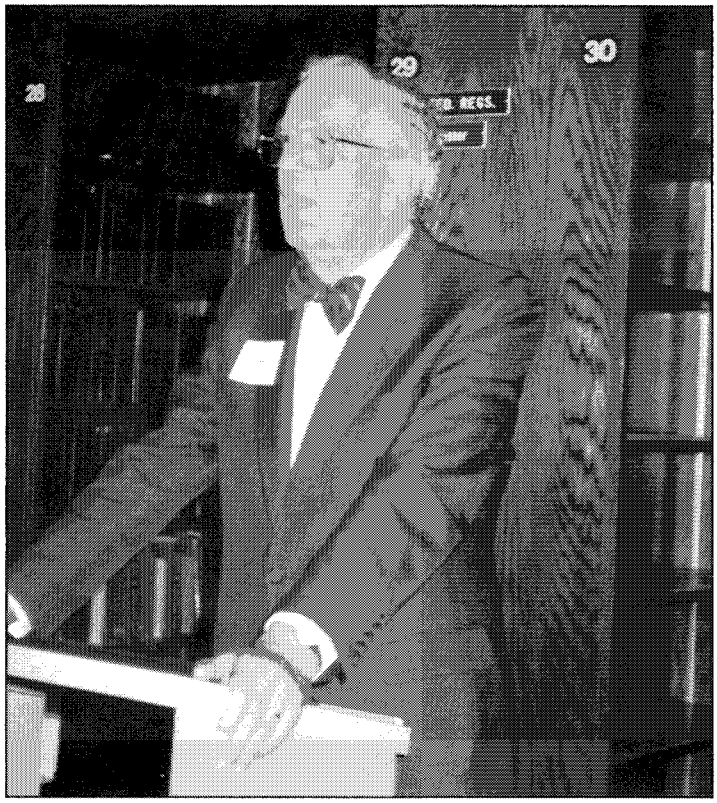
TIMOTHY R. VERHOFF

The National Law Journal describes 1940 Law School graduate, John Frank, as the "Legendary appellate and trial lawyer in the Southwest." Frank calmly reacts, "The perfume is harmless if you don't inhale."

John Frank was born and raised in Appleton, Wis., with the law in his blood. Frank, whose father was a well-known attorney in the Fox River Valley, decided to attend the UW–Madison. By 1940 he had earned a bachelor's degree, a master of arts degree and a law degree, and today completes almost a century of lawyers in his family. "I must confess that no other possibility but a law degree ever occurred to me," he said.

Frank graduated from the Law School and spent the following year as a clerk for U.S. Supreme Court Justice Hugo Black. "It was the most rewarding experience of my lifetime," Frank recalled. "We became very close friends."

Frank's clerkship drew to a finish, and World War II was close at hand, but Frank was plagued by asthma. So, he secured a job in 1943 as the assistant to the Secretary of the Interior Harold Ickes and then in 1944 became the Assistant to the U.S. Attorney General Francis Biddle.



JOHN P. FRANK ('40)

"I was physically limited. So, I sought to aid the government in any possible way. In that phase of my life, I planned to be a law professor, but many law schools were shut down. Serving in the government was the right thing to do, and there was no other alternative," he said.

After working for the federal government, he returned to school, and in 1946 Frank received his doctorate degree in law from Yale University. Soon after, he was invited by the Indiana University Law School to join the faculty, where he taught until 1949. From there, Frank went on to join the faculty of the Yale Law School. But money was tight. To make ends meet during his teaching years, Frank spent several summers practicing with the Washington D.C. firms of Covington & Burling and Arnold & Porter. "I needed the bucks," he said.

With his teaching career on the move, Frank began to take up writing on a serious level. Between 1949 and 1952 he had four books published, including the biography *Mr. Justice Black*. Frank admits that he was one of the most prolific scholars at the Yale Law School at that time. "I got out a lot of stuff: a case book, a biography, articles and so on. So, I was intensely busy in the winter season. And in summer, I was practicing in the day and writing at night. I also had an annual series on the work of the Supreme Court for the Chicago Law Review. Those had to be written at odd moments in the summer because I had such a tight schedule."

But Frank's teaching career was cut short. Once again, his asthma intervened. In 1954 he left the Yale University Law School and moved to Phoenix, where he went to work for the law firm of Lewis & Roca. "I stopped teaching because of my respiratory problems. Justice Black said that I ought to go to Arizona. So I did." Since starting practice with Lewis & Roca, Frank has continued to write, and he has also done a little teaching as a visiting lecturer of law at the University of Washing-

ton, the University of Arizona, and Arizona State University.

Although he is usually remembered as the lead winning counsel before the U.S. Supreme Court in the Miranda case, Frank is most proud of the work he did as an assistant to Thurgood Marshall. Frank joined forces with Marshall, attempting to put an end to the segregation of law schools in Texas, after he did the historical work for an earlier desegregation case: Sweatt v. Painter. "That was something I was glad to have done, helping to end segregation in the United States. I regard that, from a social standpoint, as the major adventure of my life."

Nowadays, Frank is senior partner in the law firm Lewis & Roca, which claims such clients as Xerox, UPS, MCI, and the cities of Phoenix, Scottsdale and Tucson. And he has continued to write. Currently, he has over 11 books to his credit, including his most recent *Clement Haynsworth, The Senate and The Supreme Court* and *Lincoln as Lawyer* originally printed in 1961 but re-released last year.

"One other activity I especially enjoyed was serving on the U.S. Supreme Court's Special Advisory committee for Civil Procedure from 1960–1970. That was during the Warren years. I have kept an active interest in procedural matters ever since, and I'm very heavily engaged today in procedural matters across America," Frank said.

In addition, Frank has served on the Arizona Salary Commission, the Merit Selection Committee for the U.S. 9th Circuit, the Executive Committee Advisory Committee on Appellate Justice and the Arizona Commission on Appellate Court Appointments.

Currently, he is the leading bar activist seeking major alterations in Rule 11 in the Rules of Civil Procedure. He also led the charge against U.S. Senate attempts to split the 9th U.S. Circuit Court of Appeals. And he chairs a national committee, trying to keep diversity jurisdiction in the courts. "I'm involved in all of the procedural changes contemplated for the federal system for this year," he said.

Frank attributes much of his desire to involve himself to former Law School Professor Willard Hurst. "He believed that as a practicing attorney, one must involve themselves in public interest activities to the maximum extent. Professor Hurst gave his life to the University of Wisconsin. I follow that as an example of what somebody ought to do," Frank stated.

Frank, who was a student and consequently lifelong friend of Hurst's, says he owes many of his professional skills and ambitions to him. "I am very grateful to the University of Wisconsin Law School for having equipped me for an enjoyable professional experience, but I am especially indebted to Professor Hurst for giving me the tools that I've been using ever since," he said. In fact, Frank claims that he would not be the same lawyer he is today, had he never met Willard Hurst.

At age 73, Frank continues to work as a full time litigator, and he has no intentions of retiring. "I enjoy it," he said. "The plain truth is that I found the law a joy in every single aspect. With any luck, I'll drop dead at my desk some day. That is my plan for the future."

Although he and his wife Lorraine live in Arizona, John Frank has always kept Wisconsin close to his heart. Frank still tries to get back to visit his sister and other friends. Does he miss Wisconsin? "Sure," he lamented. "It is the best place in the world. If I could breathe there, it would have everything."

From the 49th Annual Spring Program:

John Frank ('40) Delivers "Frivolous Motion Rule" Program

CARMEN STANFIELD,
Hastie Fellow

Rule 11, the "Frivolous Motion" Rule is intended to stop the filing of frivolous suits and to impose sanctions for rule violations. In the area of civil rights litigation, Rule 11 has become a powerful tool for the hourly rate lawyer and the contingent fee lawyer who end up battling over sanctions, leaving the merits of the case unaddressed. Consequently, the fees of the lawyers climb with the hourly rate, but the issues being raised in the case go unattended. An underlying intellectual problem surfaces in defining the term "frivolous". One judge's "frivolous" case is another judge's serious case. Judges are divided 50/50 as to whether a complaint is frivolous. This produces an extreme degree of subjectivity and a great burden on the lawyer.

The issue comes down to whether a lawyers's brief is sanctioned as whole document or whether a particular narrow point is sanctioned for not being adequately fact-based or researched.

The leading 9th Circuit authority for sanctioning the brief as a whole is Golden Eagle. Under Golden Eagle, the court does not analyze each subsection. If a brief has a reasonable legal pretext, Rule 11 is satisfied.

In direct opposition is the Standing Committee on Civil Procedure which proposes to overrule Golden Eagle and sanction every claim, defense, request, demand, objection, argument within a lawyer's brief that does not have evidentiary support to deter repetitions of such conduct.

John Frank is the recipient of the 1992 Distinguished Service Award. A Wisconsin native, he clerked for U.S. Supreme Court Justice Hugo Black after his graduation from the Law School. Mr. Frank taught law at the University of Indiana and Yale University. He was the lead counsel for the plaintiff in the Supreme Court hearing of the Miranda case. He is the senior partner in the Phoenix firm of Lewis and Roca. His first lead article dealt with Congressional review of Supreme Court nominations. Fifty years later, Mr. Frank served as the lead counsel for Anita Hill evidencing a strength of character that has endured throughout his legal career.

This proposed rule does have a safe harbor provision which is a condition precedent to sanctioning. The lawyer being sanctioned must be given 21 days notice to permit him or her to correct the problem and have an opportunity to respond.

There are several bar positions with respect to the operation of Rule 11. The American Bar Association (ABA) Committee wants a mandatory hearing before a lawyer can be sanctioned. They reject a behind-chambers counseling. They seek a broader appellate review for lawyers sanctioned. The ABA believes that Rule 11 should be restricted to cover the brief or case as a whole upholding the Golden Eagle rationale.

The ABA Committee condemns Rule 11 and the Standing Committee's proposal because it creates serious problems for plaintiffs in important environmental litigation and causes a decline in professional courtesy which has skyrocketed. At every level of a case, we have legal animals looking to devour their opponents as well as the time of the court. The safe harbor provisions intended to be benign actually creates a minefield. Instead of pursuing the big picture, lawyers at every level are looking for infractions.

The Trial Lawyers Association sees the proposals to Rule 11 as a disaster area striking at the juggler. Over 3000 pieces of a total of 11,000 pieces are filed over Rule 11. There are no rules for due process and despite its high purpose, Rule 11 has made things far worse.

The majority of leaders in bars across the country say that the existing Rule 11 is unsatisfactory. They would restrict sanctions to the whole brief or case under Golden Eagle. Any sanctions are paid to the clerk of court so the attorneys fees do not become a fee shifting device. Sanctions would be limited to precisely stated unsubstantiated conclusions of law and fact that show actual injury and aggravating circumstances.

Unfortunately, Rule 11 causes too much litigation. It has put an undue bur-

den on the court system and the parties. It has become a growth industry with an unacceptable burden where out of 223,000 cases filed in 1989, 6,500 are Rule 11 cases. To show just how far we have gone in the wrong direction, Shepherds now publishes a sanctions newsletter. A seventh circuit study shows that the relations among lawyers are getting worse. Litigation, by its very nature, is unpleasant. Lawyers are supposed to disagree without being disagreeable. Rule 11 creates issues of personal recrimination coupled with personal and financial threats. At this point, things have gone too far. Rule 11 has not accomplished its goal which is to deter ill conduct. Rather, Rule 11 has fostered ill conduct.

The safe harbor provision makes bad matters worse. Each time a lawyer requests the opposing lawyer to correct his or her pleadings prior to filing a Rule 11 claim, an endless exercise of aimless retrospectivity results. Clients also have a stake in many instances in having a Rule 11 claim filed to shift the costs to the other side. Lawyers have the problem of committing malpractice where the lawyer does not make a Rule 11 claim based on the client demand.

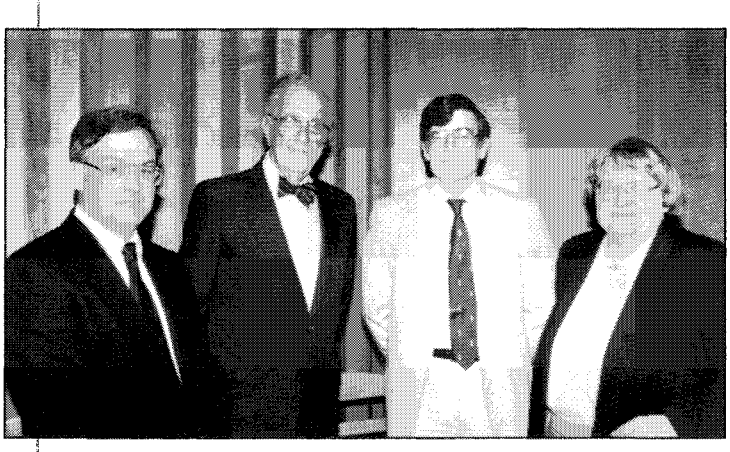
Rule 11 also points up a class difference. Judges like Rule 11. Lawyers, upon whom Rule 11 is exercised, do not like Rule 11. In a world of cats and mice, it is far better to be a cat. Where one tracks the composition of the committees responsible for drafting and implementing Rule 11, one finds that a once lawyer-dominated committee has become predominantly judge-led. On the one hand the bars are made up of lawyers and the Rule 11 committees are made up of judges. A bleak confrontation between the bench and bar necessarily ensues.

As a result, judges have taken over a managerial leadership as far as the drafting and implementing of Rule 11. Court overloads have resulted in a rather authoritarian and dictatorial leadership. Lawyers are literally squeezed out of the picture making nominal court appearances at best. The bar needs to be in the business of deciding if these Rule 11 determinations are important. Where civil rules are made in committees, the Rule Enabling Act should require lawyers to be there.

Attorney Frank closed by stating that Rule 11, illustrates two things — a rule and system gone awry. Ultimately, we will have to revise the Rules Enabling Act so that the lawyer is brought back into the rulemaking process.

REACTORS TO ATTORNEY FRANK'S TOPIC WERE PROFESSOR CARIN CLAUSS AND ATTORNEY JOHN SKILTON.

Professor Clauss commented, "From the plaintiff's perspective, Rule 11 has chilled responsible civil rights and pro bono actions. It should be amended to explain why it is warranted. Is it seeking to explain or interpret existing law? Rule 56, on the other hand, serves as a quick resolution of a case. Here the defense or plaintiff's attorney challenges the legal foundation of the other person's argument. The challenge is restricted to a factual inquiry. If an argument is warranted by law, Rule 11 is not needed. If a legal wrong is involved supported by the law, Rule 11 is not warranted. I would take away the Court power to impose Rule 11 sanctions sua sponte, and limit Rule 11 to require a motion by the party. I would also put in disincentives to make a motion by requiring the money as a result of the motion to go to the court and not to the opposing counsel. The recipient of the motion must only respond. The Court does not have to respond. In discussing Safe Harbor provisions, there seems to be continuing conflict between the client and attorney where the client wants the attorney to file a Rule 11 charge and the attorney has to decide whether damage to personal reputation will ultimately result. Where the client is a substantial person who can verify the facts as correct and true, can the client compel the attorney to pursue the Rule 11 action against the attorney's advice? Ultimately, if we are to have a Rule 11, I agree with Mr. Frank that we must limit the liability of the lawyer."



John Skilton ('69), John Frank ('40), Associate Dean Gerald Thain, and Professor Carin Clauss

Mr. Skilton ('69) commented on Rule 11 from the practitioner's point of view. He had just completed a term as Chair of the Western District Advisory Group, whose purpose was to evaluate costs and delays in litigation.

According to Mr. Skilton, "there is no question that our district, the western district, has a civility problem. Rule 11 is part of the problem. I applaud Mr. Frank who, along with the lawyer in the trenches — the mouse — sees the system being attacked by Rule 11."

"The Quayle commission advocates, in four of its recommendations, retention of Rule 11 and even strengthening it. Strengthening sanctions creates as many problems as it solves. Those of us who have had such motions filed against us view them as attacks not only on the merits of our cases, but also on our integrity." "The usual reaction is to strike back. We are in a litigious society and the battles between lawyers are getting worse. The more litigious and complex the complaint, the tougher it is to factually prove the issues; and the legal theories tend to be on the edge. Such a case is fought hard on both sides. Rule 11 becomes a convenient device to attack the lawyer. Rule 11 is used too frequently."

"Rule 11 should either be modified to analyze the document as a whole, or outright eliminated. It produces nothing more than increased costs, delay and hostility. It has become an 'uncivil' rule with an unclear purpose of deterring conduct versus shifting fees."

Frank J. Remington:

Defining the Law Professor's Job

STEWART MACAULAY
Malcom Pitman Sharp Hilldale Professor and Foley & Lardner Bascom Professor of Law

As part of the Law School's 49th Annual Spring Program Professor Frank J. Remington was honored for 43 years of outstanding contributions to the field of law. Professor Stewart Macaulay delivered the tribute during the annual Meeting of the Wisconsin Law Alumni Association and Luncheon. Several of Professor Remington's first students from the Class of 1952 shared their memories of his great contributions to the legal profession.

I was surprised when I heard that Frank Remington was going to retire. I told him that he was so valuable that the Law School should make him start over. He replied that if he did, he wouldn't get tenure under our current standards. I laughed because if Frank couldn't make it no one would. I thought about this brief exchange when I read that the President of the University of Wisconsin was advocating post-tenure review of faculty. I pictured convening a committee and seeking outside appraisals of Frank's work. On one hand, we would waste the time of those asked to judge his work because the case would be so clearly in his favor. On the other hand, perhaps we could force those who enjoy attacking our faculty to recognize the people who make this university one of the state's and the nation's great resources. Perhaps a tenure review of professors such as Frank Remington might serve to stem the fabrication of scandals.

A tenure review looks at scholarship, teaching and service. There are at least three major ideas that Frank's research in the criminal law made salient to all legal scholars. (Undoubtedly, a criminal law specialist could point to other ideas, but I can only report what has come through to those of us engaged in such matters as contracts and law and the social sciences.) First, the reality of the criminal law in action is discretion. We talk about a government of laws and not of persons. However, viewed from the front seat of a squad car, the police are free, within wide boundaries, to act or refuse to act. Prosecutors, too, must make choices only indirectly influenced by legal rules.

Second, the police are a generalized administrative agency. We call on the police to solve problems when we need immediate action and no other body has been given the job. Seeing them only as people engaged in imposing the criminal law misses the point. The criminal law is only one of the many tools the police must use to do the jobs that society has given them.

Third, the criminal justice system is, indeed, a system. We must see it whole to understand any part of it. In the early 1950s, I took criminal law and learned the elements of various crimes, with a dash of policy analysis sprinkled on top. Frank doesn't deny that the rules are important; indeed he has drafted statutes that refine the rules. In Frank's picture, however, rules are only part of a total process. Police officers must decide whether to take action and what action. Prosecutors decide whether to prosecute. Prosecutors and defense lawyers decide whether to plea bargain or go to trial. If there is a conviction, judges decide what sentence to impose. They base these decisions on information provided by corrections staff who, with more or less accuracy and insight, tell the judge what the criminal is like. Sentences are served many ways. And we try to impose controls on people even after they are released from prison. Furthermore, what happens at one part of the system affects what happens elsewhere. Changes at any one part of the system often only prompt adjustments at another, as many reformers have discovered to their dismay.

These three points are simple, even obvious. Important ideas usually are simple. They were not obvious when Frank began his career. Indeed, we could point to many scholars and political actors today who fail to give these ideas their due in thinking about law.

Tenure requires teaching as well as scholarship. The key point here is that Frank brought the insights of his scholarship to students in a variety of ways. He coauthored teaching materials that brought his insights into the classroom. His students had to see the criminal law in

action. We can only guess how many Wisconsin graduates have taken Frank's courses, seminars and directed research. All were pushed to see criminal law in context.

Moreover, Frank championed what we now call clinical education before it had this name. Frank's clinical approach involved more than putting a student in a law office and confronting her with the problems of real clients. She saw real people who were police officers, prisoners, social workers, jailers, prison guards and all of the rest of those involved in the total criminal justice system. (To my knowledge, he didn't place anyone inside organized crime, but such a move might have been consistent with his position.)

Frank recognized that even young lawyers who would never handle a criminal case might benefit from seeing a broad picture of the criminal justice system. We who teach at this law school know that, to a large measure, we are governed by our former students. Some hold elective office while others are back stage doing the committee work, drafting and negotiating with lobbyists and concerned constituents. We will be governed better if our graduates can escape from simplistic ideological pictures of how the law works.

Finally, tenure requires service to the public at large, the Law School, and the University. I've mentioned that Frank played key roles in several major reforms of the criminal law. This was more public service than most professors accomplish in a career. Frank also offered at least eight of our deans excellent advice and served on countless law school committees. For example, he was the chair of our faculty appointments committee a few years ago. The Law School needed more teachers, but the university was unable to provide the needed funds. Frank knew of the University's affirmative action concerns. He thought that we might make a case for a new position if we could find an outstanding scholar who was a member of a minority group. His committee began to compile a list of such outstanding people.

When our new Chancellor arrived, she discovered, to her dismay, racial divisions at Madison. She established the Madison Plan to further racial diversity. She told departments that those who came first with the best candidates would get the money. Other departments then began to look for candidates. Frank's committee and our Dean, however, were ready immediately with a list of outstanding minority group scholars. We gained four new positions, and we filled them with top people. Many others played key roles of course, but Frank's good judgment and energy were important factors in bringing a group of talented people to us whom we could not otherwise have hired.

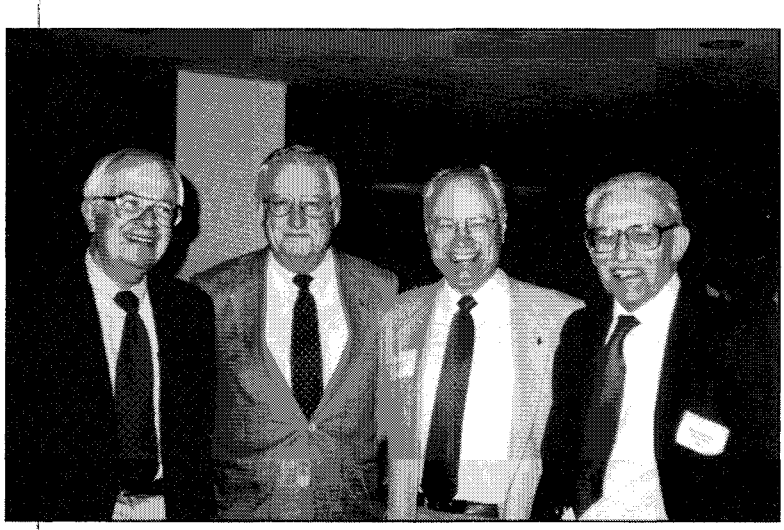
He also has been a counselor to university presidents, chancellors, deans and athletic directors. Frank counseled doing it right, not following the teachings of Machiavelli. When they were smart enough to listen to him, life at this university improved.

Then, as we all know, Frank is a sports fan. Many of us use such an interest as relaxation. Frank, however, took this interest and turned toward solving problems. We know about his work on the University's Athletic Board, the faculty body that controls the Big 10 Conference, and the NCAA. He is concerned about the treatment of student athletes by universities. American educational institutions reap the profits from the talent and hard work of young people. In exchange, they promise them an education. Far too often famous institutions engage in misrepresentation or breach their promises to those they exploit. Frank has never ceased reminding administrators and coaches that they must give content to the first part of the term "student-athlete."

Professor Frank Remington ('49)

Moreover, he was one of the first to recognize that the universities must help those students going on to professional sports. They need help if they are to gain fair treatment from agents and the various professional sports clubs. Here he joined his skills as a legal educator and his interests in athletics. He has worked to establish programs to teach student-athletes about agents. He has worked to train lawyers and others to be competent and ethical agents. Frank would be the first to say that he has not brought about a revolution, but we have taken the first steps.

What should we conclude about Frank Remington and post-tenure review? The answer is so obvious that the question is silly. I confess that at times I get discouraged when I think about the battle to keep our Law School great. I sometimes respond by being flip and cynical. I've defined "The Wisconsin Idea" as "it ain't



Professor Stewart Macaulay, Professor Frank Remington, Jack DeWitt ('42) and Emeritus Professor Maurice Leon ('48)

good but its cheap!" I've called our Law School the world's greatest law school in terms of return on investment. But then I wondered whether in those terms, it could be anything else if it did no more than keep the doors open. I've even compared our Law School to a Boeing 747 which has its wings and tail attached by paper clips and rubber bands.

However, I know that this is a great law school, judged by any standard. This university also is a major reason why Wisconsin is a special and wonderful place. Whatever is holding the wings and tail on, the plane flies! How can this be true when we are always struggling to do so much with so little? The answer is simple. Wonderful people create knowledge, teach students and help solve problems. They regularly act above and beyond the call of duty. If anyone challenged me to offer a concrete example, I could not do better than point to Frank Remington.

If, however, we take Frank as our standard for post-tenure review, there are two problems. We, first, risk setting the standard so high that we would discourage the rest of us. Second, how would we justify spending the time to prove the obvious in cases such as Frank's?

When Professor Remington began teaching here in the fall of 1949, his first class included students who would become the class of 1952. Many of them returned this spring to celebrate their 40th reunion and added their own comments in honor of Professor Remington.

Edward L. Levine, '52, of New York remembers taking his first procedural course with Professor Remington in the large lecture room of the old law building which has since been torn down. "Even in his first year, he was wonderful. We all had him for first-year law courses along with Herbie Page, Charlie Bunn, and Nate Feinsinger."

Charles B. Lipsen, '52, from Washington, D.C., with deep admiration and respect, stated that: "Professor Remington was the best professor I ever had. He was my favorite; and Jack DeWitt was second. Professor Remington is the reason that I am a lawyer today. He was the most exciting professor I had. He breathed life into the law. Because of him, I became a criminal lawyer. He taught me criminal law.

Robert E. Storck, '52, of Mayville, Wisconsin, remembers Professor Remington as a nice person, wonderful teacher and excellent friend. "When I was looking for a job, I talked to him about going to Mayville to take a job. He thought it was a good idea. I've been there 40 years."

Leonard Loeb, '52, of Milwaukee, Wisconsin, stated, "I had Professor Remington for Criminal Law. He was a very bright and intense teacher. He never told one joke, not one war story. He knew his stuff; and he never digressed. I never once saw him smile. He was a tough grader, too. I felt lucky to pass. At that time, it was no trick to get in; but it was a big trick to get out of law school.

Indirectly, Professor Remington was responsible for getting me a direct commission into the Air Force, which was not easy in those days. Because I really wanted to practice criminal law, he made the course intensely exciting."

Bill Willis, '52, of Foley & Lardner in Milwaukee, points to Professor Remington as "our last link to the faculty. He taught our freshman personal property course. It was his very first class, so he ended up studying along with us every night. Looking back, I think he was too scared to be funny in class. On the other hand, he was great with criminal law. He ultimately proved to be one of our finest professors. With his retirement, the Class of '52 has no other faculty member at the law school that has taught us."

Dean **Dan Bernstine** presented a lecture, "And Justice for All," on February 27, at the University of Wisconsin– Milwaukee. The lecture, sponsored by the Union Programming Department and the Sociocultural Programming Department, UWM, was part of the celebration of African American History and Liberation Month.

Professor **Richard Bilder** visited the University of Georgia Law School this spring semester as the Woodruff Professor of International Law.

Nina Camic, Clinical Assistant Professor, is Chair of the Health Law Section of the State Bar of Wisconsin. She presided at the section program at the Bar meetings in January, discussing reforms in health care and corporate health care issues.

Professor **R. Alta Charo** has completed her work for the congressional Office of Technology's study on population screening for cystic fibrosis trait. The completed report will be published this summer. Charo has authored three pieces which appeared in May and June: a special country report for The Lancet, a British medical journal, on patterns of forced contraception in the U.S.; a book review for the "Women's Review of Books" of Klein, Raymond & Dumble's `feminist' attack on the French abortion pill (RU 486: Myths, Morals, and Misconceptions) and of Etienne Baulieu's history of the drugs's development entitled The Abortion Pill; and a review for the International Digest of Health Legislation of Athena Liu's Artificial Reproduction and the Law.

This summer, Charo plans to: teach a short course on American bioethics at Giessen University; present a plenary session at the Chinese Academy of Sciences conference in Beijing on the effects of U.S. domestic policy on internation funding for family planning; give a presentation in Toronto on the future of abortion rights in the post-Roe era for the Third International Meeting of the American Society of Law and Medicine and the Commonwealth Medical Association; present a paper on the impact of genetic screening on family autonomy for an invitational meeting of the American Association for the Advancement of Science; and present a paper on the relationship in developing countries between family planning policy and reproductive technology policy, at an international law, medicine and philosophy meeting in Helsinki.

Professor **Walter Dickey** taught at the University of Birmingham, England, for the spring semester, and toured British and Continental prisons and spent time with parole agents in London to get an insider look at the British correctional system.

Professor **Ted Finman** was appointed to the District 9 Professional Responsibility Committee of the Wisconsin Supreme Court Board of Attorneys Professional Responsibility. This committee investigates grievances filed against attorneys and reports its conclusion and recommendations to the Board. In March, Finman testified before the UW Board of Regents in support of the redraft of UWS 17.06, the proposed rule on racial, religious, and other such epithets. The Regents voted in support of the redraft.

On February 1, Professor **Marc Galanter** gave a speech on the Administration's proposed Civil Justice Reforms to the National Conference of Bar Presidents in Dallas. This speech was subsequently published in Legal Times and other bar publications. He was also a panelist in a presidential forum on the candidates and the civil justice system at the ABA meeting in Dallas. In March, Galanter went to India to deliver three lectures in honor of the centenary of Dr. B. R. Amsbedkar, the great leader of the untouchables and chief draftsman of the Indian Constitution.

At the AALS annual meeting in January, Professor **Linda Greene** spoke at the Section on Employment Discrimination Law and the combined program of the Section on Civil Procedure and the Section on Women in Legal Education. She chaired the SALT annual teaching awards dinner which honored Professors Mary Joe Frug and Thomas Emerson.

Professor Greene was elected Chair of the AALS Section on Minority Groups. She appearred in February on a UW Havens Center sponsored panel: "Engaging the Issues — Affirmative Action," and spoke at the DePaul Law School Conference on Affirmative Action, the National Association of College and University Attorneys Symposium on Intercollegiate Athletics, and at the University of Illinois Law School Conference on Race Consciousness.

Greene participated in a Roundtable on Affirmative Action at the Law School Admissions Council Annual Meeting. She has published a review essay entitled "Breaking Form," 44 Stanford Law Review 301–317 (1992), and an article entitled "Civil Rights at the Millennium...", 24 Connecticut Law Review 499–515 (1992).

This summer Greene will teach at the University of North Carolina Law School, and for the academic year, 1992–93, she will be the William J. Maier Chair of Law at West Virginia University College of Law.

Professor **Chuck Irish** is Chair of the State Bar's International Practice Section, and attended the Section's CLE program on the North America Free Trade Agreement in Mexico City, March 3–6. In April he presented a paper on the next round of tax reform in the US to a group of scholars from Russia.

Professor **James E. Jones, Jr.**, was a panelist at the Federal Mediation and Conciliation Service Arbitrators Symposium held at Chicago-Kent College of Law in February, on the subject "Feminist Jurisprudence and the Workplace." In April, Jones spoke at the AALS Workshop on Labor and Employment Law, in Washington, D.C., at the section on "Employment Discrimination: Where Are We Now?" His topic was "The Shift from Federal to State to Local."

Professor **Blair Kauffman** taught a three-credit course in the summer Intersession in Law Library Administration for students in Law Librarianship, School of Library Administration.

Kauffman served as commentator of the Workshop for Deans and Library Directors at the AALS meetings in San Antonio in January. He completed his term on the board of the AALS section on Law Libraries. He was on a panel on "Recent Trends in CD- ROM Technology of Interest to the Legal Community" at the Wisconsin State Bar winter meeting in Milwaukee. In February he participated on the ABA site visit for the reaccreditation of Cooley Law School in Lansing Michigan.

Professor **John Kidwell** has received the Emil H. Steiger Award as one of the University's 1992 Distinguished Teaching Award Recipients.

The Legal Assistance to Institutionalized Persons Program reports that Attorney **Kate Kruse Livermore** was a recent guest on Tom Clark's talk show on WHA radio. She spoke about life at Columbia Correctional Institution and what Jeffrey Dahmer could expect there. Livermore and law student **Nina Emerson's** article, "Drug and Alcohol Treatment in Wisconsin Prisons," was published in the February volume of the Wisconsin Lawyer. LAIP Attorney **Meredith Ross** and law student **Leo Smith** presented oral argument in the Seventh Circuit Court of Appeals in April in the case Velarde v. United States. The case involves perjury by a government witness in a drug possession trial.

Professor **Lynn Lopucki** spent the winter in San Francisco where he was a scholar in residence in the twelve-member bankruptcy department of Heller, Ehrman, White & McAuliffe. In March, he moderated a panel on Legal Fees and Fee Auditing at the Federal Judicial Center's Workshop for Bankruptcy Judges in Santa Fe.

Professor **Margo Melli** attended a meeting of the Executive Council of the International Society of Family Law in London. In January, she participated in a US State Department Study Group on Intercountry Adoption, reviewing draft articles for a Hague Convention on intercountry adoptions. She also went to Denver for the meeting of the Board of Directors of the American Humane Association, the oldest national organization devoted to child abuse and neglect.

Professor **Walter Raushenbush** attended the meeting of the Real Property Question-Drafting Committee for the Multi-State Bar Examination in Austin, TX, in March, and the meeting of the Finance and Legal Affairs Committee of the Law School Admissions Council in early April in Washington, D.C. He also attended the meeting of the Board of Trustees of the LSAC in Philadelphia in early May, and the Annual Meeting of LSAC in Palm Springs, California in late May.

In the 1992–93 academic year Raushenbush will be a visiting professor at the University of San Diego School of Law, but will also teach an experimental video Real Estate Transactions course at UW Law School for the fall semester.

Krista Ralston, Legal Defense Project Director, is pleased to announce that Attorney **Shelley Gaylord** has joined the program as a full-time supervising attorney. She replaces **E.J. Hunt**, who is now in private practice in Milwaukee.

Legal Writing Tutor **Mary Barnard Ray** played a part in the production of a new book, The Shadow of Death: The Holocaust in Lithuania, by Harry Gordon. After World War II, Mr. Gordon wrote of his experiences in his native Yiddish, but it wasn't until 1978 that he decided to write his memoirs for his children. Ray worked with him in this process as Gordon told her his story from his notes, which then became the manuscript for his book. For Ray it was an intense and moving experience and one she is honored to have shared with Gordon.

Assistant Dean **Edward Reisner** has been reappointed to terms on the State Bar of Wisconsin's Mentor Council and to its Bridge-the-Gap Committee.

Professor **Vicki Schultz** spent the spring semester as a Visiting Professor at Yale Law School.

Hastie Fellow **Carmen Stanfield** attended the National Minority Environmental Career Conference in Atlanta, March 21–24.

Associate Dean **Gerald Thain** has been named chair of a special State Bar of Wisconsin committee that will review all publications of the State Bar and their effect on the organization's budget. He is also on the program committee of the Business Law Section of the Sate Bar, helping to plan the section program for the summer meeting in LaCrosse in June.

Thain spoke to the Organization of Professional Employees of the USDA on "Professionalism in Public Employment," March 25, in Madison. In June he addressed the Business Law Section of the State Bar of Wisconsin at the annual convention, on the topic of UCC Article 4A, Chapter 410 Wis. Stats., Funds Transfer.

Thain reports that his media appearances have not resulted in any new career paths for him. He appeared on the local ABC television affiliate (channel 27) news, March 29, discussing the present legal status of lawyer advertising and was the guest on the April 15 broadcast of Madison radio station WTSO's "Nightline" interview and call-in program.

During April, Thain also appeared before the Finance Committee of the State Bar of Wisconsin on behalf of the Communications Committee of the Bar with a proposed new policy to control the costs of Bar publications. Thain was one of the presenters at the Business Law Section meeting at the LaCrosse meeting, participating in a panel on the revisions of the Uniform Commercial Code.

Professor **Joe Thome**, on invitation from the ABA Commission on College and University Nonprofessional Legal Studies, participated in its 8th annual higher education conference, "Beyond Our Borders: Global Themes in Legal Studies," in Rye Brook, NY, Apr. 23–25. He participated in a panel on "Lawyering and Access to Justice Around the World" referring to the Latin American experience.

In May, Thome was in South Africa to consult and lecture on legal and constitutional land reform issues, and work with the ANC and other opposition groups. He lectured at various universities and non-government organizations; the Center for Applied Studies at the University of Witwatersrant, Johannesburg; the Center for Socio-Legal Studies and the Legal Research Center, Durban; and the Centre for Rural Legal Studies, Stellenbesch. The trip was part of a Land Tenure Center program in South Africa, with Thome's funding through an Academic Specialist Grant from USIA.

Clinical Professor **Louise Trubek** reports that the Center for Public Representation has received a grant from the Madison Community Foundation to help support the new Community Legal Outreach Clinic, under Clinical Supervisor **Susan Brehm**. The clinic will work on housing, consumer and general intake on issues involving the South Madison community. The grant is to be conducted in conjunction with the South Neighborhood Center and the Tenant Resource Center.

Professor **Alan Weisbard** spoke on the topics of brain death and advance directives for health care to an International Conference on Jewish Medical Ethics in San Francisco, February 14–17. He was an invited participant in a workshop on Human Genetics and Genome Analysis at Cold Spring Harbor Laboratory in New York, sponsored by the US Department of Energy, Feb. 23–26. Last October he did the "Conference Summary" for the invitational national conference on "Access to Treatment with Human Growth Hormone: Medical, Ethical and Social Issues." In March he appeared on Tom Clark's public radio program discussing the topic of physician-assisted suicide and the impending prosecution of Dr. Jack Kevorkian, of the "suicide-machine" fame.

Weisbard is also chairing the Lectures Committee of the UW–Madison's new Center for Jewish Studies and participated in a panel on "The Ambiguous Veto: Can a Critically Ill Patient Cancel Her Own Advance Directive?" at UW–Madison Hospital on March 19. He chaired several sessions on organ transplantation at the Park Ridge Center in Chicago, April 25–27, and spoke at a regional Hadassah event on "Jews and the Law," in May.

Professor **Patricia Williams** has been awarded a H.I. Romnes Faculty Fellowship covering a five-year period from July 1, 1992 to June 30, 1997. The fellowship recognizes proven potential and provides an opportunity for critical judgment by the Fellow on the best strategies for development of an outstanding research program.

Williams' book, The Alchemy of Race and Rights, has received two recent awards: the Gould prize, awarded at Touro Law School in March, and the Annual Book Prize, given by the American Association of Black Political Scientists. In March, Williams was also the keynote speaker at a conference at the University of California-Berkely on "American Culture," and she delivered the Edith House lecture at the University of Georgia.

Professor **Bill Whitford** gave his paper, co-authored with Professor **Lynn Lopucki**, on "Corporate Governance in the Bankruptcy Reorganization of Large, Publicly Held Firms," at the Legal Theory Workshop, Columbia Law School, February 17.

LAIP supervising attorneys **John Pray** and **Kate Kruse Livermore** are litigating State v. Grayson, which has been accepted for review by the Wisconsin Supreme Court. The case concerns construction of Wisconsin's nonsupport statute. Attorney **Meg Gaines** is teaching a class on criminal law at Edgewood College in the spring semester. In December, **Michele Lavigne** appeared on the local PBS television show, "Weekend." She was part of a panel discussing capital punishment, the William Kennedy Smith trial, and Wisconsin's reputation as a "welfare magnet."

Catherine M. Rottier ('86) and **Lawrie J. Kobza** ('85) have become partners and **Elizabeth A. Heiner** ('91) has become an associate at the Madison firm of Boardman, Suhr, Curry & Field.

Irvin B. Charne ('49) has joined the Milwaukee firm of Hall, First & Patterson, S.C. Mr. Charne practices in litigation, bankruptcy and business counseling.

Jack F. Olson ('65) has left litigation practice after 26 years and now practices mediation full time. He is affiliated with Bates Edwards Group, a San Francisco based alternative dispute resolution firm in their Portland, OR, office.

Terry W. Rose ('67) has been elected to a fourth term on the Kenosha County Board of Supervisors. Rose is a trial attorney with Rose & Rose, in Kenosha, WI. He also serves as chair of the Administration Committee of the Kenosha Co. Board of Supervisors.

Hanford O'Hara ('69) is now an Administrative Law Judge for the Social Security Administration in Jacksonville, FL.

John C. Loring ('71) has been elected Chairman of the Board of Directors for Astrex, Inc. Asterex is a value added distributor of connectors and other electronic components. Loring is also Vice-chairman of the Board of GalVest, a Houston based petroleum firm, a director of Weatherford Intrenational, a Houston based well servicing firm and a director of Geauga Savings Bank in Ohio.

David R. Weiss ('73) has been elected a Fellow of the Maine Bar Foundation. Weiss has practiced law for 12 years and is with the Bath, Maine, firm of Stinson, Lupton & Weiss.

Howard A. Pollack ('73), a past president of the Wisconsin Law Alumni Association, has joined the Milwaukee firm of Godfrey & Kahn. Pollack, also past president of the Seventh Circuit Bar Association, is a partner in the Litigation Practice Group.

Michael J. Remington ('73) has been named Director of the National Commission on Judicial Discipline and Removal.

Harold Jordan ('77) speaks at the Benchers Dinner during the 49th Annual Spring Program.

The Chairman of the Commission is **Robert W. Kastenmeier** ('52) and one of the members is UW Law Professor Frank M. Tuerkheimer. The Commission was established by Congress to study and report on issues relating to the tenure and discipline of Federal judges, including impeachment.

W. Robert Lotz ('74), practicing law in Covington, KY, has been elected President of the Kentucky Association of Criminal Defense Lawyers.

Maureen S. Hoerger ('74) has been honored by the Suffolk County Bar Pro Bono Foundation for her contributions as a Family Court Law Guardian and for representing indigent defendents. Hoerger practices with the Hauppauge, NY, firm of Perini & Hoerger.

Daniel R. Doucette ('74) has been elected a vice president of the 18,000 member Defense Research Institute, the nation's largest association of insurance defense trial lawyers. Doucette is president and CEO of Milwaukee Insurance Co.

Dale J. Fraaza ('77) has been named Partner-in-Charge of the Tax Division of Arthur Andersen & Co. in Orange County, California. Fraaza also reports the birth of twin sons.

Juliet Kosstritsky ('80), currently a professor at Case Western Reserve University School of Law, will be a visiting professor at Northwestern University School of Law this fall. She will teach contracts and co-teach a seminar in contract theory.

Shelley J. Gaylord ('80) has joined the UW Law School's Legal Defense Project, a clinical progrm, as a Clinical Supervising Attorney.

Gene R. Rankin ('80) has been elected to a three year term as Director of the Environmental Law Section of the State Bar of Wisconsin. He has also been appointed vice chair of the ABA Real Property Section Committee on Modernization of Land Records.

Kenneth E. McNeil ('81), a partner in the Houston firm of Susman Godfrey, reports that his firm was recently featured in Of Counsel, a national legal news magazine. The article focused on how his firm manages in leaner times.

Marjorie H. Schuett ('81) has joined the Madison firm of Lathrop & Clark. She is practicing family law.

John A. Sikora ('82) has become a partner in the Milwaukee firm of Weiss, Berzowski, Brady & Donahue.

Brian Pierson ('83) has received the ACLU-Wisconsin Civil Libertarian of the Year Award for 1991 for his representation of the Lac du Flambeau Chippewa Indians in a successful federal lawsuit to enjoin interference with treaty fishing. Pierson is a member of the Milwaukee firm of Hall, First & Patterson where he practices immigration, business law and litigation.

Susan P. Strommer ('84) has become a partner in the Washington, DC, office of Powell Goldstein Frazer & Murphy. She practices in the areas of international trade and litigation with special emphasis on unfair trade practice disputes.

Mark L. Goodman ('85) has been elected as a municipal judge for the city of Sparta, WI. He succeeds his father, **Donald L. Goodman** ('53) who had held that position since 1977. The younger Goodman also continues to practice with the firm of Osborne & Goodman.

Michelle E. Beeman ('88), previously a law clerk for Judge Jack Davies on the Minnesota Court of Appeals, is now a Special Assistant Attorney General in the Human Services Division of the Minnesota Office of the Attorney General.

Thomas R. Hall ('88) has joined the Detroit based firm of Kitch, Saurbier, Drutchas, Wagner & Kenney. Hall will work in the Medical Malpractice Group, in the Lansing office.

Anne S. Gallagher ('88), account director with the Chicago-based marketing consulting firm Financial Shares Corporation, has been elected to the Board of Directors of the National Law Firm Marketing Association. With 1,000 members, NALFMA is one of the world's largest professional services marketing organizations.

Lynn M. Stathas ('88) has become a shareholder in the Madison firm of Ross & Stevens. She focuses her practice on commercial litigation and employment law.

Jane Buchanan Beckering ('90) has joined Buchanan & Bos in Grand Rapids, MI. She specializes in the areas of product liability, personal injury, medical malpractice and commercial law.

IN MEMORIAM

Stanley C. Fruits ('37), a former member of the Law School's Board of Visitors and long-time Counsel for the Wisconsin Department of Revenue, died on March 18, 1992.

Recently Dean Bernstine, Development Director Chris Richards and I attended alumni receptions in Minneapolis and Washington, DC. You may wonder why we go to the expense of these events, and, if you have never traveled on business, you may even harbor thoughts of glamorous times in glamorous places. We do these events to build institutional loyalty and, yes, to build good will that may translate into increased voluntary support for the School. As for the glamor, read on dear reader.

Chris and I left Madison on Sunday, May 10, Mother's Day, much to the chagrin of our respective spouses and families. Upon arriving in Minneapolis we were promptly ripped-off by the cab driver who graciously consented to take us from the airport to the hotel. We discovered that the hotel was not where we hoped it would be, i.e. near where we would have to conduct business, and would in fact require more cab rides with now suspicious drivers. The next morning, on the way to my first appointment, I made a rare use of a money machine to replace the funds lost to the first cabbie. Two hours later, while pondering how to pay for lunch, I discovered that I had left my credit card in the cash machine.

Meanwhile, after having the hotel deliver materials to a meeting room where I would have lunch with a number of recruiting administrators, I waited in vain for their arrival until 12:10 pm. Upon checking with the concierge I learned that there had been a last minute switch of rooms and everyone had been informed but me. Arriving ten minutes late I had a very cordial meeting but learned that the market was indeed tight and while everyone was pleased to meet me, no, they would not be interviewing on-campus this fall.

I must admit that our alumni reception in Minneapolis went well, although a fairly high number of alums with reservations failed to show up. Those who were there were interested in the School and have not been corrupted by life in the "big city."

After a few hours sleep we were up early for our flight to Washington. The cab ride to the hotel was uneventful, at least until we discovered that we had been delivered to the wrong hotel. Two blocks later we arrived at the right hotel only to learn that our reservations clearly indicated that we were one day early. Meetings with employers in DC were again informative but did not promise immediate relief for students in school and seeking jobs.

Again, the reception in Washington, held in conjunction with the American Law Instititue meetings was a highlight. Almost 100 alums from around the country gathered in a beautiful room in the Mayflower Hotel. I really enjoy talking with people at these meetings, making new friends and finding old ones once again.

A quiet night ended early, however, as construction workers next door to my hotel room began working at 6:30 am. Working may not be the correct characterization — one person appeared to be testing the new steel framework of the building by hitting it repeatedly with a large hammer. A few more business meetings followed before it was time to pack up for the return to Madison. The return flight was uneventful until we approached Madison from the east. Having made numerous takeoffs and landings here, all from the north or south, it seemed unusual to glide in low over the East Towne shopping center. It seemed even more unusual to pass low over traffic on Hwy. 51 and then touch down on the short east-west runway that usually handles Piper Cubs and helicopters. But, like they say, any landing you walk away from . . . .

By 8:30 pm, Wednesday, I returned home anxious to see my wife and children, only to find an empty house. As it turned out, they were all at my daughter's last violin concert, a mixed blessing for me. So ended another glamorous business trip.

Still wondering who that LA Dodger was in the Winter 1991/92 mystery picture? No, the recent weak job market has not pushed any recent graduates into professional baseball, but Stephen W. Porter ('66), a baseball aficionado, did attend a "fantasy camp" and received this baseball card as a memento. Steve was part of a group who sought an expansion franchise for Flordia but was not successful. His friend and client, Calvin Andringa ('66), says that Steve has an "active mind [that] is seldom far from his love of baseball. Steve practices in Washington, DC.

The mystery picture for Spring 1992 was from the Coif induction in 1977. From left to right it pictured: Nick Loniello, Kirbie Knutson, Joanne Kinoy and Kim Grimmer.

For this issue I have chosen a picture without clues. Obviously it was taken in the Courtroom of the "new" building so it must be post–1963. From the sideburns, it looks like late 1960s or early 1970s. Who are these people and what might they have been doing?

Mystery Picture

Announcing the First Annual

University of Wisconsin Law School Alumni Admissions Program

HOMECOMING
SATURDAY, OCTOBER 17, 1992
10:00 A.M. TO 11:30 A.M.
ROOM 239, LAW SCHOOL

Many of our graduates have requested an informational session to help family members make wise choices about **pre-law studies, law school admissions, financing a legal education and employment options with a law degree.**

We will gather a group of Law School professors and professional staff to answer these and any other questions on October 17. If you have a prospective law student in your family, we hope that you and that student can join us.

Name of Alumnus/Alumna _____

Street _____

City, State & Zip _____

Name of Prospective Student _____

Street _____

City, State & Zip _____

Relationship of Prospect to Alumnus/Alumna _____

Anticipated Date of Matriculation in Law School _____

_____I/We will attend the Admissions Information Program

_____number attending

_____I cannot attend. Please send application/admission materials to Prospective Student

Please Return by October 10, 1992 to: UW Law School—WLAA
975 Bascom Mall
Madison, WI 53706