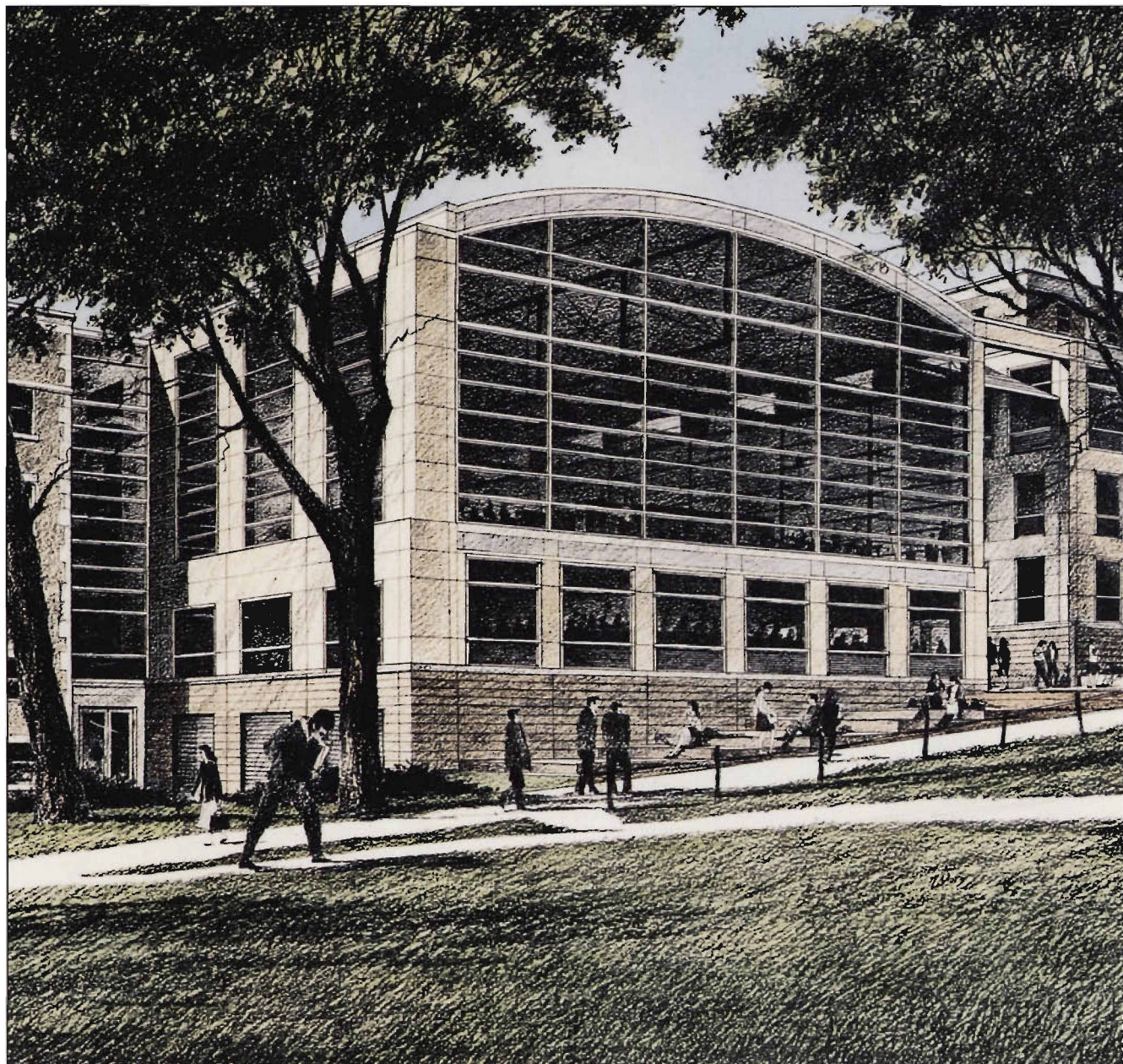


GARGOYLE

UNIVERSITY OF WISCONSIN LAW SCHOOL FORUM



VOLUME XXIII NO. 4

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VOLUME XXIII NUMBER 4

CONTENTS

From the Dean Dean Daniel O. Bernstein	2
Tribute In Honor Of: Professors Margo Melli, James E. Jones, Jr., and Ted Finman	4
Seen In A Glass Darkly: The Future of the Federal Courts Chief Justice William H. Rehnquist	8
A Glimpse of the Future: Law School Addition and Remodeling Project Moves Forward	14
Address to the Membership of the Benchers Society Robert B. L. Murphy ('31)	16
What's In a Number: Ranking Law Schools Assistant Dean Edward J. Reisner	19
Habush, Habush & Davis Gift for Appellate Courtroom	21
Faculty Notes	22
Have You Heard?	25
Still Sucking Air Steve Press ('88)	26
Editor's Note	27
Mystery Picture	27

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Cover Photo: The Law School presents a new face to
Bascom Hill and the world. See inside for more
details and illustrations.

Our recent alumni reception in Minneapolis was a great success thanks to Debbie and Pierce McNally, both of the Class of 1978, who hosted us in their home. In the lovely surroundings, the gathered alumni enjoyed both the location and the company. For a dean who attends 30–40 alumni events each year, the opportunity to hold one of them in a non-institutional setting is particularly appealing. My heartfelt thanks to the McNally's for their hospitality.



Dean Daniel O. Bernstine

Minneapolis is one of the few locations, so far, where we have shown off seven large architectural renderings of our building project. Planning is virtual-

ly complete for the \$14.5 million project, so the visuals are increasingly refined. Several of them are included in the color insert in this issue. However, the actual renderings (two feet by four feet in size) are even more impressive.

The way is clear for the project, except for one small detail: the State Building Commission has set a \$5 million goal for private funding for the project. We will be able to begin construction when we have secured gifts or pledges of \$3 million, a goal we hope to reach, with your help, by the end of this calendar year. Construction could then begin next summer and should then take about two years, putting occupancy of the newly configured building about summer of 1996. Please feel free to contact me if you want more information about the building or would like to help us with the fund-raising.

In the last issue, I reported on new faculty who have been hired to replace some of the irreplaceable new-retirees. Another new faculty member has since been hired. Her name is Kathryn Hendley. Once she has arrived and settled in we will do a complete interview in the Gargoyle to share with you. For now, a few preliminaries: Hendley is coming to us from a post-doctoral fellowship at the Center for International Security and Arms Control at Stanford University. She has a law degree from UCLA (1982), a masters degree in Russian-area studies from Georgetown (1987), and she recently earned her Ph.D. in political science from the University of California–Berkeley. She will teach in business, labor, international business transactions, legal institutions and comparative law.

The addition of Kathryn Hendley goes a long way toward strengthening our already strong faculty, particularly with younger members. When I returned

here in 1989, I was surprised to discover that I was one of the younger members of the faculty, and I admit that I am not that young anymore. While every faculty enjoys having established "stars," it is equally important to cultivate those teachers who are expected to be tomorrow's stars, to guarantee the quality of instruction and scholarship for the next generation of students.

We will also host a visiting faculty member next academic year. David Skeel spent the last three years as a professor at Temple University Law School where he taught contracts, business associations and secured transactions. His law degree was earned at the University of Virginia (1987) where he was also editor of the Law Review. After a year clerking on the United States Circuit Court of Appeals for the Third Circuit, he joined a Philadelphia law firm and practiced in the reorganizations and finance department for two years.

Two new staff persons will also be joining us for the new academic year. Robert I. Correales will be our new Assistant Dean for Student & Academic Affairs. He comes to us from an LL.M. program at the Graduate Fellow Institute for Public Representation at Georgetown University Law Center. Correales graduated from the University of Kansas School of Law in 1991. The new Assistant Dean for Admissions and Financial Aid will be James Thomas, a 1986 graduate of the University of Iowa College of Law, where he most recently served as Associate Director of Law Admissions. These two individuals will give us additional resources and talents to provide more efficient and effective administrative services to applicants and students.

The University also has a new chancellor. Interim Chancellor David Ward has been selected to fill the

large (figuratively) shoes of Donna Shalala. You remember Donna, don't you? I think she moved out east somewhere. David Ward brings more than thirty years of experience as a student, faculty member and administrator on this campus to his new duties. We all wish him well and look forward to continued cooper-

.....
*While every faculty enjoys having established
"stars," it is equally important to cultivate
those teachers who are expected to be
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of instruction and scholarship for the next
generation of students.*

ation between the campus and the Law School.

While our spring weather shows no sign of the coming of summer, nevertheless it will soon be here. We will be out visiting alumni in Oshkosh, Seattle, Portland and New York and a few other places in between. If your travels include Madison, we would be pleased to show you around your Law School and tell you how it will soon change. Let us know if you are going to be in town.

Tribute in Honor of:

PROFESSOR TED FINMAN

PROFESSOR JAMES E. JONES, JR.

PROFESSOR MARGO MELLI

The Law Faculty is being reduced by the retirement of three senior and distinguished members. Let the words of their friends and colleagues salute them.

► PROF. WILLIAM LAWRENCE CHURCH:

This spring brings the announcement that three of Wisconsin's most revered professors are retiring (or at least, semi-retiring, as, fortunately, they anticipate remaining at work on a part-time basis). Ted Finman, Jim Jones and Margo Melli will not easily be replaced.

On such an occasion, it is appropriate for us to take stock of what it is that the retirees have contributed to the Law School over the years. Most obviously, they have helped in the education of a very large number of students. Collectively, they have enriched the legal profession for about 120 years. More specifically, they have given more than 80 years of teaching service at Wisconsin. That likely means that they have taught more than 3000 courses, with a combined enrollment possibly in excess of 15,000 students. Their styles and approaches in the classroom, of course, are quite different, but no one can doubt the ultimate consequences of all of this teaching: a lot of accumulated wisdom and experience has been passed on to a major part of the profession in Wisconsin and across the nation. Who can measure the learning benefits of that endeavor?

Of course, there have been many other

ways in which the three have contributed to the law outside the classroom. Their influence has spread well beyond the walls of the Law School. Among them, they are responsible for dozens of articles, not to mention several casebooks and treatises. They have also served on many national and state institutes and commissions, and on an almost appalling number of Law School and University committees. Their guidance in these nearly endless duties has helped shape and direct the Law School and wider bodies as well, in innumerable ways.

For most of us on the faculty, however, and in the Law School community, the contributions of the three that may most be remembered are more immediate and direct. Though they are naturally as different outside the classroom as in it, there are some ways in which they are remarkably similar. None of them is known for personal or intellectual timidity. (I believe I can reveal this without fear of contradiction.) All three have been tireless advocates for the positions they believe in, and all three have repeatedly insisted that the lofty claims of idle theory be measured—impeached, often enough—by their effect on real people. But this persistence has always been characterized by a personal generosity and moderation, by persuasion, never confrontation. The persuasion has consistently been effective, probably in no small part precisely because of the general aura of civility in which strong arguments were made. In any event, as a result, the Law School may legitimately claim today to be in a much better position than most other comparable institutions to help respond to the issues likely to be impor-

tant in the coming decades.

The personal side of the three may not be obvious to those beyond the Law School itself. However, for those of us in the building, the examples set of forceful but restrained argument and determined but respectful advocacy may be their most enduring legacy; we have been the beneficiaries of their surprisingly gentle touch for so many eventful decades. In-so-far as their retirement means that their absence in classes, on committees and around the Law School generally may be diminished, they will be sorely missed.

► VISITING PROF. LEON TRAKMAN:

In my opinion, there are three criteria that determine the best qualities within us: caring about others, combining that care with a focused sense of social purpose and striving to accomplish that purpose in the interest of those others. Jim Jones exemplifies all three qualities. He cares deeply about others and has devoted his entire life to identifying and satisfying social purposes in the interests of others. He has done so not only as a lawyer, teacher and academic, but also as a social being—often gruff in voice—but with the warmest heart.

► PROF. WILLIAM WHITFORD:

I have been on the faculty for all of Jim Jones' years as a Professor here at Wisconsin. One thing that has been clear from the moment he arrived in 1968 is that Jim

came back to his alma mater in order to teach. He had a lot to teach. Obviously, he knew a good deal about labor law. He had practically written many of the federal rules on affirmative action. He had very interesting ideas about how government worked, all of them very relevant to our course in Administrative Law. He wanted to teach us about what it means to be black in America. And most importantly, he wanted to teach us things we didn't recognize about ourselves, things pertaining to America's racial divisions.

The intended recipients of Jim's lessons are many. Of course, there are the law students, and over the years I have seen many come back to see Jim long after they have graduated. It is obvious they appreciate that he wanted to teach them many things, and the esteem with which they hold him suggests he succeeded. I don't know Jim's children, but I would be surprised if they too did not see him as a teacher. Through his articles in scholarly journals and lectures at scholarly conferences, Jim has reached fellow academics around the country and the world. And then there are Jim's academic colleagues at Wisconsin, like me. Not all professors come to be seen as a teacher of fellow professors, but Jim is one. We have all been his students many times over.

► PROF. CARIN CLAUSS:

I have known Jim Jones for 30 years. Two months after my graduation from law school, he became my first professional mentor, and he has remained in that capacity ever since. He has pushed, prodded, advised, listened and supported me during all those years; he has brought me great joy, with just a call or note to say well done, or with a surprise visit on some significant occasion—like leaving office as Solicitor of the U.S. Department of Labor.

When I first met Jim, he was on a prestigious one-year research leave from the government; while others had used this award to travel, Jim spent it buried in the library, researching, thinking and working out problems involved in emergency labor disputes. This intense study served the country well since Jim drafted the emer-

gency legislation that was needed to resolve such disputes.

But Jim's most lasting contribution will be as a teacher. The dean of America's law professors, he was a teacher long before joining any law school, having trained hundreds of government lawyers. While at Wisconsin, he never abandoned this larger classroom—calling his old “students,” and nudging them to new positions and higher ground—whether in the Baake brief, or on Labor Law Reform, or on any number of other issues that Jim cared about deeply and passionately.

Jim may have announced his retirement. But I have known Jim for too many years to believe that he will ever resign his position as teacher, conscience and catalyst. We will continue to be influenced by Jim, and to be indebted to him for many years to come.

► PROF. JUNE WEISBERGER:

Students and more recent colleagues are no doubt unaware of the key role Jim Jones played in my joining the Law School faculty in 1974.

During the summer of 1973, while I was visiting a faculty member at Cornell University's School of Industrial and Labor Relations, a mutual friend (and my long-standing mentor) ILR Professor Jean McKelvey, informed me that the University of Wisconsin Law School was looking to hire a labor law professor, particularly one with special interest in the public sector. At the same time, she told Jim Jones about me. These various communications eventually resulted in my visiting the Law School in October 1973 for an interview.

Shortly after the visit, I received a phone call from Dean George Bunn with an offer to join the faculty starting with the 1974-75 school year. Without hesitation, I accepted that offer made approximately twenty years ago. I continue to believe that this decision was one of the greatest decisions of my life—and continue to appreciate the active role Jim Jones played in my coming to Wisconsin.

Jim Jones has continued to play a key role in my life at Wisconsin. His strong connection with the Industrial Relations Research Institute has encouraged me to teach industrial relations students both in

nonlaw as well as law courses and seminars. His strong commitment to the Labor Law Clinical Program has encouraged me to join as a faculty supervisor for that program. Because his Law School office is directly opposite mine, we have had frequent opportunities to exchange professional views on many issues of mutual interest. Our agreements—and disagreements—have been numerous but always an educational experience for me.

► PROF. GORDON BALDWIN:

The retirement of Jim Jones and Margo Melli leaves me with the numbing thought that Stu Macaulay and I become the senior professors on active duty. I wish they had delayed that honor, both leave irreplaceable gaps. Happily, Margo's work on the American Law Institute's family law project promises to keep her in sight—for years, I hope, and Jim's promise to teach Labor Law and a seminar regularly assures us that we'll hear his forceful, provocative, and at the same time endearing, voice.

Just as Jim overcame the fact that few minority lawyers in his day came out of our most notable law schools, so too when Margo graduated we had few women lawyers, and even fewer with her remarkable distinction as a student. Her decade in state service with the Legislative Council supplied an opportunity for Wisconsin to mobilize her talent as a source of ideas, and as an accomplished drafter of legislation, most of which the legislature enacted, and when it failed to follow her advice we suffer for the omission.

On a personal note, I feel as close to these two colleagues as to any others I know outside my family. Their influence in focusing our loyalties on the best interests of Wisconsin, on the University, and on the Law School, and in that order, shapes us all, and helps to make this school unusual. They teach that law works upon people, and that law involves an interplay of sharp rules and dull principles. Their influence endures.

► PROF. FRANK REMINGTON:

Margo Melli and Jim Jones are what makes this law school such a great institu-

tion. Both are first rate scholars and teachers of law students. But both also have a commitment to the improvement of this nation, state, city and university. They are what we mean when we say "Wisconsin Idea." They both reflect the commitment to the "law-in-action" tradition that Lloyd Garrison brought to this law school over 50 years ago.

Though Margo and Jim have contributed so very much, much remains to be done. With new problems to solve, new battles to be waged, it is a comfort to know that both Margo and Jim will still be doing what they have done so well in the past, except now they will be called Emeritus.

► PROF. FRANK TUERKHEIMER:

I noticed shortly after I joined the faculty in 1970 that whenever Jim spoke at faculty meetings, he spoke with authority. His words were measured, but solely by their content, not by the effect they would have on the listeners. That concerned him not at all and it was a pleasure, in this otherwise staid setting, to hear someone say exactly what he thought.

► PROF. STEWART MACAULAY:

If you work at a university, some of your colleagues will be extremely smart. Yet even among university professors, Ted is one of the smartest people I've ever met. Those of us who went to school with him soon learned that the competition was for the silver and bronze metals—Ted had the gold nailed down. Nonetheless, this may be one of the least important things to know about Ted. In addition to being smart, Ted has high standards to which he holds himself and others. At the same time, he is someone to turn to for advice or just a sympathetic ear when you need to talk. He's there for his friends when they need him.

Some faculty members delight in obstructing administrators and playing gadfly. Sometimes this can be a useful role, but sometimes it is little more than self-indulgence. Ted is not a gadfly or a curmudgeon. He doesn't play games just

to call attention to himself. He has sought to do the work of the university but at the same time to help administrators in a principled way. He has fought to hold the university to its own announced standards. We always will need good academic citizens like Ted if we are to remain a university in substance as well as in form.

► PROF. JOHN KIDWELL:

About twenty years ago the Law School changed rather dramatically when it added a dozen young assistant professors, including myself, in three years. We were cheap, and generally flexible, and were needed because the Law School's enrollment had increased by nearly 50 percent in a short time. Since then, faculty composition has changed gradually, as a faculty member retired every year or two, and a replacement was hired. Now we find ourselves, once again in the process of rapid change. A number of students and faculty alike, are retiring: Ted Finman, Frank Remington, Margo Melli, Jim Jones, and recently Zig Zile, Jim MacDonald and Orrin Helstad.

All praise to Ted for the countless hours he has spent in the design and implementation of our institutional rules and practices, making sure that they are consistent and clear, and works so well that we need not pay much attention to them. We have been extremely lucky to have Ted Finman as our Master of Institutional Infrastructure and Governance. I hope we can be lucky enough to find another one.

► ERIC JACKSON, '93:

Past-president, Student Bar Association: Professor Jones is the original architect who laid the foundation for students of color to succeed at the University of Wisconsin. Hundreds of successful students of color have used this foundation to build a massive tower. Our success is due in large part to the tireless work of Professor Jones. He is the master artist who can now retire comfortably with the knowledge that his work is permanently and prominently featured across this nation.

► EMERITUS PROFESSOR OF LAW, G.W. FOSTER, JR.:

I'm not open-minded when it comes to ranking Margo Melli. Long ago, I concluded she was on a short list of Wisconsin's most valuable assets. Across decades since, her continuing contributions to the quality of lives and institutions reaffirmed that judgment.

Margo is not a front-page headline celebrity. Yet her name appears repeatedly among those most closely involved since 1950 in designing and bringing off major changes in Wisconsin public policy. She appears, with Frank Remington and Orrin Helstad, as a principal researcher and drafter of the landmark Wisconsin Criminal Code in the early 1950s. As Executive Secretary of the Wisconsin Judicial Council later in the fifties, she was a skillful ringmaster who brought off the sweeping reorganization of Wisconsin courts, simplifying and reordering a hodgepodge built up over a century. The Wisconsin Long-Arm Statute of the same period owes much to her insights and guidance.

By the early 1960s, Margo was on the Wisconsin Law Faculty, part-time because she and Joe, her husband, were raising a family. Within a couple of decades, she emerged as one of the world's most respected scholars in the area of family law, a stature recognized by her appointment in the late 1980s as Reporter for the American Law Institute's Family Law Project.

But having a family, teaching and achieving scholarly eminence fall far short of defining the outer limits of Margo's interests and constructive involvements. To name but a few, she and Joe have been active for two years in promoting the arts, music and the theatre. They have traveled the globe, launching off in quest of other cultures and visions new to them.

Despite the demands imposed by Margo's interests and activities already described, she seems constitutionally incapable of saying no when called on by others for help with their troubles. Within the Law School and the University, she has repeatedly shouldered demanding burdens in chairing some of the most critical committee assignments of her day. She



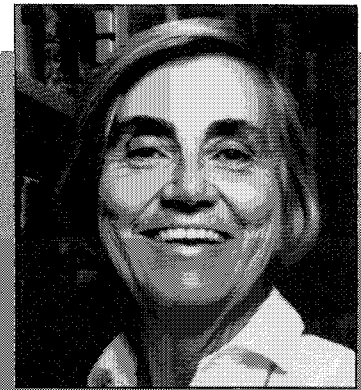
PROFESSOR TED FINMAN

Bascom Professor of Law. Graduated from Stanford University Law School in 1954. After practicing law in California, Prof. Finman taught at New Mexico and Rutgers before joining our faculty in 1963. Becoming a full Professor in 1966, he has taught professional responsibilities and civil procedure. He has numerous law review articles and research papers to his credit. A member of the UW Athletic Board, Professor Finman has served as the UW Faculty Representative to the Big Ten and the NCAA.



PROFESSOR JAMES E. JONES, JR.

Nathan P. Feinsinger Professor of Law. Graduated from the University of Wisconsin Law School in 1956. Professor Jones had a distinguished career in federal service before joining our faculty in 1969. He became a full professor in 1970, teaching labor law courses in the Law School and the Industrial Relations program. A member of numerous labor law organizations including the Industrial Relations Research Association, Prof. Jones served on the Federal Service Impasses Panel from 1978-82.



PROFESSOR MARY GOLD S. MELL

Voss-Bascom Professor of Law. Graduated from the University of Wisconsin Law School in 1950, where she was the Notes Editor of the Wisconsin Law Review. She joined the faculty in 1961 and became a full Professor in 1967. From 1970-72, she served as Associate Dean. She is a member of the American Law Institute, the Law and Society Association and is on the Executive Council of the International Society on Family Law. Since 1990 she has been the reporter for the ALI Project on the Law of Family Dissolution.

has likewise found it difficult to say no to similar requests for help outside the University. Her long-standing role on the Board of National Conference of Bar Examiners is illustrative of such extramural activities.

Looking across the sweeping expanse of Margo's interests and involvements, one gets the vision of her as a kind of universal figure, genuinely someone fitted for the needs of all seasons and problems.

Recently, Willard Hurst and I fell to reflecting on the value of Margo's contributions and, particularly, upon her effectiveness in bringing off tolerable accommodations of conflicting views and differing values. What qualities of her were specially important to her skills in working with people, we wondered.

Surely her intelligence and the broad base of her interests and life experience were invaluable, we thought. Then, after a pause, Willard added:

"Her judgment and sense of humor. Those are the most important of all."

I can't improve on Willard's summation.

► **THERESA DOUGHERTY,
ADMINISTRATIVE ASSISTANT TO DEAN BERNSTINE:**

When I came to work at the UW Law School I was 20 years old. It was my job to answer faculty phones when they were out of their offices. I remember the first time Professor Jones went out of town on

business. He left the phone number of the hotel he was staying and told me not to give the number out to anyone but the President of the United States. I laughed. He proceeded to tell me about the time the President called.

Through the years, I have listened to stories about his life. As I listen, I am amazed at what this man has accomplished in spite of the obstacles he had to overcome. He is a fascinating man.

I have a deep respect for Professor Jones. He doesn't treat me as just the secretary who does his typing. In his eyes, I am a human being with my own obstacles. When I need someone to talk to, he is a source of encouragement.

I love him for caring about me.

Seen in a Glass Darkly:

THE FUTURE OF THE FEDERAL COURTS

Friends and colleagues of Robert Kastenmeier ('52), who served 16 terms as US Congressman from Wisconsin's 2nd District have created the Kastenmeier Lectureship at the Law School. This fund will periodically bring distinguished members of the profession to the School to speak to students, faculty and the general public on topics relating to the legal profession.

In September we were proud to host, as the first Kastenmeier Lecturer, the Chief Justice of the US Supreme Court, William H. Rehnquist. As Chief Justice, Mr. Rehnquist, a native of Wisconsin, is not only the head of the federal court system but arguably the nation's number one lawyer.

CHIEF JUSTICE WILLIAM H. REHNQUIST

Kastenmeier Lecture
University of Wisconsin-Madison
September 15, 1992

As a native son of Wisconsin, I am especially pleased to be here today to honor Bob Kastenmeier, another native son. Unlike Bob Kastenmeier, however, I did not have any professional or business career in Wisconsin. When I turned eighteen I served in the military for three years and ended up stationed in North Africa. It was there that I discovered that if you lived in the right place, you didn't have to shovel snow for four months a year. When I was discharged from the service, I put this information to use and went to college in California and practiced law for sixteen years afterwards in Arizona. But I still love to come back to the rolling hills of the beautiful state of Wisconsin.

I'd like to speak to you this afternoon about the future of the federal courts. This

is a subject Bob Kastenmeier cares about; the federal courts were a focus of his long and distinguished career in the House of Representatives. As chairman of what we called the "Courts" subcommittee, he understood the federal courts like few others in Congress. More importantly, he willingly became immersed in the nuts and bolts of judicial administration—a subject that gained him few newspaper headlines, and probably even less recognition from his Wisconsin constituents. But, his involvement served an important national interest and his legislative record attests to his effectiveness in that chosen role. The judiciary misses him.

Predicting the shape and size of the federal judiciary in the future requires us to gaze into a rather clouded crystal ball; clouded, because the prediction of future changes in any institution is a hazardous business, and clouded even more in this case because political pressures as well as rational discourse will determine what the federal courts look like a generation hence.

Those courts today bear little resem-

blance to those existing when this district first elected Bob Kastenmeier to Congress in 1958. The lower federal courts were a far different organization than they are today. In 1958, I was practicing law in Phoenix, engaged in a variety of state and federal litigation. We had one resident federal judge in Phoenix at that time—Dave Ling—and he had been appointed to the federal bench by President Franklin Roosevelt in 1937. He was as diligent as he needed to be, but he still adjourned his court in late June, leaving the unpleasantly hot climate of Phoenix for the cooler breeze of the California coast to return only after Labor Day. Phoenix functioned without a federal judge during the summer months, and somehow got along very well.

Judge Ling was a somewhat different breed of federal judge than would be typical today. Although not in any sense a scholar, he was a good judge; but he was also a man of very few words. At one point, after a number of years of practice before him, I observed that in that period of time he had never written an opinion

in any of the cases he decided. I screwed up my courage one day and asked him why he never wrote any opinions; his response was: "If you want an opinion in your case, you take it to the Ninth Circuit. That's what they're there for." I don't believe that in his twenty-five years on the federal bench he ever had a law clerk.

The Court of Appeals for the Ninth Circuit, which heard appeals from western states such as Arizona, at that time consisted of nine judges who operated on a schedule which was not too demanding. One of the members of that court later told me that appointment to the Court of Appeals at this time was considered by some practitioners as a dignified form of semi-retirement.

In short, the federal judiciary in the late fifties—when Bob Kastenmeier was first elected to Congress—had a good number of very able judges, but it was also able to accommodate some of the type of whom the humorist Finley Peter Dunne, writing as "Mr. Dooley," spoke of in the early part of this century; he said of a judge that he knew, "e's got a good judicial temperament; he don't like work."

How things have changed during the last third of a century. Five federal judges now call Phoenix home, and there are twenty-eight active judges on the Court of Appeals for the Ninth Circuit. The pace of the work in each court has so quickened that any thought of a relatively leisurely existence is a thing of the past. Overall statistics tell the same story in less anecdotal terms. In 1958, all the federal courts together had 64 circuit judgeships and 239 district judgeships. Today, those numbers have swelled to 167 and 649, respectively. These extra judges have not been added willy-nilly; they were modest responses to the great increase of judicial business handled by the federal courts, which has also necessitated a huge increase in supporting staff and facilities. Judicial business increased from 1958's 3700 appeals and 67,000 district court filings to 42,000 appeals and 207,000 district court filings last year—more than a tenfold increase in appeals and a threefold increase in district court filings. Add to that the million bankruptcy filings expected this year (compared to 91,000 in 1958), and you get a sense of how the raw numbers have grown.



Chief Justice Rehnquist, Dean Bernstine and former Representative Kastenmeier ('52)

Although impressive, that growth does not illustrate the increasing complexity of the issues now handled by the federal courts, nor how the body of federal law has grown geometrically since 1958. Simply put, time and again the nation has looked to the federal courts to handle a larger and larger proportion of society's problems. One can certainly doubt the wisdom of this trend, and particularly of some of its specific examples, but that is not the point. The point is that as a result of people looking to the federal courts those courts have become overburdened and the system has become clogged.

In the past, the initial and proper reaction was to expect judges to work much harder than they had, and to create a great many new judgeships and a large cast of supporting personnel. Both of these strategies were followed, with a good deal of success. Bob Kastenmeier played a role in helping the federal courts obtain these additional resources. But it is now clear that by themselves these strategies have not kept up with the ever-increasing demands of the criminal justice

system and a litigious citizenry. Budget constraints now make additional funding increasingly difficult to secure, and the sheer unwieldiness of large multi-judge courts suggests that there is limit here, too.

If we merely proceed along the same path as we have for the last few decades, reacting piecemeal when problems become so overwhelming as to demand attention, we will soon end up with a system that serves neither its beneficiaries nor its participants very well. District courts will be characterized by more bureaucracy, less accountability, and less attention to individual cases. The queue for civil cases will get longer and longer because of the number of criminal cases demanding resources and attention. Appellate courts will necessarily have largely discarded the traditional model of oral argument, and detailed consideration of individual cases reflected by reasoned opinions and collegial decisionmaking. The federal courts will have changed for the worse, and it will be difficult to attract the quality judicial candidates that

academia and private practice have provided in the past. The result will be a decline in the high quality of justice the nation has long expected of the federal courts.

Let me illustrate why I think this is so. Within the legal community, delegation of responsibility and authority is quite acceptable in many situations. A partner in a law firm who has represented a client for many years, and personally done its work, may on a particular occasion tell the client that a particular problem demands a specialist, and that by great good fortune the firm has such a specialist, who will be able to do the work for the client on that particular matter. In the world of government, the Attorney General of the United States is required by law to authorize or approve many actions, the responsibility for which he delegates almost entirely to subordinates. This is well understood by all.

But these principles do not and cannot apply to the judiciary. It is inconceivable that a judge would call in the parties just before a scheduled bench trial, and say: "I would like you all to meet Mary Smith. She is my law clerk, having graduated from law school last year. She really knows a lot more about your case than I do, so I am turning the whole matter over to her."

The dramatically increased demands on judges during the time I am talking about have required them to rely more on the assistance of law clerks and staff personnel in doing their work. And the line between a judge having a law clerk assist him in doing his work, on the one hand, and a judge supervising law clerks in doing their work, on the other, may be fine. But we must retain the line, or we will lose the judicial process as we know it.

It may be possible to expand the seating capacity of a football stadium, such as Camp Randall, or a basketball field house, without detracting from the enjoyment of any of the spectators. We don't need to increase the size of a football team beyond eleven, or a basketball team beyond five, to accomplish this. But we can't, by simply building new courthouses, keep increasing the number of cases that can be handled by the judiciary.

What can be done? Last year the Judi-

cial Conference of the United States created a Committee on Long-Range Planning, which is currently considering these questions. The first question which the Committee must consider is the appropriate future role of the federal courts in our system of justice. Because, in the words of the World War I Premier of France, George Clemenceau, "War is too important to be left to the generals." The shape of the federal court system is too important to be left to the judges. The Committee must develop its vision of the future and shape of the federal judiciary in part by listening to all those who have an interest in the work of the federal courts.

But there are other questions which the Committee must also deal with, just because its own answer to the question of the proper role of the federal courts may not be that which prevails with the popularly elected branches of the federal government which determine this question.

Answering the question of the appropriate future role of the federal courts is difficult, because there is no single "constitutionally correct" role for the federal courts. The federal courts have evolved over the last two hundred years and can continue to do so. Perhaps because they could not agree on what role the federal courts should play, or perhaps because they saw that the changing needs of the country would require differing roles for the federal courts, the framers of the Constitution largely left such questions for Congress. In doing so, however, the Framers provided two important guideposts. Federal courts were intended to complement state court systems, not supplant them. And federal courts were to be a distinctive judicial forum of limited jurisdiction, performing the tasks that state courts, for political or structural reasons, could not. Throughout their two hundred year history, federal courts have maintained those special qualities, enforcing the system of government created by the Constitution, protecting individual liberties and adjudicating important national concerns. These are the jobs that they do best.

What cases, as of the present time, should be decided in the federal courts, and what cases should be remitted to other forums? The Federal Courts Study

Committee, on which Bob Kastenmeier ably served, recognized in 1990 that any vision of the "proper" jurisdiction of the federal courts has "inescapable substantive implications, and as a result an unavoidable political dimension."

Exhibit A of this phenomenon is surely the so-called "diversity jurisdiction" of the federal courts, in which a right to bring a law suit in federal court, as opposed to state court, is conferred upon a litigant simply because that litigant is a citizen of one state and the defendant is a citizen of another state. This is true even though everyone agrees that only state law, and not federal law, will govern the outcome of the case. When the thirteen colonies first formed a federal union, there was reason for entrusting this sort of case to a federal court, since the individual states had been quarrelling among themselves and the people were not used to thinking of themselves as one country. But that day is long past. I, for example, was born and raised in Milwaukee, served in the military for three years, took most of my college education in California, lived in Phoenix, Arizona, for sixteen years, and for the last twenty-three years have lived in the northern Virginia suburbs of Washington. I think my case is quite typical of my generation, and of later generations. Just because you live in Wisconsin doesn't mean you dislike people from Iowa. But despite the absence of present justification for diversity jurisdiction—which makes up a substantial part of the caseload of the federal district courts—proposals for curtailing it consistently provoke opposition from various segments of the bar. There are perfectly sound tactical reasons for a lawyer in a given case to welcome the presence of diversity jurisdiction, but they have almost nothing to do with the reason that kind of jurisdiction was created. As with diversity jurisdiction, so with most other species of existing federal jurisdiction; any effort to repeal any segment would quickly garner opposition from those who have reason to prefer the status quo. Thus, while it makes sense in the abstract to speak of removing some of the old bases for federal jurisdiction if we are to establish new ones, in the real world it isn't likely to happen. Additions to federal jurisdiction are going to be just that,

because there is not realistic probability of any substantial subtraction.

Politics also drive proposed increases in federal jurisdiction. During every Congressional session, individuals and groups present new proposals to impose additional duties on the federal courts. Despite the inevitable political debate which would take place, circumstances dictate that if we do not curtail some existing federal jurisdiction we must avoid adding new federal causes of action unless they are critical to meeting important national interests—interests which cannot be satisfied through nonjudicial forums, alternative dispute resolution techniques, or the state courts.

Proper allocation of cases between the federal and state systems is obviously the key concern in any discussion of limiting federal court jurisdiction. One year after Bob Kastenmeier's arrival in Washington, Chief Justice Earl Warren stated, "It is essential that we achieve a proper jurisdictional balance between the federal and state court systems, assigning to each system those cases most appropriate in light of the basic principles of federalism." The same is true today. But, as Alexander Hamilton recognized in *Federalist No. 82*, issues of state-federal relations "cannot fail to originate questions of intricacy and nicety." Along with the political impact I alluded to above, any allocation of cases between the state and federal systems raises three serious questions—what impact does this allocation have on federalism values, how efficient is it, and does the receiving system have the resources necessary to do the job? In addition, any allocation will have an impact on the other tasks already assigned to the state or federal system.

The current debate over federalization of crimes is a good example. Most federal judges have serious concerns about the numbers and types of crimes now being funnelled into the federal courts. They question the appropriateness of handling "street crimes" formerly handled in the state systems, they note the impact on their civil caseloads, and they point to the serious drain on the judiciary's resources. On the other hand, federalization of crimes has had enormous political appeal over the past decade, and hardly a Con-

gressional session goes by without an attempt to add new sections to the federal criminal code. The Attorney General has made increased federal criminal prosecutions a centerpiece of his crime-fighting policy. Although the judiciary successfully opposed proposals last session that would have federalized virtually any murder committed with a firearm, similar proposals are likely to resurface. Continuation of the current trend toward large-scale federalization of the criminal law has the potential of greatly changing the character of the federal judiciary. Therefore, the Long-Range Planning Committee hopes that there will be wide-scale debate over two important questions: What should be required to make an offense a federal crime? And should certain categories of criminal offenses now prosecuted in the federal courts more appropriately be shifted to the state courts?

On the civil side, similar issues of federalism, efficiency, and resources come into play. What elements should be determinative in deciding to create new federal causes of action? In diversity cases, how can state courts be given a larger role in interpreting what state law means? Should litigants have to choose either a federal or state remedy (instead of both) in order to avoid duplication between federal and state efforts? Should more efficient consolidation rules, such as chapters four and five of the American Law Institute's Complex Litigation Project, be implemented to allow two-way transfers of mass tort cases between the state and federal systems? These are also critical questions for the future of the federal courts. Alexander Hamilton wrote in the *Federalist* that "the national and state systems are to be regarded as ONE WHOLE." A lot has happened to expand the role of the federal courts vis-a-vis the state courts since Hamilton wrote his words, but the essence of his thought remains worth reading. In determining the proper allocation of jurisdiction between state and federal courts, we need to view our federal and state systems as one resource to be used as wisely and efficiently as we can. By eliminating duplicative effort, unnecessary friction and inefficient allocations of jurisdiction, state and federal systems can contribute to each other's well being and

the entire system can gain. Last April, the state and federal judiciary sponsored the first-ever conference on state-federal relations. Coming out of that conference was a new interest in cooperating on administrative matters, exchanging information, sharing facilities, and having joint sittings of federal and state courts in appropriate cases. We have since taken steps to capitalize on that interest. Those efforts are important, but it is equally important to consider legislative changes which create a more rational allocation of judicial business, as well as additional federal funding for state justice systems.

The second important question which must be answered, first by the Long-Range Planning Committee and ultimately by the popularly elected branches of government, is how we can best accommodate in the federal judicial system the added cases that are almost certain to thrust upon it. These questions have less to do with what kinds of cases are adjudicated than with how the system operates, what the system's guiding principles are, and what its culture is. These questions apply to the separate responsibilities of the district and appellate courts, as well as to issues shared by judges of both types of courts.

The traditional view of district judges is that they are generalists, presiding over courts dedicated to specific geographic areas and controlling their own destiny with a large measure of discretion and independence. Their role is still largely constrained by the imperatives of a predominantly adversarial system, where the judges referee dispute according to the rules or adjudicate them at an appropriate point in the course of litigation, rather than actively manage their resolution from beginning to end.

This traditional view of district judges has changed somewhat in recent years. Huge case loads have led to more emphasis on case management and judicial administration, and the recent Civil Justice Reform Act will accelerate this trend. District judges have lost some of their discretion to handle their own dockets and now must both view themselves as managers and experience some of the strong hand of management themselves. The future may require even more dramatic changes,

and the Long-Range Planning Committee has before it a host of possible initiatives spanning a large spectrum. On one end of the spectrum is a view of future federal courts as comprehensive justice centers, offering consumers a whole menu of dispute resolution procedures. Under this view federal judges would serve as a sort of managerial "maitre d," steering the litigant to the most appropriate form of dispute resolution. This would alter the traditional model wherein the federal system tolerated the excesses of the adversarial process, including long delays and high expenses. Under this new model, the sys-

tem would set up incentives—for judges and litigants—to swiftly channel disputes into a whole host of alternative dispute resolution options, even though traditional adversarial justice would still be available.

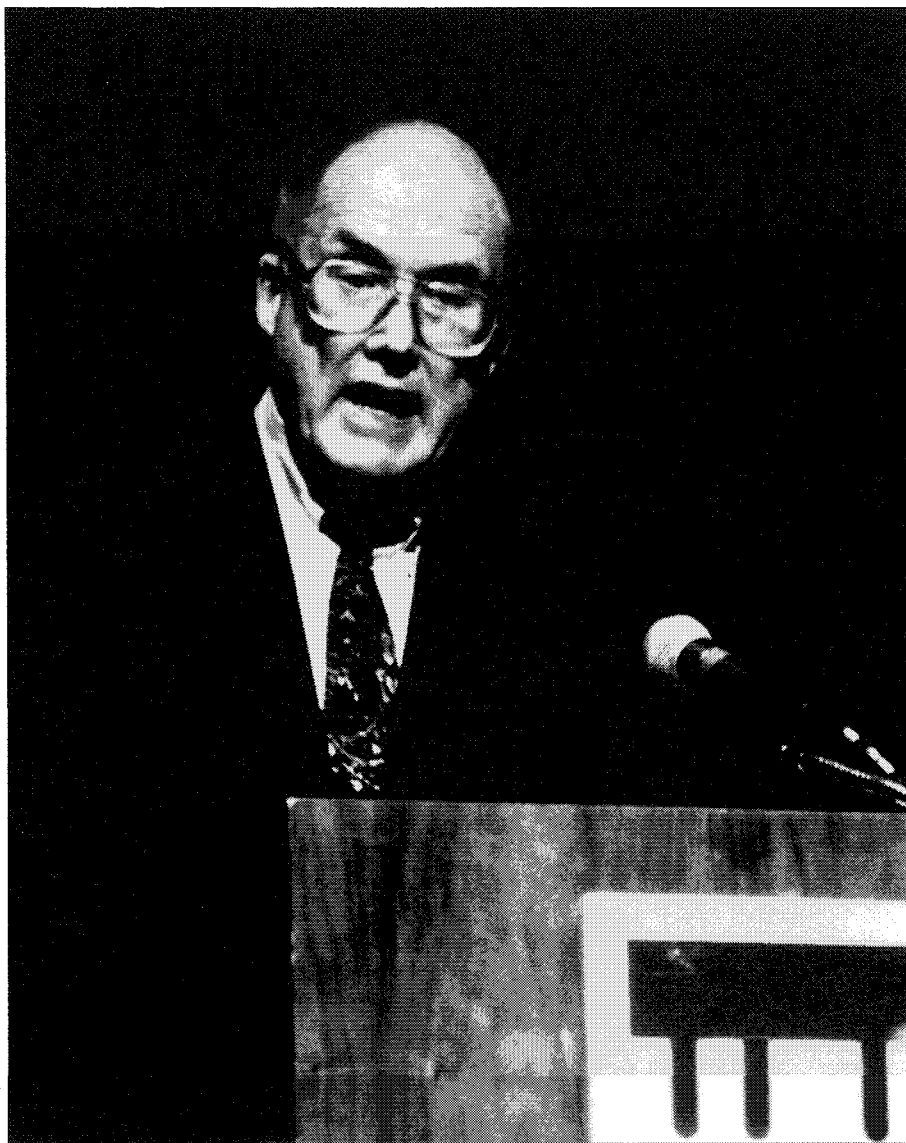
This model contemplates that the majority of entrants into the federal legal system neither expect nor need extensive pre-trial procedures and a full-blown jury trial. Instead, the model posits that many litigants may have a greater need for an inexpensive and prompt resolution of their disputes, however rough and ready, than an unaffordable and tardy one, however close to perfection. James Willard

Hurst wrote of the squatter inhabitants of Pike Creek, Wisconsin in 1836 who needed a practical and effective system for registering and adjudicating land claims. The Pike Creek Claimants' Union established a system of registration and claims resolution which effectively substituted for the more-perfect system that was still years down the road. It is easy to say that this system was a primitive one established by people who were not lawyers in a time when the law was much simpler. All of this may be true, but if the future of the courts is too important a matter to be left to lawyers and judges, some heed must be paid to the reactions of ordinary citizens, unschooled in the finer points of the law, who may make important contributions to shaping the future of the federal courts—after all, the courts exist for them and not vice versa [Counterfeiters].

Hurst used the Pike Creek events as an example of 19th century Americans shaping the law to promote economic energy and ensure individual opportunity. From our twentieth century perspective, we can see it as a nascent alternative dispute resolution movement—where the supposed beneficiaries of the existing legal system found it inadequate and turned to more pragmatic and workable alternatives. We could face the same phenomenon tomorrow, unless we plan for a justice system that better serves its beneficiaries.

On the opposite end of the spectrum is the notion of "capping" the federal judiciary at a set level. Proponents of this notion see it as a means to preserve the traditional roll of the federal courts, as well as the quality of the bench, by firmly establishing the finite capacity of the federal judiciary. Any additions to federal jurisdiction would of necessity be balanced by equivalent reductions. Is this a kind of "Gramm-Rudman" shock-therapy needed to perpetuate a distinctive federal system, or does it represent an impermissible rationing of justice? Would it provide the necessary discipline in any event, or would this "cap" have the same effect as the Gramm-Rudman budget caps? Resolution of the debate on establishing an upper limit on Article III judges would benefit from a wide consideration of these issues.

Between these polar opposites is a whole host of other options which, if



Chief Justice Rehnquist speaks at the Memorial Union

implemented, could still change the character of the federal judiciary. Should we create specialist rather than generalist judges, thereby making judges more efficient and better able to deal with the technical and scientific issues that will be presented in the future? If the creation of science and technology courts is unacceptable, what do we need to do to ensure that future judges understand these science/technology issues and make appropriate choices in admitting evidence or adjudicating disputes?

The structure of the district courts may also bear re-examining. The traditional geographic structure has existed since 1789. Some have contended that this form of organization promotes inefficiency, as some districts suffer from severe backlogs while others conduct business at a far more leisurely pace. Suppose that the Western District of Wisconsin, which is now one judicial district, should statistically be entitled to more than two but less than three judges, and the same be true of the Northern District of Iowa. Might it now be a good idea, instead of either district being chronically short handed with only two judges each, or overstaffed with three judges each, to appoint a single judge who would spend half of his time in each district?

The federal courts of appeals will also demand considerable attention. At present, they operate under a system that gives any litigant an absolute right to have an appeal heard in the courts of appeals. Under the demands of the past two decades' increased caseload, and in order to enable them still to hear all appeals, the courts of appeals have undertaken many managerial and procedural changes. They have come to rely more and more on supporting personnel. In many routine cases, staff counsel prepare "unpublished" decisions, which are then reviewed by the judges. In these and many other cases oral arguments are no longer held. The press of cases has also led to less and less time for collegial decision making and opinion writing. Under these circumstances, inconsistent interpretations among the circuits has become the rule, and consistency has even become difficult to obtain with a circuit. How should these problems be addressed, especially before continued

swelling of appellate dockets makes them grow worse?

One option is to eliminate the appeal as of right now and institute a discretionary appeal process, somewhat like that used by the Supreme Court. The history of the Supreme Court has been a gradual evolution from an error-correcting court of general appellate jurisdiction to a court whose special concerns are constitutional interpretation and significant questions of federal law. Should the courts of appeals go through a similar paring down? This would enable them to better control their dockets, but it would leave many lower court cases without close review by a higher court. Variations of this idea could be used for certain categories of cases, or appellate panels of district judges could be used as a screening process for all cases. Any of these far-reaching changes deserve careful study and extensive discussion.

However, the appeals docket is formulated, it is also clear that consideration must also be given to structural changes in the courts of appeals. It has been almost two and one-half years since the Federal Courts Study Committee released its conclusions on the need to reform the federal appellate courts. The Committee's report concluded that within five years the nation will have to decide whether or not to abandon the current structure of the courts of appeals in favor of something that "might better organize the more numerous judges needed to grapple with a swollen caseload." Numerous options are currently under study, including consolidating all the present geographic circuits into one court, adding another layer of appellate review, increasing the size of the circuits or creating a series of specialized courts with jurisdiction over one or more subjects, such as antitrust, tax, labor or admiralty. All of these alternatives present difficulties, practical and political. Nonetheless, the problems of maintaining appellate capacity and ensuring uniformity of appellate decisions must be faced soon.

One of America's prominent judges and preachers of law reform in this century, Arthur Vanderbilt, once observed that "judicial reform is no sport for the short-winded." Having participated in a small way in some efforts along this line myself,

I can heartily second his observation. But it is absolutely essential that the future changes in the federal courts be ones that are planned, to the extent that planning is possible, rather than ones which simply happen.

The federal judiciary faces a future of change and uncertainty as it approaches the twenty-first century, and undoubtedly some of the changes will please neither the judges nor the legal profession. I have the greatest confidence in the work of the Long-Range Planning Committee, and in the statesmanship of the entire federal judiciary; but very likely their role will be to choose among what many will think to be the lesser of evils. At this juncture I, and others of my generation, may be pardoned for at times feeling like Sir Bedivere in Tennyson's poem "Morte d'Arthur." When he sees that King Arthur is dying, Bedivere bemoans his own fate, saying:

"Ah, my Lord Arthur, whither shall I go
Where shall I hide my forehead and my eyes

For now I see the true old times are dead...

And the days darken round me
And the years among new men,
Strange faces, other minds."

King Arthur replies:

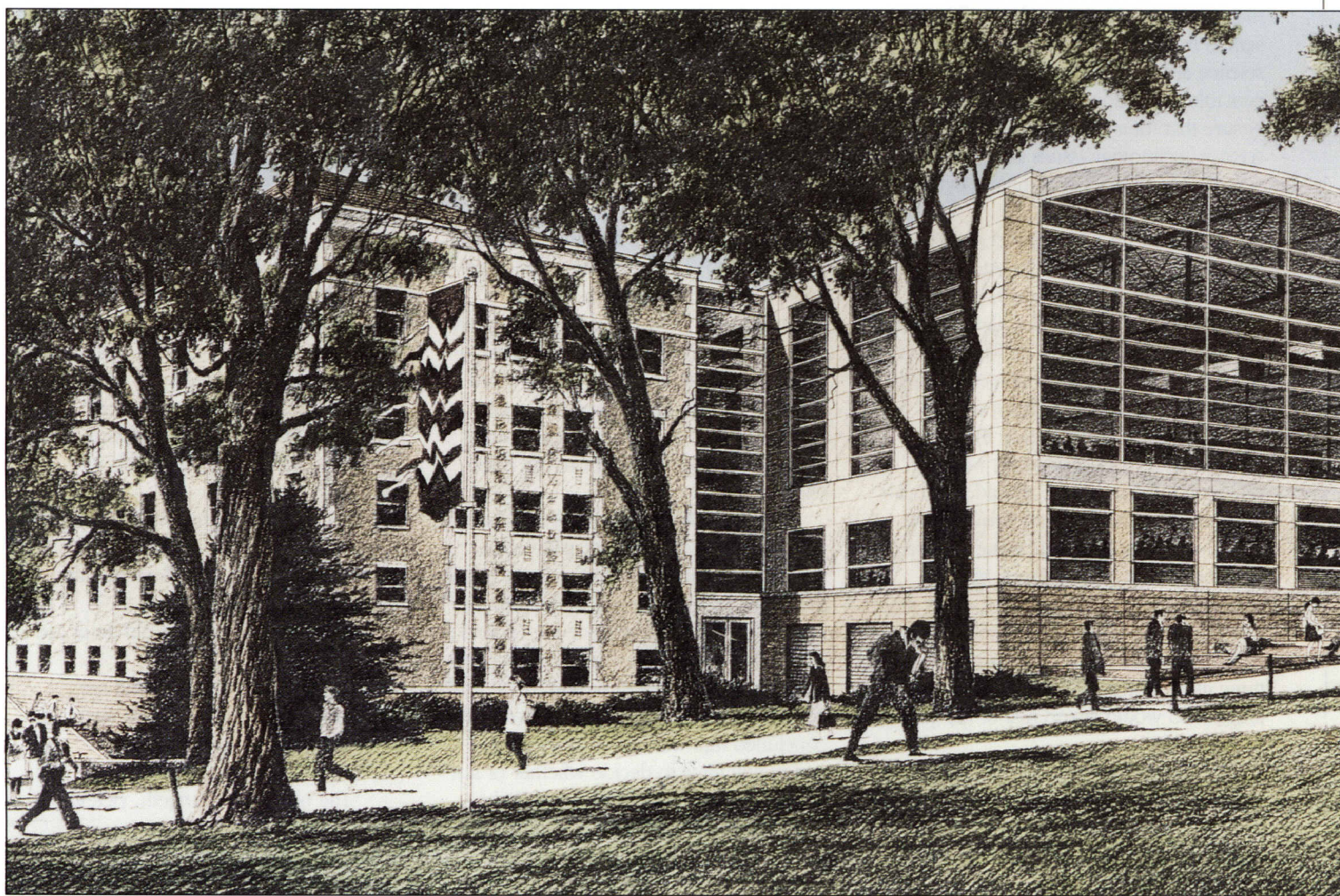
"The old order changeth, yielding place to new

And God fulfills himself in many ways

Least one good custom should corrupt the world."

Change is the law of life, and therefore of legal institutions as well. There will be a new generation of Bob Kastenmeiers and Arthur Vanderbilts to lead the way into the twenty-first century. For two hundred years the federal judiciary has successfully adopted to change, and I have every hope that it will continue to do so.

A Glimpse of the Future



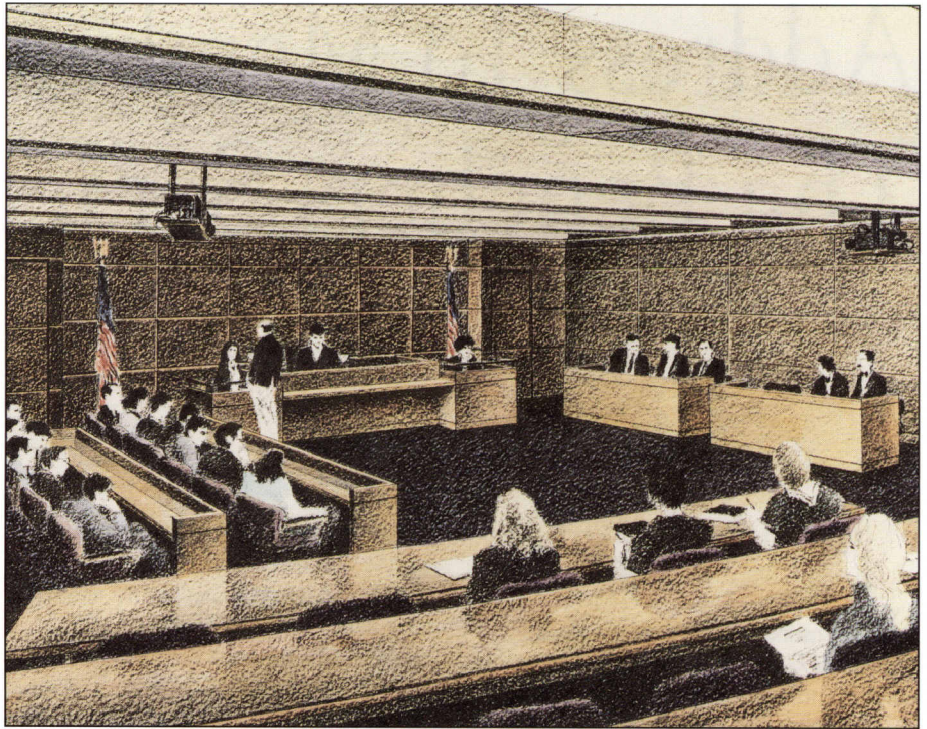
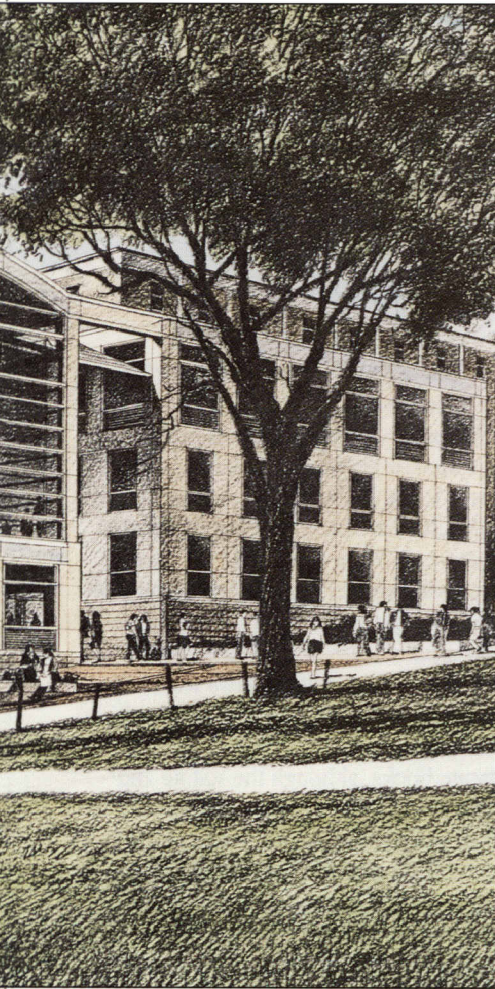
When all the dust has settled and construction is finished, perhaps in the summer of 1996, we will invite you all to tour our renewed facility, truly a law school for the twenty-first century. Until then, however, join us for a glimpse of the future, let your imagination take you three years forward.

Rising where rooms B25 and 225 are now, the new Grand Reading Room of the Law Library will be perhaps the most dramatic space in the \$14.5 million building addition and remodeling project. The current blank brick wall facing Bascom Hill is

replaced by a wall of glass giving us not only an excellent view of the "heart of the campus" but also, to the east, a view down State Street to the State Capitol. The Grand Reading Room will be connected by two bridges over an atrium space into the Old Reading Room, home of the Curry mural and the only space in the building that the architects felt was worth preserving intact.

Viewed from across Bascom Hill, once the Engineering School and now the headquarters for the School of Education, the Law School takes on an entirely new

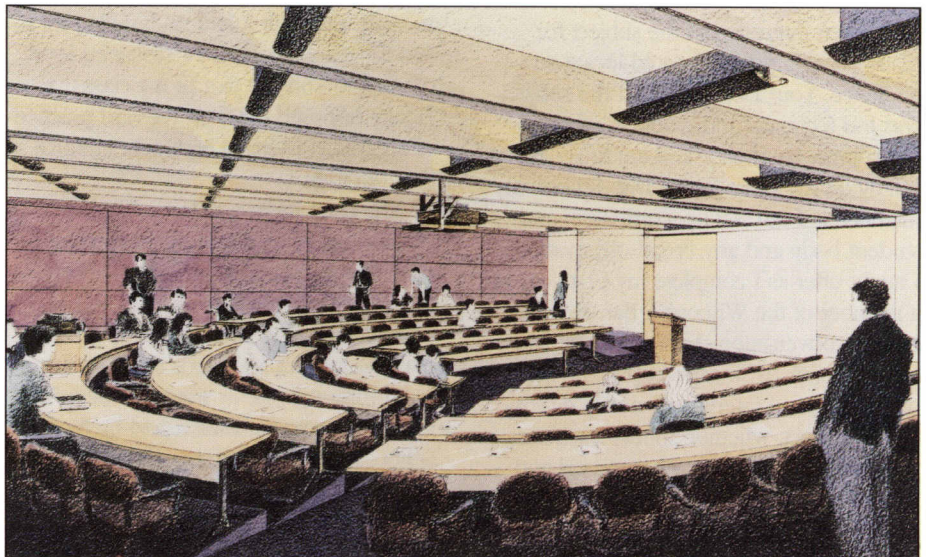
appearance. Highlighted by the windows into the Grand Reading Room, the new facade also includes windows into the new Trial Court complex (below the Grand Reading Room) and a three-story wing housing the Dean and other administrative services as well as a relocated Faculty Law Library. The current fifth floor Faculty Library is to be remodeled into twelve faculty offices, making the fifth floor consistent in function and form with floors three to six in the office tower (seen here at the far right of the picture).



While the current courtroom, Room 150, will be remodeled as a teaching-appellate courtroom, a new Trial Court Complex, with judges' chambers and a jury room, will be built below the Grand Reading Room. All three rooms will be useful as seminar rooms or small classrooms when not needed as a functioning courtroom. The design of teaching courtrooms is quite specialized and requires that student-spectators be brought as

close to the attorneys, jury and judge as practical. At the same time, built-in cameras and playback equipment are essential if performances are to be critiqued and used as a teaching tool. The Trial Courtroom will be named for Foley & Lardner in recognition of their contribution to the building project. The remodeled Appellate Courtroom will be named for Habush, Habush & Davis who also contributed to the building.

Since the plans call for demolition of rooms B25 and 225, our two largest classrooms will be recreated in the level below the Trial Court complex. It proved cost effective to demolish these rooms rather than remodel them to modern standards. Each of the two new classrooms will be semi-circular or U-shaped, will have better lighting and acoustics, and will be equipped with all the audio, visual and computer equipment that have already become so important to classroom instruction. At the same time, these rooms as well as the rest of the building will be brought into compliance with new ABA-standards. The glaring inadequacies of the current rooms, particularly the inability of students to hear each other during classroom discussions, will disappear.



Address To Membership Of The Benchers Society

BY ROBERT B. L. MURPHY '31
Delivered March 27, 1993

Dean Bernstine, Members of the Faculty,
Ladies and Gentlemen of the Bar and
other attending Ladies and Gentlemen —

As it happens I was an early member of the Benchers Society at a time when only one person was selected per law firm. After the lapse of some years, I received intimations to the effect that if I would step aside that might create a vacancy which one of my associates might fill. I obliged, and have not been a member of your organization since then, although I continue to hear well of it.

When he invited me to speak on this occasion your Dean seemed more interested in my brevity than in my subject matter. I offered to talk on the emergence of the English legal profession which is in so many ways our professional ancestor. I have been interested in the subject for many years and wish I could locate an audience. Your Dean said that the subject was too technical and would take too much time. He then asked me to speak briefly on my years in this Law School, my memories of the faculty, curriculum and student body and any broad observations I might offer as I complete my 61st year as a member of the Wisconsin Bar. He then cut the conversation short saying he had to hurry back to Singapore or some other distant place to interview a newly discovered prospect, whether donor, teacher or student, I know not. I compromised and adopted the Dean's rather than my own subject. By then I was in Ed Reisner's

hands and he said I should aim at covering the Dean's assignment within 15 minutes, but in no event beyond 20 minutes. I have aimed at a middle ground of 17.5 minutes, which I don't warrant that I shall achieve.

Admission to this Law School was rather informal in the fall of 1928 when compared with the awesome current job of selecting each year 280 or so of 3,000 or so applicants. At the time of my first year in law school an applicant must have completed two years of university, college or normal school work in institutions approved by the UW. It was also required that he, or the very occasional she, possess good character, conclusive tests for which are still being sought. Beginning with 1929 applicants, three years of university, college or normal school were required. The UW Law School was 60 years old in 1928, having been established in 1868, although it had no building for its first 25 years. To assure a sustained level of attention on the part of my class the faculty imposed the then Harvard practice of an annual exam in contracts, criminal law and torts.

The curriculum was but a fraction of the number of courses offered today, possibly only a fifth. This law school had pioneered in several areas by 1928 and offered such new courses as administrative, income tax and labor law. I had the good fortune to be in what was described as the first seminar established by the Law School in the spring term of 1931. It was concerned with some of the problems of corporate reorganization.

Commercial law was then described as "bills and notes." A modern, more comprehensive criminal code was under study but was not adopted until years later. There was a fragmentary business corporation statute which, for example, conferred only those powers which were expressly granted in the articles. The non-stock, nonprofit statute was incomplete and unsatisfactory. Both areas greatly improved when uniform laws were adopted in the 1950s. There was only a rudimentary securities law on the Wisconsin statute books, although the statute and rules were comparatively advanced for the time and were influential when federal securities legislation was drafted in the 1930s. The Supreme Court of this state had not yet adopted the comparative negligence rule in which I believe it stood alone for many years. The antitrust course was described as "imperfect competition." There was no state or federal unemployment compensation law in 1928, no federal securities legislation, no comprehensive state or federal labor code nor a social security law. The incredible state and federal volume of regulatory legislation in which we must practice today did not exist.

In brief, the Congress had done virtually nothing in 1928 to federalize labor, securities, welfare, education or other major areas of our institutional society and thus the law. Great credit is due the National Conference of Commissioners on Uniform State Laws for easing the crossing of business and other interests between states so far as legislative policy allowed.

The American Law Institute was established in the mid-twenties, and by painstaking examination of tens of thousands of American court opinions and the writings of many legal scholars determined first what the law was in major areas and then sought to restate it.

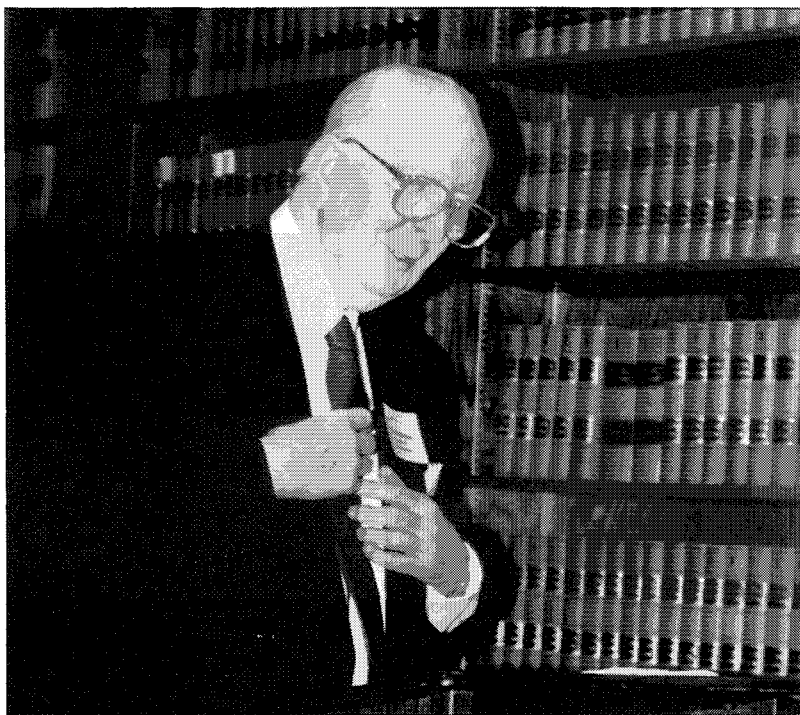
As a consequence of the substantial areas of nondevelopment of statutory or court law the faculty could revel in the common law and in such subjects as equity in which I took three courses. Our training and outlook were probably the better for it and our minds more receptive when major changes came as they did in the very next decade.

In brief, we were taught common law and equity principles rather than having to work through ever-changing legislation which now aggregates so many thousands of pages and regulations which present a virtual jungle through which we have to cut our way.

Returning to the subject of our law class in the fall of 1928, it had about 100 members, including not more than five women, if my memory be correct. One of the women was already married to a practicing attorney who later served on the state Supreme Court. At least three others married members of the state bar. All this, mind you, without any counseling service or state-funded matrimonial machinery. A small proportion of the males were from out-of-state; some 50 to 60 of the 100 were graduated 1931.

While I am engaged in a broad but necessarily brief survey of law school life 60 plus years ago, I may as well make passing reference to law school fees. They were about \$25 per semester and that included Memorial Union membership, library privileges and unlimited medical services, hospitalization at the infirmary or UW Hospital on University Avenue and all prescribed drugs. It also included psychiatric services, although that form of dependency was not then so often employed as in more recent years.

As an example of excellent school spirit, around 1939, and following two favorable student votes, but after discussions long antedating my years in the law school, a new library was built to supplement the original room which had long been inadequate. Since public funding



Robert B. L. Murphy ('31) in the old Reading Room

was not available, the William F. Vilas Trust Estate offered funding which was repaid by several generations of law school students through an increase in student fees. This represented a commendable joint effort of regents, deans, faculty and students, and, while limited in scale, was a significant event in the 125 year history of this law school.

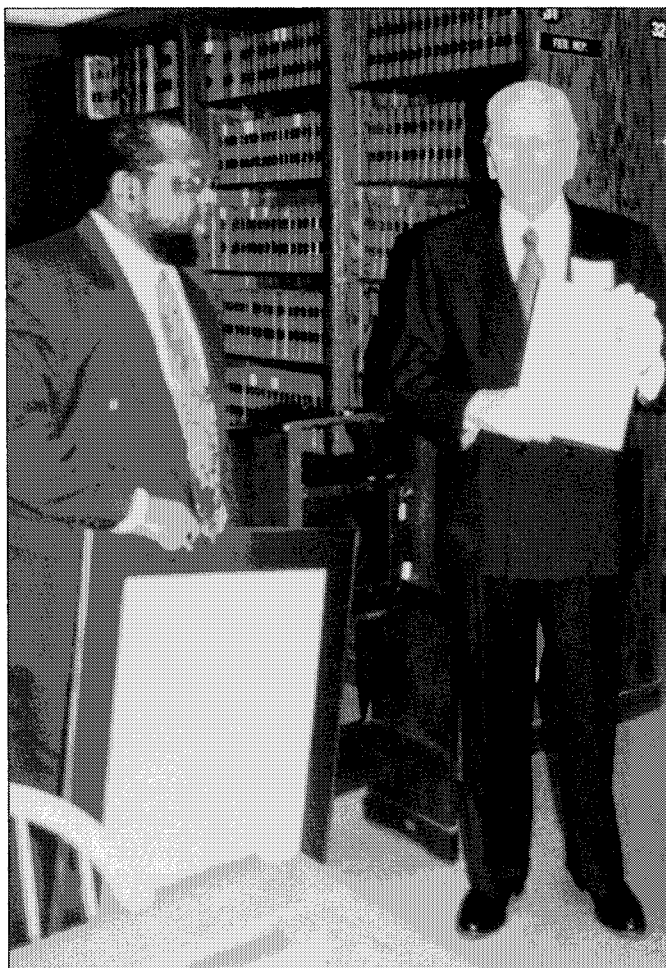
The three essentials of a good law school are an able and dedicated faculty, a bright, stimulated and hard working student body and an adequate library. Time and my assignment limit me to a quick survey of the faculty for the period 1928-32. The other two elements must await another occasion and another audience.

I begin my vignettes of the 1928 faculty with Harry S. Richards, who came to Wisconsin as Law Dean in 1903, and died while attending an ALI meeting in the spring of 1929. He was a courtly, gentleman of strong character who developed the first full-time faculty this Law School had ever known. He was a specialist in corporations and had edited a casebook with Columbia Law Dean Harlan F. Stone, later a member of the US Supreme Court.

Dean Richards was active in the American Law Institute in its early years. His administration emphasized faculty research and higher admission standards for students. He encouraged the founding of the Wisconsin Law Review around 1920.

Among Dean Richards' significant additions to the faculty was the famed William Herbert Page, one of the country's three top authorities on contracts, the pre-eminent writer on wills, and learned in conflicts and other areas of the law. While a great teacher, he was a demanding and dominating personality in the classroom, particularly in contracts. However, he was generous and understanding with any student between classes who had prepared as best he could and still had a problem with some contract or other legal doctrine. There is an extensive body of anecdotes surrounding Professor Page, some of which may be true, but they cannot be recounted on this occasion.

Another of Dean Richards' prize appointments was Oliver S. Rundell, one of the handful of top authorities in the country on the law of real property. He was at once deliberate, thorough, profound and patient. He was a splendid



Dean Bernstine and Mr. Murphy

teacher in a difficult area of the law. He also did much to assure the continuity of the Law School by serving as acting dean during the years 1929–1931 and as dean from 1942–1953.

The second trio of faculty members, also outstanding, was comprised of Professors Brown, Rice and Wickhem. Ray Brown taught personal property, administrative law, taxation and constitutional law. He had the unusual habit of summarizing very helpfully at the beginning of each class period the ground covered in the previous period. He was a splendid teacher.

William Gorham Rice, Jr. came to Wisconsin in the early 1920s after a top record at Harvard and a stint as clerk for Associate Justice Brandeis. His long professional and

service career in Madison exemplified and honored his liberal creed. He was a stimulating teacher in the areas of introduction to law, equity, labor, public service companies and constitutional law.

The third of this trio was John D. Wickhem who taught some 20 legal subjects at one time or another, but whose areas of preference were corporations, evidence, and bills and notes. He had special teaching gifts such as the capacity to elucidate in intelligible language abstract legal concepts and, just as important, their relationship to public policy or human conduct. He was named to the Supreme Court of Wisconsin in 1930 and enjoyed a national reputation

for the quality of his opinions. He was also a major player in the development of the Uniform Commercial Code as a project of the American Law Institute which required more than a decade of hard work to complete. He had a delightful, mellow personality and was highly regarded by students, faculty, judges and the practicing bar.

The 1928 faculty had a third trio of younger teachers, Professors Gregory, Hall and Sharp. They were just launching their respective teaching careers. Gregory specialized in torts; Hall in agency, bankruptcy and sales while Sharp ultimately specialized in corporations. I had the good fortune to take a course or more with each of them.

The nine full time faculty of 1928 also

had the assistance of four able lecturers. They were: Frank Boesel, pleading; Phil LaFollette, criminal law; M. B. Rosenberry (soon to be Chief Justice of the Wisconsin Supreme Court), legal ethics; and John Sanborn, a Madison lawyer, in practice and procedure.

The instructional team of 13 who constituted the UW law faculty in 1928–1929 would have been a credit to a law school and to the profession any time and anywhere. Eleven of the 13 were my instructors at one time or another and I also knew and admired the other two. We were fortunate in the quality of the faculty which began our training.

Despite the financial constraints felt throughout the University as the Great Depression struck every level of our society, the Law School had a top flight new dean in 1931, Lloyd Garrison of New York City. He accomplished a great deal in his decade here and gave the school a new social direction. He also held or recruited such first rank people as Jake Beuscher, Bob Bunn, Richard Campbell, Nate Feinsinger, Al Gausewitz and Will Hurst. Their careers here, important as they were, go beyond my assignment or the time allotted me.

After the lapse of 61 years the law faculty as constituted between 1928 and 1932 continues to command my admiration and my gratitude. It is my fond hope that the reactions of each listening attorney are similar for his or her years of training in the UW Law School. The faculty I knew best were and lived as gentlemen. They also imparted knowledge skillfully and preached professionalism with conviction.

I have not been asked by the Dean or anyone else to push the Law School endowment effort on which the very quality of this law school increasingly depends. However, I cannot think of a better opportunity or occasion than this to begin or expand a real payback to the professional school in which we were trained at so modest a cost by an able and committed succession of faculties.

I thank the Dean for his invitation and each of you for listening to me.

What's In A Number: Ranking Law Schools

ASSISTANT DEAN
EDWARD J. REISNER

There is an old saying among law schools that everyone claims to be "one of the 176 law schools 'in the top 10.'" Lacking our own football teams, law schools are forced to debate where they rank on some continuum of quality.

"I never like rankings but, on the other hand, I'd rather be on someone's list of top schools than not be on the list at all," says Dean Daniel Bernstine.

For years, the only semi-public rankings of law schools was the Gourman Report, a published listing of all kinds of academic programs with rankings calculated to two-decimal point accuracy. While he was dean, Cliff Thompson made it something of a personal crusade to find out how the rankings were determined, since no criteria were revealed in the publication itself. "I found an office on the second floor of a semi-rundown building in suburban Los Angeles," he reported, "but I never did discover how the rankings were determined."

Then, in 1987, US News & World Reports began circulating questionnaires to law schools and, based on their self-reporting, publishing an annual ranking of law schools, medical schools, and other academic programs. In the first survey, our Law School was tied with the University of Minnesota for 19th place. No surveys were published in 1988 or 1989, and

by 1990, we were no longer among their top 25. In 1991, we again appeared, this time at number 21, only to drop off the list again in 1992. By 1993, we were holding our collective breaths and were relieved to learn that we had bounced back on, this time as the 22nd best law school in the country. In a sub-category of academic ranking, we were reported as the 18th best law school in the country.

When we have questioned the editors of US News about why we specifically have bounced around rather abruptly in their rankings, we learned two factors that have frequently weighed against us: our lack of student selectivity and the lower starting salaries of our graduates.

"While there are a number of things that this School could do to improve its rankings with US News, there are two things that we are probably unwilling to change for the sake of a higher number," said Dean Bernstine. "We will not pick students solely on the basis of their LSAT's and undergraduate grade points and we will not push our students away from arguably lower paying jobs in the public interest sector or away from positions in the midwest with its lower cost of living, towards higher paying jobs elsewhere. If our graduates want the high-pay, high-prestige jobs we are, of course, pleased. But we will not influence them in either direction. Our graduates have distinguished themselves throughout the legal profession, and we should not sacrifice

the diversity of interests of our students for the sake of moving up in the rankings of some popular survey."

Do the rankings really indicate differences in quality? Or do they only indicate subjective differences in reputation. As a comedian on cable television recently said, if education is so much better at Harvard, does that mean that the faculties at lower-rated schools are deliberately holding back on facts?

Arguably, gross differences in rankings probably do reflect some differences in what is available from the various schools but also reflects different missions of the schools as well. A school among the top 25 probably sees itself as a national school, training its graduates for responsible positions anywhere in the country or world. A school among the bottom 25 may, on the other hand, see itself as training competent lawyers to represent clients in its own community. Whether one is better than the other is probably a question to be determined by individual applicants. The real issue is whether any given school is effectively fulfilling its stated mission.

Is the 22nd ranked school better than the 23rd or 24th? On any given day, on any given survey, perhaps. But in the larger scheme, there is probably no reason that one should be considered "better" than the other.

"That portion of the rankings that concerns me," reported Dean Bernstine, "is

the ranking of resources available to the faculty." In the latest US News survey our School rated no better than sixty-ninth. "We live and die by our faculty. While we have improved dramatically during the last decade, we obviously have a long way to go and are likely to be carried upward only by the addition of private funding

supplementing public funds."

The real ranking of law schools is how our own graduates feel about our successes or failures. That, in turn, is measured not by US News but by how generous they are in contributing support that helps us stay among the most select list of national law schools on any objective survey.

US NEWS & WORLD REPORTS RANKING OF LAW SCHOOLS

	1987	1990	1991	1992	1993
1st	Harvard)	Yale	Yale	Yale	Yale
2nd	Yale)	Chicago	Harvard	Harvard	Harvard
3rd	Michigan	Stanford	Chicago	Stanford	Stanford
4th	Columbia)	Columbia	Stanford	Chicago	Chicago
5th	Stanford)	Harvard	Columbia	Columbia	Columbia
6th	Chicago	NYU	Michigan	Michigan	NYU
7th	CA-Berkeley	Michigan	NYU	NYU	Michigan
8th	Virginia	Duke	Virginia	Virginia	Virginia
9th	NYU	Penn	Duke	Duke	Duke
10th	Penn	Virginia	Penn	Penn	Georgetown
11th	Texas	N'western	Georgetown	Georgetown	Penn
12th	Duke	Georgetown	CA-Berkeley	CA-Berkeley	CA-Berkeley
13th	Georgetown	CA-Berkeley	Cornell	N'western	N'western
14th	UCLA	Cornell	N'western	Cornell	Cornell
15th	Cornell	Vanderbilt	Texas	Texas	Texas
16th	N'western	Texas	USC	Vanderbilt	Vanderbilt
17th	Illinois)	USC	Vanderbilt	UCLA	UCLA
18th	USC)	UCLA	UCLA	USC	USC
19th	Minnesota)	Notre Dame	Iowa	CA-Hastings	Boston C.
20th	Wisconsin)	Boston C.	CA-Hastings	Notre Dame	Notre Dame
21st		NC	Wisconsin	Minnesota	G. Wash
22nd		CA-Davis	G. Wash	Boston C.	Wisconsin
23rd		Emory	Minnesota	Washington	CA-Hastings
24th		Wash & Lee	Notre Dame	G. Wash	Iowa
25th		Illinois	NC	Iowa	Minnesota

) *indicates a tie
)

Habush, Habush & Davis Gift For Appellate Courtroom

A \$200,000 gift from the Milwaukee, Wisconsin firm of Habush, Habush & Davis will enable the Law School to renovate the appellate courtroom. The new facility will be named after the firm.

Currently, there is only one overworked courtroom in the law building. Its current configuration is a compromise that does not serve well for either trial or appellate teaching. The new construction will include a trial court complex, allowing the present facility to be reconfigured into an effective appellate courtroom adapted to instructional purposes. The major change will involve bringing students much closer to the judge and lawyers. As reconfigured, the courtroom will also efficiently double as a medium-sized classroom when not in use as a courtroom.

A major addition to the room will be permanently mounted video cameras and playback equipment. Setup and takedown time necessitated by current mobile equipment significantly limits the time that the room can be used for any purpose. Videotaping is an important element in the modern use of any courtroom for teaching purposes.

"We are delighted to receive this magnificent gift from the firm," Dean Bernstein said. "Of course, it comes as no surprise, considering the outstanding support we have enjoyed from the firm over the years," Bernstein added, noting the firm's senior partner, Robert Habush, is a 1961 graduate of the School and has taught here frequently in addition to being a generous contributor. Habush is a regular lecturer in the Trial Advocacy program, as have been other members of his firm.

"We are committed to the Law School's continued excellence. I hope that our gift will encourage other alumni to do the same," Habush said.

Dean Bernstein describes this gift as "a major step forward" in the fundraising effort underway by the School and the University of Wisconsin Foundation to pay for the School's \$14.5 million renovation project. Of the total project cost, \$5 million must come from private sources with the remainder funded by the State and the University.

The building project calls for extensive renovation of the original building, constructed in 1963, and the addition of about 50,000 square feet of space.

Habush, Habush & Davis, a 23-member personal injury firm with offices in six Wisconsin cities, becomes the fourth Milwaukee-based law firm to make a significant gift to the project and to be recognized with a named structure in the expanded and remodeled building.



Robert L. Habush ('61)

News from the AALS/ABA Meetings: Dean **Dan Bernstein** spoke at the AALS/ABA Joint Workshop for Site Evaluators at the AALS Meetings in San Francisco, January 8.

The Minority Section of the Association of American Law Schools gives the C. Clyde Ferguson, Jr., Award each year to the professor who most personifies the combination of activism and scholarship exhibited by Professor Ferguson. The award this year was presented to Professor **James E. Jones, Jr.**, at a luncheon during the AALS annual meeting.

Also speaking at the AALS Meetings was Professor **Stewart Macaulay**, on "Revising UCC Article 2," and Professor **David Trubek** spoke on "US Legal Education and the Developing World" at the AALS Mini-Workshop on Teaching the First Generation of Global Lawyers.

Yale University Sterling Professor of Law Geoffrey C. Hazard and Associate Clinical Professor **Ralph M. Cagle** were the co-featured speakers at an all-day seminar on professional liability topics including quality control, ethics, insurance coverage and defense of malpractice actions presented by the law firm of Foley & Lardner in Milwaukee, February 4, 1993.

Professor **Herman Goldstein** conducted a workshop on new models of policing, for municipal police and the Royal Canadian Mounted Police at the British Columbia Justice Institute in Vancouver on January 11. On January 12, he lectured on developments in policing, sponsored by Simon Fraser University, to an audience of police, prosecutors, judges, city officials and media representatives. On January 28-29, Goldstein participated in a unique program at Harvard's Kennedy School, which brought together the top management of the IRS, several state tax departments, the EPA, several state environmental protection agencies and large municipal police departments for the consideration of common issues. He was invited to describe the work he is doing on reconceptualizing the police function.

Professor **Len Kaplan** delivered the third of a three-part lecture series at Belmont Hospital in Philadelphia, January 12. The paper was "From Innocence to Experience: A Retrospective Review of Political, Clinical and Cultural Changes in the Con-

ceptualization of the Law/Mental Health Interface."

The National Center for Automated Information Research made a grant to Professor **Lynn Lopucki** to fund the programming of a user-friendly version of the Debtor/Creditor Game. Ann T. Reilly, a graduate of the law school and now a professional programmer in St. Paul, will be in charge of the project. LoPucki is also working with Professor George Triantis of the Faculty of Law of the University of Toronto on a project that compares bankruptcy reorganization in the US and Canada.

Clinical Professor **Kate Kruse Livermore** has been named chair of the pro se/pro bono committee of the newly-formed Western District Bar Association.

In December Professor **Margo Melli** was an invited participant at a conference held in Berkeley on "Family Law for the Next Century," sponsored by the Earl Warren Institute at UC-Berkeley and the ABA Section on Family Law. In January she was in Washington, DC to attend a meeting of a study group on the Hague Convention on Intercountry Adoption at the invitation of the Office of Legal Adviser, US Department of State.

The February 1 issue of The New York-er, featured an article by Professor **Gary Milhollin**, head of the Wisconsin Project, entitled "The Iraqi Bomb."

Mary Barnard Ray, Legal Writing Lecturer, is celebrating the completion of writing the second edition of Legal Writing: Getting It Right and Getting It Written, for West Publishing. Ray and co-author Jill J. Ramsfield, a UW law graduate and director of legal writing at Georgetown, have substantially expanded the book, which will be available next fall.

Professor **Joe Thome** is in Chile from February 1, 1993 to January 1994, as the first resident director of a UW study abroad program.

At the invitation of Professor **Gordon Baldwin**, Professor **Leon Trakman** spoke to the Rotary Club breakfast on February 1, on constitutional solutions to Canada's current predicament. In February, Professor **Alta Charo** made a presentation calling for demedicalization of various reproductive

and genetic technologies at a meeting of the National Advisory Board on Ethics in Reproduction. She made presentations on the exclusion of reproductive age women from research trials at a national meeting on human subjects research at the University of Texas and a symposium on research using vulnerable populations to the St. Louis University Law School. She also made a special presentation on constitutional issues raised by the exclusion of women as research subjects to the Commission on Women and Research of the National Academy of Science's Institute of Medicine. In March Charo presented her work "The Phantom Fetus" at the annual Texas Women's Law Journal Symposium. The article, an examination of women and intergenerational justice, will be published later this year by the Journal. In addition, she made presentations on American abortion politics at a meeting on transnational trends in abortion legislation, sponsored by the Institute for Contemporary German Studies and on institutions for diffusion of new medical practices at a meeting of the Cornell University Science, Technology and Society program.

Professor **Walter Dickey** has been working closely with the Sentencing Project, a Washington, D.C. organization devoted to sentencing reform. Among the projects he worked on lately is an effort to organize grass roots support within the criminal justice system for a more rational debate on criminal justice policy, with emphasis on sentencing corrections. An ad hoc group, which he chairs, prepared a policy proposal for the Clinton Justice Department. The group, which includes 26 state corrections commissioners and Attorney General Janet Reno believes that there is a need to carefully re-examine incarceration policies throughout the nation.

Susan Katcher, Assistant Director of the East Asian Legal Studies Center, is Chair-elect of the AALS Section on Graduate Programs for Foreign Lawyers.

Professor **Blair Kauffman** participated on the ABA/AALS site inspection team for the re-accreditation of the University of North Carolina's Law School, in February. In March he spoke at Ohio State University at the ABA's second national program on planning law school buildings (called "Bricks

II"). Earlier this year he initiated a new electronic mail service on the Internet between twelve law school libraries in the Chicago region.

On February 12, the Law School hosted a reception for visiting professors **Itsuko** and **Yoshiharu Matsuura**, who were teaching Introduction to the Japanese Legal System, last semester. They are here on a Japan Foundation Visiting Professorship grant that was submitted for the Law School by the East Asian Legal Studies Center. Itsuko Matsuura is a Professor of Law at Aichi University Faculty of Law in Nagoya, and Yoshi Matsuura is Professor of Law at Osaka University Faculty of Law in Osaka.

Associate Dean **Gerald Thain**, a member of the American Law Institute Consultative Group reviewing the proposed revisions of Article 9 of the Uniform Commercial Code, met with other members of the committee and the study group that recommended proposed revisions, in Philadelphia, February 19-20.

Professor **Cliff Thompson** has accepted an unexpected offer to be Legal Education Advisor to the Indonesian Government. He will take leave to be there from two to six years. Last December, Thompson visited in Jakarta (Java) with officials at the Ministry of Economics and the University of Indonesia Law School. He will have offices at both places, but will be mostly at the University. There are 26 other public law schools (one in each province) which he will visit.

Professor **Alan Weisbard** presented his speech on "Patient Self-Determination and Advance Directives for Health Care" at a staff meeting at St. Mary's Hospital in Madison on January 19. On February 12, he presented "Crossing from Academia to Health Policy: The New Jersey Brain Death Law," at a lecture and discussion at Stanford/UCSF Robert Wood Johnson Clinical Scholar Program, University of California, San Francisco, School of Medicine. On February 15 he presented "Advance Directives for Health Care: Prospects and Pitfalls," to the Fourth Annual International Conference on Jewish Medical Ethics in San Francisco. On February 26, he spoke to the UW Hillel Society in Madison on "Jewish Perspectives on New Reproductive Technologies." On March 3, he spoke on "Interdisciplinary Decision Making in

Health Care: Brain Death" in the Work of the President's Commission and the New Jersey Bioethics Commission at the University of Michigan Law School.

March 13-15, Professor **Margo Melli** attended a meeting in Vienna with the United Nations Secretariat for the 1994 Year of the Family to discuss plans for that upcoming event. On March 31, she spoke at a Family Impact Seminar conducted for Wisconsin legislators, legislative aides, executive branch employees, and other public policy makers. Her topic was "How Wisconsin Treats the Family."

Professor **Richard Monette** spoke on the concept of sovereignty and treaty rights at the State Historical Society on March 26. On April 1, he spoke on the implications of Indian litigation over the last year at the Federal Bar Association Indian Law Conference in Albuquerque. In Washington, D.C., April 20, he spoke on the evolving role of tribal courts within our federal system. Together with Arizona attorney Robert Lytle, Monette has just completed a series of ten meetings and the final draft of the Winnebago constitution which will be submitted to the tribe's governing body, the federal government and the Winnebago people, in that order, for adoption or not.

Clinical Professor **Louise G. Trubek** spoke at the ABA Pro Bono Conference on April 14 in Baltimore. The program was on Legal Services throughout the world and she addressed the role of clinical programs in providing legal services for the United States.

CPR Clinical Instructor **Steve Meili** participated in a meeting of an advisory committee to the Clinton Administration's Health Care Task Force in Washington, on March 11. The committee heard from individual consumers and consumer advocates on a variety of issues related to the nation's health care system.

From March 24-28, Professor **Gordon Baldwin** visited Japan to speak to the law faculty of Osaka University on the current course of the US Supreme Court, and to speak at a conference of the Constitutional Law faculty in Kyoto. His topic was "Aliens in American Law."

Hastie Fellow **Marilyn Bowens** will be a visiting assistant professor at North Carolina

Central University School of Law in Durham, beginning in the fall of 1993. She will teach Constitutional Law and a legal writing course.

Professor **Peter Carstensen's** review of Mashaw and Harfst's "The Struggle for Auto Safety" appeared in the most recent issue of Business History Review. Carstensen's article "The Evolving Duty of Mental Health Professionals to Third Parties: A Doctrinal and Institutional Examination" has been accepted for publication; by the International Journal of Law & Psychiatry.

In April, Professor **R. Alta Charo** worked as a special reviewer of a report on "Lawful Uses of Information Developed from the Genome Project." The report is sponsored by the Ethical Legal and Social Issues Project within the NIH/DOH Genome Initiative and is being written by the Legislative Drafting Research Fund of Columbia University. In addition, Charo has agreed to serve as a special consultant to the United States Agency for International Development, "Women in Development" and "Social Marketing of Contraceptives" projects, with a special emphasis on newly independent republics of Kazakhstan, Turkmenistan, and other Central Asian regions. The project is being carried out by The Futures Group, a Washington, D.C.-based consulting firm. Charo has been recently appointed to Wisconsin Sen. Russell Feingold's Health Advisory Committee.

Professor **Kenneth B. Davis, Jr.** has been interviewed and quoted by statewide newspapers and radio concerning recent decisions by several Wisconsin-based corporations to move their jurisdiction of incorporation from Delaware to Wisconsin. One factor in these decisions has been the enactment of the new Wisconsin Business Corporation Law, for which Professor Davis served as co-reporter. Davis is also co-author of a comprehensive commentary on that law, which was published by the State Bar of Wisconsin in December 1992.

Professor Davis has also been involved in the efforts to revise Article 8 of the Uniform Commercial Code, which deals with investment securities. He serves as a member of the Ad-Hoc Advisory Committee and the Members Consultative Group of the American Law Institute, and has also partici-

pated in meetings of the Drafting Committee of the National Conference of Commissioners on Uniform State Laws.

Professor **Howard Erlanger** was recently named the 1993 recipient of the Emil Steiger Award for Distinguished Teaching. This is an all-University award for which he was nominated by the Law School. In his letter of support for the nomination, Associate Dean Thain wrote: "In a professional school where there is both peer pressure and student demand for high levels of teaching ability, Professor Erlanger stands out in his dedication to excellence to teaching. He receives outstanding student evaluations for both the large classes he regularly teaches and the small seminars that he offers. These evaluations are confirmed by the esteem in which he is held by his colleagues as a resource of innovative and effective methods of teaching."

In May Professor **Ted Finman**, together with Dean of Students Mary Rouse and Associate Dean of Students Roger Howard, presented a program at the 1993 National Association of Student Personnel Administrators on the University of Wisconsin's experience with speech codes banning verbal harassment.

In April, Professor **Blair Kauffman** visited the University of Tennessee College of Law to advise about the design of a new law building. He also spoke at the Multi-State Academic Library Conference, in Eau Claire on "Providing Access to Legal Information."

Professor **Richard Monette** addressed the Dane County Area Federal Employees' Annual Awards Banquet on May 5, on the topic "Federal Employees, State Citizens and

Indians: A Relationship of Trust." Monette taught at the Giessen summer program during May. The Great Lakes Indian Law Center, directed by Monette, has placed 13 students on the reservations to work with tribal courts and tribal attorneys this summer.

Melanie Cohen, a 1992 graduate, administers the program and is supervising the students' work.

Law students in the Class of '93 named Professor **Beverly Moran** to be the faculty speaker for the Student Bar Commencement Celebration, held on Thursday, May 13.

On April 14, Professor **Jane Schacter** addressed the Legal Association for Women on "Sexual Orientation and the Law: Issues for the Nineties."

Associate Dean **Gerald Thain** served as chair (as the Dean's delegate) of the Federal Nominating Commission, which met during April in order to review applications for United States Attorney, interview those applicants who made the "first cut" and submit a list of five people considered by the Commission qualified to hold the post, to Senators Kohl and Feingold. Professor **James E. Jones, Jr.** served as a member of the Nominating Committee. Thain also attended the Annual Meeting of the American Law Institute in D.C. and delivered a talk to the Washington D.C. chapter of the Wisconsin Law Alumni Association, entitled "The Role of the Law School in Any University," on May 14.

Professor **Frank Tuerkheimer** and law students **Molly Brandt**, **Geoffrey Fettus**, and **Dan Graff**, have been meeting this semester in an effort to take some steps to clean up the Madison lakes. These meet-

ings have resulted in a proposed ordinance submitted to the Madison Commission on the Environment, which would regulate the use of phosphorus fertilizer in lawn care.

Professor **Alan J. Weisbard** made a presentation on recent developments in organ transplantation to a working group on "The Human and Cultural Context of Organ Transplantation" at the Park Ridge Center in Chicago on May 2. He moderated a panel on Drug Policy at the UW Medical School on April 28. His paper, "A Polemic on Principles," critiquing the use of "non-heart-beating cadaver organ donors" at the University of Pittsburgh, will be appearing in the Kennedy Institute of Ethics Journal this summer. Weisbard resumed his traditional April role as a UW host, welcoming Professor Ethan Nedelmann of Princeton's Woodrow Wilson School, who spoke at the Law School and at the Medical School on Drug Prohibition and its Alternatives, as well as Professors Arnold Eisen of Stanford and Leslie Fiedler of SUNY-Buffalo, who spoke as part of this year's Jewish Heritage Lecture Series, which Weisbard chaired.

Irving D. Gaines ('47), a member of the Board of Visitors of the Law School, has been recertified as a Civil Trial Advocacy Specialist by the National Board of Trial Advocacy. He was originally certified in 1982 and must be recertified at five-year intervals. He is a civil litigator specializing in business, real estate and title insurance litigation, practicing in Milwaukee.

F. Anthony Brewster ('55) of Stolper, Koritzinsky, Brewster & Neider, S.C., Madison, Wisconsin, has been appointed as a member of the Privacy Council by the Wisconsin Supreme Court. The Privacy Council was created by the Legislature in 1991.

Larry Clancy ('56) has joined Cook & Franke of Milwaukee, Wisconsin, as a shareholder. He will concentrate in the areas of business, real estate and finance law.

Ronald Z. Domskey ('57), who has taught Federal Taxation and Estate Planning at The John Marshall Law School in Chicago since 1965, recently received an award from the school for completing 25 years as Director of the Taxation Division of the Graduate School. He also served as professor-reporter at a Judicial Conference on Probate. Appointed by the Illinois Supreme Court, the materials from the conference will serve as a "benchbook" for Illinois judges in probate cases. Prof. Domskey presented lectures and acted as a panelist for all sessions.

Nancy C. Dreher ('67), Judge of the US Bankruptcy Court in Minneapolis, has been honored as a Life Fellow of the American Bar Foundation. Life Fellows are honored for their demonstrated dedication to the welfare of their communities and to the highest principles of the legal profession. Judge Dreher is Chair of the Minnesota Supreme Court Advisory Committee on Lawyer's Professional Responsibility and a recipient of the Minnesota State Bar Association President's Award for Professional excellence.

Ellen M. Kozak ('69) has joined Nilles & Nilles, Milwaukee, Wisconsin, where she

will concentrate on copyright, publishing and entertainment law. Kozak is the author of "From Pen to Print: The Secrets of Getting Published Successfully" and "Every Writers Guide to Copyright and Publishing Law".

Negatu Molla ('72), a member of the Tucson, Arizona, firm of Kimble, Gothreau and Nelson, has been elected to the Board of Directors of the Southern Arizona Chapter of the Girl Scouts.

Robert J. Smith ('74), of Wickwire Gavin, P.C., Madison, Wisconsin, has been elected Treasurer of the American College of Construction Lawyers and will serve on the College's Executive Committee. Fellows of the College have been recognized for their long standing national leadership and expertise in construction industry law.

Paul Eyre ('75) has been named Litigation Coordinator for Baker & Hostetler, Cleveland, Ohio. Eyre served as Regional Director of the Federal Trade Commission in Cleveland before joining the firm in 1982. He concentrates his practice in general business litigation with an emphasis on trade regulation and securities.

James Schlender ('78), chief executive officer of the Great Lakes Indian Fish and Wildlife Commission in Odanah, Wisconsin, has received the LaFollette Award for Outstanding Service to the Profession from the Wisconsin Bar Foundation.

Robert E. Precht ('80), with the Legal Aid Society of New York City, has been appointed counsel to the first suspect in the World Trade Center bombing. He reports that he is busy preparing for the trial, now scheduled for mid-September.

Deborah Klein ('81) has joined Popham, Haik, Schnobrich & Kaufman, Ltd., Minneapolis, Minnesota, where she will concentrate in the area of health and benefits litigation. For the past seven years, Klein has served as Litigation Counsel for Northwestern National Life Insurance Company.

R. Jeffrey Krill ('81) has become a shareholder in the Milwaukee, Wisconsin,

firm of Ehlinger, Blegen & Krill. He is a trial lawyer, chairman of the Community Advisory Board for radio station WUWM, a trustee of the Wisconsin Conservatory of Music and a lecturer in law at the Milwaukee Institute of Art and Design.

Suzanne E. Williams ('83), an attorney with the Madison, Wisconsin firm of Bell, Metzner, Gierhart & Moore, has been named a director-at-large of the Wisconsin Alumni Association. Her practice focuses on medical malpractice.

Patrick J. Lubenow ('84) has become a partner of the Waukegan, Illinois office of Querrey & Harrow, Ltd.

Virginia L. Newcomb ('85) has joined Borgelt, Powell, Peterson & Frauen, S.C., and has opened their Madison, Wisconsin, office. Her practice includes medical and legal malpractice, personal injury, product liability, environmental and worker's compensation law.

R. Steven DeGeorge ('85) has been named a partner of the Cleveland, Ohio, firm of Hahn Loeser & Parks, where he focuses on environmental law and litigation. He is co-chair of the ABA Litigation Section committee on Environmental Law and Natural Resources.

Christopher J. Jaekels ('86), formerly Counsel/Secretary at Laidlaw Environmental Services, has joined Cook & Franke in Milwaukee, Wisconsin. He is currently co-chair of the Environmental Law Section of the Milwaukee Bar Association.

Christopher C. Dickinson ('88) has joined Jenner & Block in Chicago, Illinois.

Lisa Serebin ('89), formerly a staff attorney with the US Department of Labor, has joined the San Francisco firm of Truckner, Huss, Klammer & Sacks.

Harold Rocha ('92), president of the Wisconsin Hispanic Lawyers Association and an associate at the Milwaukee, Wisconsin, office of Quarles & Brady, is participating in the Landlord/Tenant Hotline of the Milwaukee Young Lawyers Association.

IN MEMORIAM

George R. Perrine ('33), long-time chair of the Illinois Commerce Commission, passed away in January in Houston.

Warren Knowles ('33), a former three-term governor of Wisconsin, died in May. Knowles was elected to the State Senate in 1940 and served as Governor until 1970. He had said that his greatest accomplishment was the establishment of the Kellett Commission, which streamlined 127 governmental departments to 26.

Eugene E. Dixon ('39), a native of Marshfield, Wisconsin, and a retired Administrative Law Judge with the NLRB, died in February.

Arthur De Bardeleben ('40) of Park Falls, Wisconsin, a member of the Board of Regents for sixteen years both before and after creation of the UW System and president from 1964-1967, died in April.

Alan M. Nedry ('48), who had practiced in the Washington, D.C., area for almost 30 years, died in December in Florida.

John H. Rogers ('52), son of Harlan Rogers ('09), born in Portage, Wisconsin, died in May in Florida. He was retired from the John Hancock Insurance Company where he served as Senior Vice-President.

Associate Justice **James Wakatsuki** ('54) of the Supreme Court of Hawaii died in September 1992. Justice Wakatsuki had served as a state representative, speaker of the house and circuit court judge before joining the Supreme Court almost ten years ago.

Cynthia Gillespie ('74), co-founder of the Northwest Women's Law Center in Seattle, Washington, and an author in the area of women's rights, died in February.

John Beaudin ('81), a Native American lawyer practicing in Madison, died in April. Beaudin was pursuing an LL.M. degree at the Law School at the time of his death.

I May Not Be On The Fast Track, But I'm Still "Sucking Air"

It is late February as I write, and I seem to be afflicted by the winter "blahs." The cold and snow seem endless and the warm summer weather seems as unreachable as the law practices of my city's prominent attorneys. A lucrative, established law practice—like the summer sun—seems like some sort of unattainable brass ring, a dream that one can visualize but not quite reach.

My daily fare as a lawyer probably doesn't help my outlook at this point. Walking to the Government Center in my gray flannel suit, long down coat and long underwear, Mentally planning how to try to resolve some seemingly unresolvable marital dissolution or unwinnable criminal case, makes the weather seem all the worse. Even the Government Center itself seems to color my mood; the place has all the grace, charm and history of most Twin Cities shopping malls.

On the elevator, hearing snippets of conversation about large verdicts and observing the briefcases, bulging with exhibits, of the big-firm civil litigators, my daily work can seem awfully minor and inconsequential.

Yet, as I think about it all, my mind drifts back to a winter day, not unlike today, when I attended the funeral of my friend and classmate, Mark Pederson. Mark died in a plane crash three months before graduation. It was hard to lose him, especially after we had all worked so long and hard in law school.

In one of my last conversations with Mark, I remember telling him how "down" I felt. The students on Law Review had received lucrative offers from large, prestigious firms and I couldn't seem to get even one job offer. Even the Navy wouldn't take me, because of my asthma. Mark told me not to worry; as long as I was still "sucking air," there was hope.

Mark was right. In the end, I returned home, passed the Minnesota Bar, appropriated an office from my father and managed to make a living, learn quite a bit and help a few ordinary Joes and JoAnnes.

I still miss Mark. His warmth, charm and optimism were a useful antidote to law school. His death reminded me of the value of life, and that there was still life yet to be lived. I may not have run as fast or jumped as high as some of my classmates but I was still in the race.

Since we graduated, two others whom I knew in Law School—Keenen Peck, our Law Review editor-in-chief, and David Rudman—are gone. I'd like to think I'm a better lawyer and a better person from having known all three of these people. I may never set the legal world on fire, never win the million dollar verdict or argue a case in front of the Supreme Court, but I'm still "sucking air." For that, I am grateful.

Steve Press ('88)

Steve lives in Minneapolis, where he practices law and manages rental properties with his father.

Editor's Note

Mrs. Patricia Ruth of St. Petersburg, Florida, wrote recently to note that her son, Robert T. Ruth, graduated from the Law School this spring, 30 years after her husband, Robert J. Ruth. She suggested a Gargoyle article about fathers and sons who are alumni. I agree, but suggested that we have to add father-daughter, mother-daughter, and a whole spectrum of multi-generational alumni. If you are part of one of these stories, drop me a line. Pictures would be appreciated and I'll even offer a prize to the longest line and most unusual combination. Here is your chance at immortality!

For only the second time in its history, we are running a full color section. The first time was in Vol. 16, No. 1, in 1985, when we included a center spread photo of the Curry mural in the Old Reading Room, the only room, according to our current architects, that should not be changed in the upcoming building project.

Now we use color once again to show you what the architects have in mind for our School. I hope you are as impressed and excited as we are. In fact, unless you are, it is unlikely that these drawings will ever be converted to brick and steel. We will need your help in meeting the private funding requirement set for us by the State Building Commission. The project is estimated at \$14.5 million, we will be required to raise \$5 million and must have \$3 million pledged or in hand before construction can begin.

A number of you have already come forth or been contacted concerning contributions to the building fund. The past sev-

eral issues of this magazine have carried marvelous stories about a series of leadership gifts, a series that we hope will continue perhaps throughout the construction phase. Give me a call if you would like more information or if you think you have a lead on another prospect.

Another academic year has concluded. Another class faces the prospect of an uncertain employment market. This is the first class, however, that entered law school after the percipitous decline in legal hiring that occurred during the summer of 1989. Most hiring professionals now think that we will never return to the boom times of the mid-1980s, and, as time goes on, more and more entering students will have different expectations than the Classes of the 1980s. As I write, about 60 percent of the Class of 1993 has reported their employment status and two-thirds of those are employed in law-related positions. This is off about 5 per-

cent from what we would have seen five years ago. While certainly not horrible, there are signs that it will be a long, hot summer for a number of well-qualified graduates.

Remember the mystery picture in the last issue? It showed Prof. Sam Mermin with a group of students from one of his Appellate Advocacy classes. Stephen Chandler ('78), New Berlin, Wisconsin, writes that he was the second from the right in the photo, taken in the spring of 1978. The others, left to right were: Prof. Mermin, Robert Smith, Krista Ralston, Jane Mueller-Peterson, Susan Schauf, Chandler and Thomas White. They represent the two finalist teams in the class that year.

How about this mystery? The photo was taken in the student lounge, post-1963. It looks like it could be a meeting or perhaps a study group. Seven faces should be recognizable. Let me know if you can help.



Transcript Policy

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Date of Birth
ID or Social Security Number
Dates of attendance
Complete address where transcript is to be sent

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