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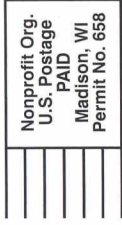
GARGOYLE

UNIVERSITY OF WISCONSIN LAW SCHOOL



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Message from the Dean

BY DEAN KENNETH B. DAVIS, JR.

Every seven years, the Law School undergoes a site inspection by an accreditation team chosen by the American Bar Association and the Association of American Law Schools. I am pleased to report that our recent accreditation visit went very well. The initial comments from the site visit team were generally positive. They will prepare a more detailed report and get back to us this summer.

Much of the credit for the success of the visit goes to Professor Steven Barkan, who is also Director of the Law Library. Drawing on his experience as Acting Dean at Marquette Law School, Steve made sure we were well prepared. He worked diligently with a committee of faculty to assemble a comprehensive "Self-Study", required to be submitted to the inspection committee before its visit to the School. I found the work done by our faculty committee to be a very useful way of taking stock of ourselves, evaluating where we are and where we need to go. I thought you might be interested to know some of the things that grew out of the visit and our preparations for the accreditation review.

The most revealing aspect to me was looking at our resource picture in relation to our peers in the Big Ten. I found that we have remained true to our tradition of providing cost-effective access to a legal education. Of the five neighboring law schools (Minnesota, Illinois, Michigan, Northwestern, Iowa), none has lower tuition. But I also noted that this is something of a double-edged sword. As I compared the amount spent per student, I noted that we spend less than any of the aforementioned schools. And this is not a narrow gap: while we spend about \$16,000 per



student, the next closest peer is able to spend about \$6,000 per year more. The disparity widens when we are compared to the other institutions.

This information didn't catch me totally by surprise. We have suspected for some time that our resource problem was more acute than that of some of our peers. What was illuminating was the size of the gulf. This, of course, gives these neighboring law schools a significant competitive advantage when it comes to recruiting the best students and retaining top faculty. For example, when we offer admission to a student who is also accepted by one of these neighboring peers, our peer schools have dollars available to offer financial incentives in the form of merit scholarships to lure prospective students. Traditionally, we have not had the resources to offer merit scholarships, but it is a situation we plan to address in the coming years.

Likewise, the significant resource advantage held by our peers allows them to retain their best faculty. I am not simply referring to paying higher salaries (although that is certainly possible when there are more resources available), but providing faculty with ancillary benefits that add to their satisfaction and often are just as important as salary. For instance, when faculty want to hold a

special conference, invite nationally prominent guest lecturers or buy a new piece of software from the bookstore, my counterparts at our neighboring peer institutions are better positioned to respond favorably to these requests. As dean, I want the University of Wisconsin Law School to be known as a dynamic place of possibilities, not a school where limited resources discourage action and bold ideas.

While the site team was here we also received word that the Law School had moved up eight places in the *US News and World Report* rankings. We hope to improve on our overall ranking of 29, but we are proud that, despite our relative paucity of funds, we continue to be among the elite in the category of "reputation", as assessed by judges, lawyers and academics, who ranked us 19th in the most recent survey.

Considering this strength in the face of limited dollars, I can't help but wonder how we would be ranked had we been able to retain even half of the 11 faculty we have lost to law schools ranked in the *US News* top five. (In fact, only one school, the University of Pennsylvania, has lost more of its law faculty to the "top five" than we have.) While this is a classic "good news/bad news" situation, it is a testimony to one of the traditional strengths of the Law School: our ability to spot excellent young faculty who have the potential to develop into leading figures in legal education. This is another example of what I believe the inspection team saw during the visit: even with our financial limitations and periodic departure of key faculty (either by retirement or via moves elsewhere), the UW Law School remains at the forefront of legal education and is committed to refining itself in response to a changing legal landscape.

Professor Jim Jones Wins National Award

UW Law School's Emeritus Professor James E. "Jim" Jones, Jr. was the honored recipient of the 1998 Teaching Award from the Society of American Law Teachers (SALT) at the Society's annual banquet in January 1998 in San Francisco. Every year, the award recognizes an individual for lifelong service in law teaching.

The citation on the award presented to Professor Jones reads: "In recognition of your dedication to promoting affirmative action both in the legal academy and the labor force. You have been an inspiration and mentor to generations of law students. Your devotion to the Hastie Fellowship program has been a valuable benefit to your students, legal education and the legal profession."

An article that appeared about Professor Jones in *The SALT Equalizer* (Vol. 1997, No. 4) describes Jim Jones as "a pioneer black law professor" who "has combined a successful teaching career with government service. He is someone who, for several decades, has labored in the field of affirmative action and legal education and employment opportunity in general. By honoring him this year, we are recognizing a lifelong commitment to minorities in the workplace and in legal education."

The article goes on to summarize Professor Jones's significant contribution to the field of affirmative action: "Jim Jones began his legal career in 1956 as a legislative attorney with the U.S. Department of Labor, eventually becoming Associate Solicitor of Labor for the Division of Labor Relations and Civil Rights from 1967 to 1969. While he was at the Department of Labor, Jones was instrumental in developing a very early notion and model of affirmative action. He was also instrumental in



The award recipient and his colleagues (from left): Rickey Jones, UW Law Class of 1993; Jerome Shestack, then ABA President; Professor Linda S. Greene, then President of SALT; Professor Jim Jones; Raymond J. Ramsey, UW Law Class of 1991.



Emeritus Professor Jim Jones, recipient of the 1998 SALT Teaching Award, enjoying one of the evening's humorous moments at the SALT Awards Dinner



Former Dean Daniel O. Bernstine listening to one of the banquet speakers

formulating the 'Philadelphia Plan,' which mandated goals and timetables for hiring minority workers."

Here at the Law School, Professor Jones founded the William H. Hastie Fellowship program, which was designed to bring minority law professors into the profession. Graduates of the program have gone on to prominence as legal educators at many institutions around the country. Numbering among them is the

Law School's former Dean, Daniel O. Bernstine, who is now President of Portland State University in Oregon.

Professor Jones has written extensively on employment discrimination law, civil rights and employment, and affirmative action. Several of his articles are considered classics in the field of affirmative action, and have been reprinted in congressional reports.

Meet the Law School's Three New Assistant Deans

In the last year, three new assistant deans have joined the Law School's administration. All three are women, and all three have law degrees. Two of them are UW Law School alumnae. We are pleased to introduce these three talented administrators to our *Gargoyle* readers.



M. Elizabeth (Beth) Kransberger

*Assistant Dean for Admissions
and Financial Aid*

*B.A. 1987, Lawrence University,
Appleton, WI*

*J.D. 1993, University of Wisconsin
Law School*

mkransbe@facstaff.wisc.edu

Beth will be known to many of you as a 1993 graduate of our Law School. Before enrolling here, she earned her B.A. degree in philosophy from Lawrence University in Appleton, and was subsequently appointed the Edward F. Mielke

intern in Biomedical Ethics, where she co-authored a draft of one of Wisconsin's early Advance Directives for Patient Health Care decisions. She then worked as an advocate for disabled persons, and as an elementary school teacher prior to attending law school.

While she was a student here, Beth was a project assistant to Professor Vicki Schultz and Clinical Professor Louise Trubek. She was also the program assistant to the Inter-university Consortium on Poverty Law. Upon graduation she received the Bruce F. Beilfuss Memorial Award for outstanding service to the Law School, as well as the National Association of Women Lawyers Award.

Upon graduation, Beth moved to San Francisco, to work for New College of California, a small progressive liberal arts college with a public service/social justice mission statement, which grew out of the alternative education movement of the late 1960s and early '70s. She became the third Vice President in the College's history, and oversaw student service, budgetary and operational functions for the College. In addition, she served as the College's Title IX/Discrimination Prevention

Officer. Beth was also a co-negotiator of the College's first collective bargaining agreement, which the AFL-CIO local believed could be used as a national model. In the past year, she took over planning, development and alumni activities for the College. She also co-founded the HIV/AIDS Reentry and Empowerment Project, and worked collaboratively to raise funds for scholarships for persons with HIV and AIDS to reenter both undergraduate and graduate school. During this time, she was appointed to the San Francisco Mayor's Committee on Reentry and Employment.

In addition to her administrative duties at New College, she taught an undergraduate seminar series on Critical Approaches to Law, and also led a discussion seminar on critical race theory at the New College School of Law, the oldest public interest law school in the country. Further, she co-authored with Louise Trubek a book chapter in the Sarat and Scheingold volume, *Cause Lawyering: Political Commitments and Professional Responsibilities*. Beth lives on a large lake outside of town, with her partner Babbi.

Benchers Society News

Distinguished Alumni Join Benchers

The UW Law School Benchers Society has been called a group of the Law School's "best friends," whose financial support helps the School to maintain its excellent faculty, student body, and programs.

The Benchers Society was formed in 1963 by a group of dedicated alumni, spearheaded by Robert Curry '53 and David Beckwith '52.

Membership was by invitation only and limited to 100 distinguished alumni who pledged an annual contribution of \$100 to support a discretionary fund for the Dean. The fund was conceived to increase private support for student scholarships and loans, lectures by distinguished members of the bar and teaching profes-

sion, and important student activities such as moot court competitions.

The original letter announcing formation of the Benchers Society explained that a "Bencher" in England is a senior barrister who has been selected to be a member of the governing body of his Inn of Court. To be a Bencher in England is a sign of honor, authority, and dedication to legal education.

Since the Benchers Society was founded, the organization has changed but the purpose remains the same: Benchers are still invited to membership, but now the invitation is in recognition of a history of extraordinary financial support of the Law School. Without exception, the

Benchers remain a distinguished group, both by achievement and by their willingness to support the School with annual unrestricted contributions.

Benchers who contribute annually at levels of \$500 and higher earn admittance into groups named after three historic UW Law School deans: the George Young Circle (\$500 to \$999); the Harry Richards Club (\$1,000 to \$2,499); and the Lloyd Garrison Society (\$2,500 and above.).

If you are interested in learning more about the Benchers Society, contact the Law School's Director of Development, Chris Richards, at 608/263-5494.

THE BENCHERS SOCIETY

LLOYD GARRISON SOCIETY: \$2500+

Frank L. Bixby
Walter M. Bjork
Gregory C. Braden
William F. Broll
George Bunn
Kenneth B. Davis, Jr.
Robert L. Habush
Rodney O. Kittelsen
Kenneth E. McNeil
Walter B. Raushenbush
James N. Roethe
Jeremy C. Shea
Michael St. Peter
G. Lane Ware

HARRY S. RICHARDS CLUB: \$1000-2499

Warren G. Andersen
James T. Barry, Jr.
Thomas J. Bauch
Richard G. Baumann
Glenn R. Coates
Charles P. Dykman
Paul J. Heim
John A. Kidwell
P.J.C. Lindfors
Bruce D. Loring
James C. Mallatt
Keith E. McClintock, Jr.
Paul E. Root
John R. Sagan

GEORGE H. YOUNG CIRCLE: \$500-999

Wayne E. Babler, Jr.
Peter C. Christianson
Thomas B. Fifield

Sheldon I. Fink
Conrad G. Goodkind
Aaron E. Goodstein
Timothy J. Hatch
Orrin L. Helstad
Gerald J. Kahn
John A. Kaiser
Wayne R. LaFave
John C. Merriman
Maurice J. Miller
Alphonsus C. Murphy
Robert B.L. Murphy
Kathryn A. Oberly
Benjamin G. Porter
H. William Ruf, Jr.
Allen W. Schneider
Willard C. Schwenn
Stanton K. Smith, Jr.
Dale L. Sorden
John E. Thomas
Ray A. Tomlinson
John C. Tonjes
Michael R. Vaughan
John G. Vergeront
Robert C. Voss
William J. Walderman
George K. Whyte, Jr.

PARTNERS: \$250-499

Shirley S. Abrahamson
Stanley J. Adelman
Robert J. Adolph
Steven R. Allen
Thomas E. Anderson
Edmund P. Arpin III
Robert W. Arthur
Michael H. Auen
Thomas H. Barland
Angela B. Bartell
Jeffrey B. Bartell
David E. Beckwith
Robert E. Bellin

Julian L. Berman
Jacob L. Bernheim
Linda H. Bochart
Mark S. Bonady
Kirby L. Bouthilet
Richard J. Boynton
F. Anthony Brewster
James P. Brody
Jules F. Brown
John L. Bruemmer
John H. Burlingame
Irvin B. Charne
Lucius P. Chase
Keith A. Christiansen
James R. Clark
Catherine B. Cleary
Dennis P. Coffey
David Y. Collins
William F. Collins
Gerald T. Conklin
Patrick W. Cotter
Barbara B. Crabb
Francis R. Croak
Louis L. Croy
James L. Cummings
Robert L. Curry
Gerald A. Davis
Jack R. DeWitt
Anthony E. Dombrow
Robert A. Downing
James A. Drill
Thomas J. Drought
William E. Dye
Thomas W. Ehrmann
George A. Evans
Thomas E. Fairchild
Clarice R. Feldman
William H. Fernholz
James J. Fetek
Henry A. Field
Leon Fieldman
Joseph R. Filacheck

Daniel T. Flaherty
Robben W. Fleming
Aubrey R. Fowler, Jr.
John P. Frank
Robert F. Froehle
Edward R. Garvey
Eugene O. Gehl
Richard C. Glesner
Daniel L. Goelzer
Alfred G. Goldberg
Harold F. Greiveldinger
Stuart G. Gullickson
Joel A. Haber
H. Lowell Hall
Frank D. Hamilton
Laurence C. Hammond, Jr.
David J. Hanson
David J. Hase
John B. Haydon
Donald L. Heaney
Don R. Herrling
Joel Hirschhorn
Richard A. Hollern
Thomas S. Hornig
Eugene L. Johnson
Orland K. Johnson, Jr.
Allen E. Jones
Harold E. Jordan
Lawrence J. Jost
Spencer L. Kimball
Marvin E. Klitsner
W. Roy Kopp
Warren L. Kreunen
Bernard S. Kubale
Myron E. LaRowe
John D. Larson
Arthur H. Laun, Jr.
Edward L. Levine
Marvin J. Levy
Patrick M. Lloyd
Sheldon B. Lubar
Charles F. Luce

Robert W. Lutz
David L. MacGregor
John K. MacIver
Thomas G. MacDonald
William J. Mantyh
Toby E. Marcovich
Jack A. McManus
Pierce A. McNally
Paul F. Meissner
Milton L. Meister
Joseph A. Melli
Marygold S. Melli
John F. Michler
Roger C. Minahan
J. Paul Morrow
Carl M. Mortensen
Owen D. Nee
Richard G. Neuheisel
Harrison W. Nichols
Jon C. Olson
Richard L. Olson
Gerald C. Opgenorth
Robert J. Parins
Frank J. Pelisek
Don S. Peterson
Richard J. Podell
Howard A. Pollack
Lyman A. Precourt
David Previant
Charles E. Prieve
Edward J. Pronley
Thomas G. Ragatz
Samuel J. Recht
John W. Reynolds
Gerald J. Rice
William T. Rieser
Perry A. Risberg
Richard R. Robinson
Carl W. Ross
David S. Ruder
Harry V. Ruffalo
Andre M. Saltoun

William J. Sauer
Edward T. Schilling
William M. Shernoff
Daniel L. Shneidman
David H. Simon
John S. Skilton
Robert W. Smith
Bernard Soref
James F. Spohn
George K. Steil, Sr.
Roy D. Stewart
Warren H. Stolper
Donald R. Stone
Thomas S. Stone
Burton A. Strnad
Vernon A. Swanson
C. Thomas Sylke
William R. Tahan
Thomas E. Terry
Herbert L. Terwilliger
Bruce Thomas
Joe Thrasher
Ralph V. Topinka
David L. Uelm
Gerard H. Van Hoof
James J. Vance
John P. Varda
R. Worth Vaughan
Ralph Von Briesen
John M. Waggoner
George R. Wearing
James E. Webster
David D. Wexler
Allen B. Wheeler
John C. Whitney
Harold W. Wilkie
William J. Willis
Gustav R. Winter
Thomas D. Zilavy
Donald N. Zillman
Donald R. Zuidmulder

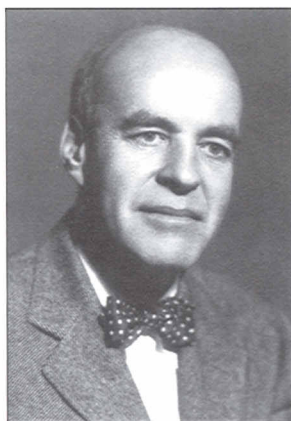
Three Historic Deans Honored



Harry S. Richards became Dean of the Law School in 1903 at the age of 34, and remained in that capacity until his death in 1929. Richards converted the School to the case method of instruction, raised entrance requirements, and increased the faculty, recruiting several professors who were to leave their mark on American legal education. He has been credited with making the UW Law School into a recognized professional school and with instituting the “law in action” tradition.

During his tenure, a chapter of the order of the Coif was established, the *Wisconsin Law Review* was founded (1920), and the tradition of the annual Cane Parade began.

Richards, born in an Iowa log cabin, was a Phi Beta Kappa graduate of the University of Iowa and an honor graduate of Harvard Law School. He had taught at Iowa Law School and edited a casebook before his arrival at UW.



Lloyd K. Garrison, Dean of the Law School from 1932 to 1942, continued fostering Law and Society interdisciplinary studies at Wisconsin, when legal education was dominated nationally by scholars who produced traditional casebooks. Garrison advocated original faculty research into the interaction of law and society. Research outside the boundaries of reported cases and statute books was then a new concept. The impact of this idea, and of the faculty recruited by Garrison to build courses and programs based on this “law in action” concept, was felt throughout the nation. This approach is still copied today.

Garrison, who was born in New York City in 1897, received his LL.B. degree from Harvard in 1922. He was admitted to the New York State Bar in 1923 and practiced in New York City until moving to Wisconsin to become Dean in 1932. After a productive ten years in Madison, he left to serve as counsel and executive director of the National War Labor Board. Later, he became a partner in the New York firm of Paul, Weiss, Rifkind, Wharton & Garrison. Garrison died in 1991.



George H. Young made essential contributions to both the physical and the academic character of the Law School. Under his administration, a modern law quadrangle was completed, and both the faculty and the student body doubled in size. As Dean, he would ask individual faculty members, “What can I do to help you achieve your goal?” His approach was to build a strong faculty and then give them the support needed to achieve important teaching and research goals.

Young was born in Elkhorn, Wisconsin in 1915, and received his LL.B. from the UW Law School in 1941. He practiced with the firm of Stroud, Stebbins, Wingert & Young in Madison from 1941 to 1950. He became associate professor at the UW Law School in 1950, professor of law in 1953, and Dean of the Law School in 1957. He served as Dean until 1968, when he returned to teaching. Young died in 1981.

Generous Gift Helps Law Students

The Jackson Scholarship Legacy

When Ethel Curry Jackson passed away in 1984 she left a magnificent legacy at the UW Law School: a \$1.6 million bequest that was, and remains, the largest scholarship fund ever established at the School. Mrs. Jackson specified only that the gift be a memorial to her late husband Raymond T. Jackson ('17) and be awarded to "deserving students". Over the years the market value of the fund, administered by the UW Foundation, has grown to nearly \$4.3 million, more than 20% of the Law School's total endowment.

Mr. and Mrs. Jackson never had any children of their own, but they have helped put many young people through school. In fact, since 1986, over \$1.5 million has been awarded to hundreds of "deserving students"—approximately 1,626 of them. Every year, about 125 students are helped by Jackson funds.

Now that the Law School's building situation has been addressed, Dean Kenneth B. Davis, Jr. has focused the School's development agenda on the things that go inside the new walls. In general, Dean Davis wants to build endowments to enhance the School's human assets—faculty, staff and students. Scholarship support, particularly for attracting the most qualified students, is a major item on the new agenda.

"Legal education in the late 1990s has become a highly competitive enterprise," Davis said. "It used to be that the combination of our

reasonable tuition, the high level of our instruction, and Wisconsin's unique 'diploma privilege' assured that nearly all the state's top students would choose Wisconsin. While we still get the lion's share of the best and brightest, increasingly we are seeing state residents choosing other law schools largely because of the generous financial aid packages many of our peers are able to offer."

Even with in-state tuition still relatively low at around \$6200 per year, resident students can expect a year at the Law School to cost more than \$16,000 when books and living expenses are factored in. Non-residents can expect to spend \$26,000 per year. That makes support from scholarship endowments not only appreciated, but in some cases, essential to gaining a J.D.

Scholarship endowments, particularly those that are merit-based, also help maintain a strong faculty by creating a stimulating academic environment. "Good faculty are attracted to a strong student body the same way good students seek outstanding faculty. In addition, talented students are more likely to distinguish the School with their achievements after graduation," Dean Davis noted.

With the need clear, Dean Davis is calling on friends of the Law School to consider following the Jackson example and establishing a continuing legacy that will permanently benefit future generations of law students. "If we are going to remain a top law school, alumni support of

merit scholarship endowments and general-use scholarship funds is essential," the dean said.

While it is difficult for many to conceive of making an immediate gift as large as the Jackson endowment, it is sometimes not as farfetched to contemplate such a contribution as a bequest. Mrs. Jackson did just that when she left the remainder of her estate to the UW Foundation, with use restricted to Law School scholarships. The Jackson gift is remarkable, but it doesn't take a multi-million-dollar bequest to make a lasting and significant impact. For instance, an endowment of \$150,000–\$200,000 would fund a full-tuition merit scholarship for a state resident every year.

As long as there is a UW Law School, Raymond and Ethel Jackson will be remembered not only for their generosity, but for the way that generosity changed the lives of people. The Raymond T. Jackson Memorial Scholarship Fund will continue to grow, generating proceeds that will allow generation after generation of law students to receive a first-rate legal education at the University of Wisconsin.

Friends of the Law School interested in establishing a scholarship fund for deserving law students are invited to call Chris Richards, the Law School's Director of Development. You can reach him at 608/263-5494.

Practicing Attorneys Remember Scholarship Days

Two of the many recipients of Jackson funds over the years were Thomas Hartmann, '91, and Michelle Sapp Nettles, '97. Both are practicing attorneys now in Milwaukee and were selected at random, to be interviewed and reminisce over their days at the Law School.



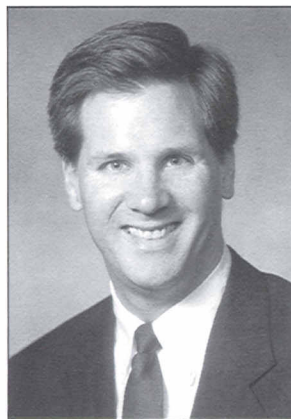
Michelle Sapp Nettles made a return visit to the UW Law School recently—in a new role. She came to recruit law clerks for her firm, Johnson Controls, in Milwaukee. She has been Staff Attorney there for a little more than a year, engaged in transactions, mergers and acquisitions, day-to-day contracts, and “a little employment law.”

During her Law School years, she clerked for two summers for Michael, Best & Friedrich; clerked in her last semester for the U.S. Attorney's Office, Eastern District; and worked at the Law School's Center for Public Representation.

Asked if any particular professor stood out as making a difference for her, she responded immediately,

“Professor [Jim] Jones. He is unique. He is a very different kind of man. I have the utmost respect for him. He was a mentor to me and to my husband [Cory Nettles, '96]. I don't think I've ever said this to him, but I think of him as a father figure—both my husband and I do.”

Ms. Nettles is from Gainesville, Florida, and attended Florida A & M University as an undergraduate. Asked to reflect on what the scholarship from Jackson funds meant to her, she did not need to ponder long. “It was the scholarship that brought me here,” she said.



Thomas Hartmann, an attorney at Foley & Lardner in Milwaukee, works in securities law, mergers and

acquisitions, and general corporate law. Before that, he practiced for three years at the Chicago office of Jones, Day, Reavis & Pogue, working exclusively in securities law.

A significant part of his Law School experience was his work with LAIP (Legal Aid to Institutionalized Persons—now part of the Frank J. Remington Center). He especially remembers working on a project directed by Clinical Professor Keith Findley: “A big event for me was taking this case before the 7th Circuit Court of Appeals in Chicago. We won that argument. It was a great program.” He also has memories of several favorite professors, including Professors Davis, Whitford, Kidwell and Gullickson. “There were others, too, but those gentlemen stick out in my mind.”

Reflecting on the difficulties of subsidizing a law school education, Mr. Hartmann recalls, “I had a student loan that just covered my out-of-state tuition. Without that [Jackson] grant, I can't say what I would have done—once you've maxed out on student loans, you don't have a lot of choices. It must still be very difficult to make it on a student loan alone, with the cost of living going up.”

Like Ms. Nettles, Mr. Hartmann was quite clear about what his scholarship meant to him. “It allowed me to buy food,” he said. “It paid my living expenses. It made law school possible.”

Sexual Labor

JANE E. LARSON¹

(Editor's Note: Associate Professor Jane E. Larson joined the UW Law School faculty in 1996. Among her teaching and research interests are women's legal history law, and feminist legal theory. She is co-author (with Linda Hirshman) of Hard Bargains: The Politics of Sex, published in 1998 by Oxford University Press. The following article is scheduled to appear in 1999 in a collection of essays to commemorate the 20th anniversary of the publication of Catherine MacKinnon's landmark book, Sexual Harassment of Working Women, the first comprehensive statement of the theory of sexual harassment, and is reprinted here with Professor Larson's permission.)

Politics are fluid. No gain is ever certain, nor any loss. Following a string of Supreme Court decisions solidly affirming the theory of sexual harassment,² we find ourselves in 1998 in a political context in which sexual harassment is cast as the stepchild of sex discrimination law. Commentators pose sexual harassment against "real" discrimination and question its theoretical coherence with liberal equality.³

There are reasons why sexual harassment has been able to live within liberalism, even though the two may not always be fully reconcilable. Most amenable to liberalism is that sexual harassment is litigated on the basis of an individual's claim of injury. By the nature of its structure of proof and its individualist frame, the cause of action bears strong family resemblance to tort. This has muffled the group-based and civil rights underpinnings of the claim.

But the underlying conception of sexual harassment is a defense of the



Professor Larson

civil right of women to participate in the public sphere of the labor market. In this essay I argue that a concern for assuring dignified labor conditions and not just the policing of sexual boundaries should guide the courts and scholars in defining doctrinal elements of the cause of action. I seek to assess how differing regimes of sexual harassment law affect women's relationship to work. I consider "sexual labor" and the definition of work, and ask what it means to get equal pay and enjoy equal working conditions. I propose an alternative vision of sexual harassment law as collective bargaining by women over the conditions of their labor through the political process. Finally, I argue for substantial revision of one element of the existing doctrine, the requirement of "unwelcomeness," from this labor perspective.

Sex Work

Debates over sexual harassment are, at bottom, disputes about the level of sexualization of the workplace that is to be accepted as normal "background noise"—that is, neither an unreasonable imposition nor an expression of hostility. "Unwelcomeness" is the doctrinal place where much of that line-drawing work is done. For women who work, this level of tolerated sexualization sets the price they must pay to have a job.⁴

In her 1983 book, *The Managed Heart*, sociologist Arlie Russell Hochschild defines "emotional labor" as work that "requires one to induce or suppress feeling in order to sustain the outward countenance that produces the proper state of mind in others."⁵ Hochschild illustrates emotional labor's demands through the example of the flight attendant. Hired for their grace and charm, it is the flight attendant's job to make passengers feel content so that they will choose to fly on the employer's airline in the future. In the face of fatigue, boredom, discomfort, and even passenger abuse, the attendant must smile and reassure.⁶

The measure of skill in such emotional labor, Hochschild observes, is to make it appear effortless and sincere, not a task the employee is performing but an innate quality that she possesses. Hochschild observes further that asymmetrical norms govern the claims that employers and customers make on male and female workers in the realm of "emotional labor." Women are more likely to be employed in jobs that require emotional labor, and at the same time emotional labor is often not recognized as work when performed by women, being seen instead as the natural expression of femininity.⁷ But

if emotional labor requires no special effort, then it need not be compensated; as Maureen Arrigo succinctly puts it, “employees as a general rule are paid not for who they ‘are,’ but for what they ‘do.’ ”⁸

There is a parallel of sexual labor that women in a sexualized workplace must perform. Fending off solicitations, ignoring personal remarks, not seeing the pictures or hearing the words, acting demure or flirtatious or crude, talking back or playing along—these are all forms of sexual labor. Yet this is usually not recognized as work, being seen instead as the natural expression of an innate condition of femaleness.

Even if male and female employees are paid the same, if the women must accept less amenable working conditions, be exposed to greater risk of insult and injury, and perform uncompensated sexual and emotional labor, they are effectively being paid less than the men around them who are not affected by this workplace sexualization. This creates a further gender gap in wages and working conditions, and the width of that gap turns in important measure on the legal requirement of “unwelcomeness.”

How “Unwelcomeness” Works in the Workplace

Following the Supreme Court decision of *Meritor v. Vinson* (1986), the courts have used a five-part test for proving hostile environment sexual harassment. The plaintiff must demonstrate that: 1) she is a member of the protected class; 2) she was subjected to unwelcome sexual harassment in the form of requests of sexual favors or other verbal or physical conduct of a sexual nature; 3) the harassment was based on her sex;

4) the harassment unreasonably interfered with the plaintiff’s work performance and created an intimidating, hostile or offensive work environment; 5) there is respondeat superior liability on the part of the employer.

The “unwelcomeness” requirement (#2 above) means that employers are not necessarily liable for harassing acts that are objectively objectionable—that is, so offensive, severe and pervasive as to undermine working conditions in the eyes of any ordinary person. The plaintiff must prove in addition that she in particular is not “the kind of girl” who likes such treatment. She must prove her non-consent. As legal scholars have demonstrated, defendants who cannot deny that the plaintiff was badly treated nonetheless try at trial to undermine her credibility by introducing evidence bearing on her dress and manner, sexual history, and other sexual conduct outside of work. The goal is to prove that she is in fact “that kind of girl.”

The existing structure of “unwelcomeness” proof thus establishes the default rule that sexual targeting and objectification of a subordinate or co-worker is presumptively acceptable workplace conduct. Even conduct that an ordinary person would find objectionable is still lawful so long as the individual target didn’t find it unwelcome. And it follows that if individual and subjective decisions of unwelcomeness (and not social norms of acceptable conduct) set the standard of workplace dignity, then every dog gets at least one bite at each potential target. How else is he supposed to know that she doesn’t really want it? So long as he “takes no as no,” according to Gloria Steinem in her effort to distinguish Bill Clinton from Clarence Thomas and Bob

Packwood, the “key concept [of] respect for women’s will” is maintained.

This picture of what sexual harassment is distorts the effects of the practice on women’s civil right to work in two ways: by focusing exclusively on the experience and interests of the individual target and not on the workplace environment generally, and by focusing on the one-shot encounter.

By focusing on the subjective preferences of the target, the unwelcomeness rule hides the extent to which the working conditions of women *as a group* are structured by the sexualization of the workplace environment that any one woman’s negotiation of welcomeness or unwelcomeness permits. The workplace can be sexualized to the greatest extent permitted by the most accepting or weak worker. If the least resistant sister sets the sexual dignity level for the workplace, it is like having the most starving worker set the minimum wage. Other workers can bargain up from there, but their opening position is weakened.

Blithe images like Steinem’s of a one-shot transaction redeemed by respect for consent—“he proposed, she disposed, and he went away”—further distort the true dynamic of the workplace situation. Taking “no as no” draws a good enough boundary in a sexually-charged exchange between adults in a social setting like a bar or a party. But power circulates differently in workplaces, and different interests are at stake. Workplaces are characterized by shared physical space, the necessity for continuing effective interaction with co-workers and superiors, and a high cost of exit—in short, repeat encounters.

Carol Rose illustrates the dynamic of repeat encounters by considering

how it structures male-female negotiations over the distribution of domestic burdens. In a shared household, women begin from a position perceived as weaker because they are expected to carry a disproportionate burden of housework. As a result, when they try to negotiate a better deal, their male partners challenge them at every turn. (This relates back to Hochschild's point about the asymmetrical norms that govern the claims we feel free to make on male and female workers for uncompensated labor.) Rose uses the example of the husband who without argument shares the cooking chores with his camping buddies, but puts up a relentless fight when asked to take up slack in the household he shares with his wife. He just does not expect her to demand a fair deal. Challenged at every turn, the women will tire of fighting for the things the men get without a fight. Failing to fight, the women will be perceived as weaker still, and offered still worse bargains. The broader point is that when bargainers of differential power meet for repeat rounds, their initial position of inequality is intensified, creating a downward spiral of worsening offers for the weaker player.

In bargaining over sex, whether at work or not, the initial expectation of female weakness can be established based only on the natural inequality of physical size and strength between women and men, but also by the fact that men are richer (owning more assets and earning more income), more powerful (dominating the spheres in which social power is wielded), and the beneficiaries of ancient and enduring assumptions that they belong on top. It also can be created or reinforced by the presence of individual women in the

workplace who are more willing than others to cooperate with the sexualization agenda, creating expectations that affect the bargaining position of all the women there.

In the specific context of workplace sexual bargaining, the unwelcomeness rule accelerates the downward spiral. If you cannot know until you ask, the existing rule creates a workplace culture in which the female workers are defined as available at least for asking. Some women may welcome sexual opportunity at work. Other women, faced with repeated solicitations, may just get tired of saying no and managing the discomfort; after a while they just give in. Having gained the upper hand once, the rational stronger player will offer the weaker—or someone just like her (members of the relevant group are easy to identify)—an even worse deal the second time around.

Objective Unreasonableness as Against Subjective Unwelcomeness

If we consider sexual harassment as a public issue of work rather than a personal expression of sexuality, we must ask whether the presumption of maximum sexualization of the workplace created by the existing "unwelcomeness" rule accords with the understandings and preferences of working women and men? If the answer is yes, then the existing law is appropriate. The burden should be on the employee who wants less sex to make her atypical preference known and the plaintiff should carry the burden of proving unwelcomeness, as she currently does. But if workers prefer some sexual restraint,

then perhaps unwelcomeness should be only an affirmative defense and not the plaintiff's burden.

I would suggest, however, that the unwelcomeness inquiry be eliminated altogether, allowing the claim to be proved by evidence that the conduct complained of was both objectionable and an interference with working conditions as measured by a standard of objective reasonableness. If the worker of ordinary sensibilities would perceive the sexual conduct complained of as humiliating, degrading, abusive, severe and pervasive (all the substantive standards the law already requires to prove that the conduct complained of was more than merely annoying), the law would find the conduct sexually harassing, whether the target liked it or not. These last two alternatives have the merit of presuming (at least presumptively, and perhaps even conclusively) that women prefer sexual treatment at their job that workers in general would judge to be not abusive, degrading, humiliating, coercive or deeply undignified.

Collective and Individual Interests

As a measure of the conditions of women's labor, these alternatives to the existing rule work like a union contract, raising the base contract price for all workers by the power of the collective and preventing the strong from making private bargains with the weakest in order to drive down the market price. Groups with common sexual interests may act collectively to negotiate norms, ideologies or laws in order to advance their position. That can happen through a regulated structure of private bargaining, such as that established by the

labor laws, or through collective participation in cultural or political contests. Using their power to vote, women can pressure lawmakers to enact legislation that sets some outer bounds on the sexual price women must pay for the right to work.

This vision of sexual harassment law as a collectively-bargained-for labor contract offers a new angle on the tension between individual and group interests that is exposed in current debates over whether sexual harassment law has "gone too far." In the same way that the power of unions is undermined by mechanisms such as "right to work" laws that allow any individual worker to bail out of the collective, those who resist the sexual constraint of harassment laws have put the individual desiring female at the head of the charge. Yet a bargaining perspective demonstrates that strong harassment protections will benefit even those individual women who welcome sexual opportunity at work.

In the state of nature where, by definition, there is no law, sexual bargainers negotiate based on innate physical and psychological endowments. Between men and women, this means physical realities such as strength or weakness, and vulnerability to pregnancy or disease. But it also includes, for example, the value to sociable and pleasure-seeking creatures like ourselves of consensual sex with an amiable and enthusiastic partner. In any state other than the state of nature, social facts like legal rights, economic power, cultural status and ideology affect the distribution of sexual bargaining power. But it is law that establishes the outside parameters for private negotiations. No matter how covert or under-the-cov-

ers, private sexual bargains are always concluded in the shadow of the law. A straightforward example is the law of rape. The rape prohibition rules some strategies of the stronger player out of bounds (such as force), and thus strengthens the position of the weaker player. If the stronger must now negotiate for consent instead of just taking what he likes, the price of sexual access has just gone up. He must offer her more of what she wants from a sexual encounter—making himself a more agreeable companion, perhaps, or promising her more mutuality of pleasure, or agreeing to forego sex with others, or using a condom.

The point can be generalized. All efforts to broaden legal definitions of sexual coercion, including creating a sexual harassment cause of action, strengthen the structural bargaining position of the weaker player to such negotiations. More of the time, those private arrangements will come closer to her definition of the sexual good. The law of rape makes consent the price of sexual access. An objective standard of unwelcomeness in sexual harassment doctrine adds assurances of the security and dignity of labor to the price.

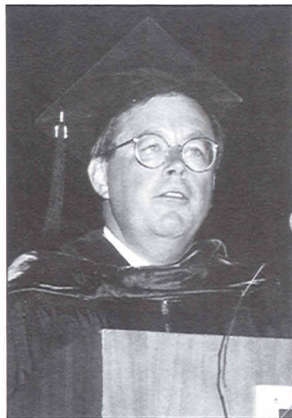
Thus current rhetorical efforts to pit civil rights against sexual satisfaction—asking women to choose, in effect, between equality and celibacy—make no sense, at least from the woman's perspective. Not surprisingly, elevating her status in one realm elevates her status in the other.

ENDNOTES

1. I am grateful to Linda Hirshman, Neil Komisar, Victoria Nourse, Jane Schacter and Jonathan Rosenblum for insight, and to the organizers and participants of the Yale Sexual Harassment Symposium at which this essay was first presented. Finally, to Catharine MacKinnon, who deserves honor in her own country and house. See Matthew 13:57.
2. See, e.g., *Oncale v. Sundowner Offshore Services, Inc.*, 118 S.Ct.998 (1998) (same-sex workplace harassment actionable under Title VII); *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993) (abusive work environment need not cause worker severe psychological damage to be actionable as sexual harassment); *Franklin v. Gwinnett County Public Schools*, 503 U.S. 60 (1992) (sexual harassment in education is sex discrimination under Title IX); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (workplace sexual harassment is sex discrimination under Title VII).
3. On renewed arguments to repeal or restrict the sexual harassment cause of action, see, e.g., Jeffrey Rosen, "When Reckless Laws Team Up," *New York Times*, Jan. 25, 1998. See also Jeffrey Toobin, "The Trouble With Sex," *New Yorker*, Feb. 9, 1998.
4. Not all, but much sexualization in public places—at work, on the streets, at school, in the media—is directed at females. The evidence for this fact is indisputable; the explanation, however, is greatly debated. I regularly use the female pronoun in this essay, but this is not to deny that boys and men are subject to sexual harassment.
5. Arlie Russell Hochschild, *The Managed Heart: The Commercialization of Human Feeling* (Berkeley: University of California Press 1983): 7.
6. *Id.* at 8.
7. *Id.* at 174–181.
8. Maureen J. Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs*, 70 *Temple Law Review* 117, 162 (1997).

COMMENCEMENT

Class of 1998 — Friday, May 15, 1998



Dean Kenneth B. Davis, Jr.

In May 1998, the Law School's Commencement activities expanded into a full day of events, beginning with an Awards and Honors Brunch at Madison's new Monona Terrace Convention Center. This was followed by an "awarding of the colors" ceremony at Memorial Union Theater, in which the Law School faculty awarded the J.D. academic hoods to the new graduates, and three students and one faculty member spoke, in addition to the keynote speaker, UW Law alumnus **William Shernoff**. The ceremony was followed by a reception, and then a walking procession to the Kohl Center by the graduates in their academic regalia, led by Dean Kenneth B. Davis, Jr. The evening ceremony, in which law students joined others who graduated from the UW professional schools, concluded the all-day festivities.

Three student speakers were chosen by the graduating class to address them: **Luis Arroyo**, **Karen Dunkley** and **Reginald W. Williams, Jr.** The Class of '98 chose **David Maas** to be Master of Ceremonies.

All three student speakers addressed the question of what the future after law school would bring, and all advised their classmates in one way or another to give deeper meaning to their lives than a mere pursuit of "success."

Luis Arroyo recalled watching a Public Television documentary about the overworked staff of the program, "60 Minutes." A young man in a high-stress job, who spent 95% of his waking time at work and had little time with his wife and two children was asked by the interviewer, "Is it worth it?"

Luis Arroyo recalled, "The man's face immediately lost color and you could see his eyes begin to well up from behind his horn-rimmed glasses. It was as if he had a sudden awakening to the toll his job took on his family. It was a look, as Thoreau describes, of one who 'leads a life of quiet desperation.' After a moment the young man replied in a whispered and uneven tone: 'I guess, I guess.'"

"I thought to myself, 'That's just not a good enough answer.'"



Luis Arroyo

"As we go our own ways in life after today I challenge each one here from this point forward to ask ourselves periodically 'is it worth it?' Are we making the right decisions? Are the things truly important in life getting the attention they deserve? Do we have balance, do we have success in life and love as well as fortune?"

Karen Dunkley told her classmates that they had joined the ranks of the "elite," but followed with a warning:

"Individualism and elitism have the potential of creating a self-serving bar. Individualism and elitism make it easy to forget our duty and responsibilities as a protector of rights and caretaker of the law. . . .

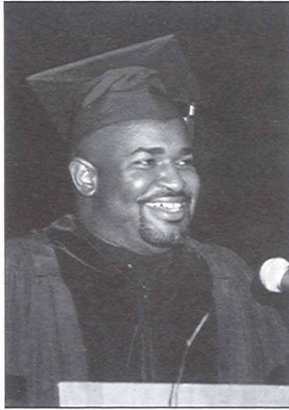


Karen Dunkley

"Regardless of whether or not you want this role, you are now public servants to the people of the United States of America. As a lawyer, you are in a unique position to lead, as one writer put it, 'the fight against the excess of individualism. To do so, you must assume the duty of public service.' Be a contributing member of the community. . . .

"Do your part! Don't forget the concept of community. Find your interest and expertise and serve within that realm. Serve your local or federal government; aid the indigent; if you're a corporate type, revise marital property laws or tax laws to create fairer distribution.

"You have a duty to the people of this country—the elite and the non-elite. But especially the non-elite—because."



Reginald W. Williams, Jr.

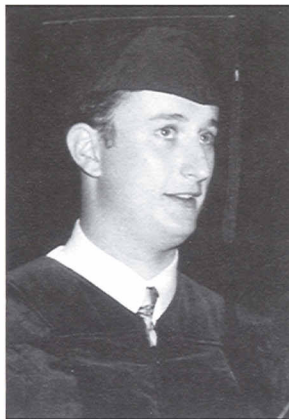
Reggie Williams offered the following advice:

"When I graduated from Florida A & M University, my father read to me a challenge from his men's group. And the main message I got from this challenge was out of a quote from Luke 12:48: "To whom much has been given, much is required." Now that's a heavy statement. In effect what this is saying is that to those whom God blesses with much, then God is going to require that person not to just sit on his blessings, but share them with others.

"Class of '98, we have been given much. If you don't believe me, think about the stature of attorneys in today's society. Think of how disciplines such as the law are held in high esteem. If you still don't believe me, think of how many people applied and attempted to sit in your seat for Wisconsin's entering class of 1995. Much has been given to us. . . .

"Now much is required of us. We are the future attorneys of this nation. Much is required of us. We are the litigators of this nation. Much is required. We are the Supreme

Court Justices of this nation. Much is required. We are the future public servants of this country. Much is required. Someone here will be a future President of this nation. Much is required. We are the future legislators of this country. Much is required. We are the future creators and implementers of policy. Much is required. We are the future legal educators of this country. We are the future deans, and CEOs, and administrators of this country. We hold the key to the door of the most basic and fundamental institution in this country: the law. I say to you, Class of 1998, much is required.



David Maas

"So what are we required to do? I'm glad you asked. I have a few thoughts. We are required to use our talents to ensure, among other things:

- 1) Equal opportunity for all, and
- 2) Justice for all.

"Opportunity. No one here in this auditorium pulled themselves up by their own boot straps. Everyone here has ridden the back of some other person to reach the place where



William Shernoff

we now sit. It just seems to me like common sense that once you have ridden a back, and you become strong enough to walk on your own, that you would become a back for others to ride. It just seems like common sense that once someone else has afforded you an opportunity, past or present, to get to where you are, then if you are capable and have the power, you should afford another an opportunity (regardless of race or creed). I have a feeling I'm not only talking to the Class of '98 today. For us to deny an opportunity to someone else after we have been blessed with opportunities is nothing short of outright larceny. It is OK for you to get it, but no one else can have it? No!"

People and Projects in the News

Class of '98 Finds Diverse Employment

BY ASSISTANT DEAN JANE HEYMANN, DIRECTOR OF CAREER SERVICES

The Career Services Office is currently in the midst of gathering data from our Class of 1999 graduates about where they are working and what they were offered as starting salaries. The survey won't be complete until later this year, so this article presents similar data about the Law School's 1998 graduates instead. The 1999 data that is not yet finalized will reflect the recent jump in starting salaries at large law firms.

Interestingly, however, the percentage of our graduates who take jobs in the various practice settings—law firms, corporations, government agencies, and public interest organizations—does not change a lot from year to year. Therefore, the Class of 1998 information set forth below should give you a fairly accurate idea of the kinds of entry-level positions our new graduates are taking.

The Class of 1998 consisted of 274 students. About 59% of them entered private practice in law firms of all sizes. Seven became solo practitioners; 41 took jobs with firms of 2 to 10 attorneys; 18 took jobs with firms of 11 to 25 attorneys; 29 took jobs with firms of 26 to 100; and 50 joined firms of 100 or more lawyers. Their reported starting salaries ranged from a low of \$21,600 to a high of \$98,000—the average reported starting salary was \$58,294.

About 26% of the Class of 1998 accepted positions in government—as judicial clerks, assistant district attorneys, public defenders, or JAG Corps officers. Within this category, the average starting salary was \$37,460.

Jobs in business (accounting firms, banks, insurance companies and other corporate legal departments) accounted for 10% of the positions accepted by our graduates in 1998. The average starting salary in this category was \$48,429. The rest of the class accepted jobs in public interest organizations or academia, or are pursuing advanced degrees.

Geographically, our 1998 graduates are dispersed over 18 states and one foreign country. Eighty percent of the class took jobs in the “North Central” region of the country (Wisconsin, Illinois, Minnesota, Indiana, Michigan, Ohio, Iowa, Kansas, Missouri, Nebraska, North Dakota and South Dakota.)

Law School to Participate in New UW European Union Center

The University of Wisconsin was one of ten universities in the United States selected in summer 1998 by the European Commission as a European Union Center. The Law School was integral to this effort. The Co-director

of the Center is David Trubek, Dean of International Studies, who is Voss-Bascom Professor at the Law School. Assistant Professor of Law Gregory Shaffer is one of the two program coordinators for the Center's first year. The Center is designed to improve understanding of the EU as a complex evolving governance system and international player, to enhance awareness of the growing importance and scope of

EU-US relations, and to promote intensified “people-to-people” links through a variety of outreach efforts.

The EU Center brings together a strong core of specialists on European integration from several disciplines campus-wide. As part of the EU Center's work, it will add new courses to the curriculum in various departments, including in the Business and Law Schools. The Center will encourage interdisciplinary teaching and research on legal, economic, social, political and cultural aspects of transatlantic relationships, provide fellowships to students for advanced studies in European universities, host visitors from Europe and support UW faculty visits to the EU, appoint annual European Marshall-Monnet scholars-in-residence, project knowledge and promote dialogue on European and transatlantic issues through a variety of outreach efforts, including conferences and a “European Showcase.” The European Showcase will bring together business executives, government officials, labor leaders, cultural figures and scholars from the EU and the US in a series designed to appeal to both the UW-Madison and wider Wisconsin community.

Obtain information on the EU Center at <http://www.wisc.edu.euc>, or from Jeff Lewis, Assistant Director of the European Union Center, at jlewis@polisci.wisc.edu (608-265-8040). The website will provide up-to-date information on Center activities, information on all resources for the study of the EU available in Madison, and links to major EU sources, plus a working paper series on transatlantic issues and the EU by EUC faculty and visiting scholars-in-residence.

Law Professor Pursues Theology, Restorative Justice

BY ERIK CHRISTIANSON



Bruce Kittle

Bruce Kittle belongs to a select group of lawyers: those with seminary degrees.

A clinical assistant professor of law, Kittle acknowledges that he knows of only four or five others who have mingled legal and theological training. “It’s not a combination I hear of too often,” he says.

For Kittle, the rare combination reflects a unique personal and spiritual journey—one that has traversed big-time college football, corporate law, ministry and the UW Law School. The pilgrimage, which included a struggle with the role of faith in his life, has now positioned him as a leading voice in the growing field of restorative justice.

Kittle’s life sojourn commenced in Cedar Falls, Iowa, in a non-political and nominally Christian home. After high school, he starred on the University of Iowa football team and served as co-captain of the Hawkeyes’ 1981 Rose Bowl team. The former offensive tackle turned to coaching

after graduation and spent four years as an assistant to Iowa head coach Hayden Fry, returning to the Rose Bowl in 1986.

But the allure of college coaching—his career goal at the time—faded during that tenure. “I started to see it as less of my life and more of a game,” Kittle recalls.

He quit coaching and enrolled in Iowa’s law school, where he excelled, finishing in the top 10 percent of his class. He then snagged a prestigious clerkship with the Eighth Circuit U.S. Court of Appeals in St. Paul.

Law school forged his ethical and moral values about politics and law, he says, leading to a desire to help people less fortunate. The pressure to land a corporate job won the day, however, and several years of private practice followed in Iowa and Madison.

But a gnawing sense of discomfort with the values of the corporate grind, combined with the death of a close friend, the reading of an influential book and answers to prayer propelled Kittle to search for a larger purpose in life.

“I had always had a belief in a creator or a divine being, and I really started turning reflective and inward about trying to resolve what was going on, because it seemed to be originating from a deeper place than just what I was doing day to day,” he says. Fueling his search was a gift from a friend: Dietrich Bonhoeffer’s *The Cost of Discipleship*. A German Lutheran theologian, Bonhoeffer aggressively resisted Hitler’s regime and was hanged by the Nazis in 1945.

“Through that book, I realized that I was attempting to kind of control all this stuff in my life,” Kittle says. “And this sounds wacky, but I hadn’t quite surrendered enough to

the powers that be, at least as I understand that process, and hadn’t really made a commitment to go where I was called to go, regardless of what that may mean personally.”

That call was to enter the ministry. Kittle says he first heard it driving to work in December 1993 and had it confirmed two months later on a business trip to Florida, through a providential meeting with a Catholic bishop from Canada.

Kittle acknowledges that for some people, the concept of a call from God through Jesus-his framework of faith-seems a bit “over the edge.” “It seemed like a foreign notion to me, too,” he adds. “I have a wife, kids, a mortgage. So I thought I had misunderstood the message. And part of it was just a fear of following it.” Fear notwithstanding, Kittle gave his two-month notice at the law firm and enrolled at Chicago Theological Seminary, which is affiliated with the United Church of Christ.

Commuting from Madison for four years, he graduated this spring with a master’s in divinity.

That part of his journey not only put 40,000 miles on his 1986 Buick Electra; it also brought him to UW-Madison. While preparing to enter the seminary, Kittle applied for an opening at the Law School’s Frank J. Remington Center, which seeks to improve the criminal justice system. Kittle was hired to work with the Legal Assistance to Institutionalized Persons program. In his spare time, he was told, he could work on another endeavor: the Restorative Justice Project, the entire contents of which were contained in a thin, manila-colored file folder. “I had never heard of restorative justice,” he says.

Kittle has proven himself a quick study. He is now the full-time director of the program, and this past spring he was named the restorative justice planner with the state's Division of Community Corrections.

Restorative justice, Kittle explains, views crime as less of a violation of law than a violation of a human being. It seeks to restore the victim, the offender and their community. More than 300 such programs are now operating in the United States and Canada. A key element is victim-offender mediation, also called victim-offender conferencing. These conferences are face-to-face meetings between victims and their offenders mediated by trained counselors. They give victims the opportunity to explain how the crime has affected them and offenders the chance to apologize. Often times, the two work together to devise a plan of restoration, to repair the harm caused by the offense. Kittle has mediated 15 such conferences concerning serious and/or violent crimes since 1994, with half of them during the past 11 months.

"When I talk about restorative justice with people, I tell them you've got to put your boots on," he says. "Because to wade into the community, to ask the questions you need to ask, to get input from people, to meet with them—it takes time. It's much different than a group of five professionals deciding what will work and implementing it."

Kittle will not only be able to pursue restorative justice through his position at the Law School, but also in a future role as a minister. In the next six months, he expects to be ordained in a criminal justice ministry position through his denomination.

Through his work at the Law School and his faith journey, Kittle says he senses what he calls a "deep need" in corporate America and academia for people to tap into their spirituality—although as a lawyer, he ardently supports the country's foundational belief that government should not advocate a particular brand of religion. He encourages people, once they do make that connection to spirituality and faith, to follow where it leads.

"I feel we are called to live whatever it is we understand our faith to be calling us to uniformly," Kittle says. "And if that calls us to leave our jobs, so be it. People might say that, 'Well, that means half the people in the world would have to quit their jobs.' And my response might be, 'Yeah. So what?'"

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Officials Who Studied Here Now Shape Peru's Laws and Government

BY ERIK CHRISTIANSON

They are some of Peru's most important government and legal officials. And they call themselves the Wisconsin Boys.

Thirty years ago, this group of now-influential Peruvians—as young law professors—traveled from Lima to the UW–Madison Law School to study and reflect on how to reform the teaching of law in their country.

Today, the program is credited with the transformation of the Peruvian legal education system, and the men who participated in it are

known throughout Peru for their UW–Madison connection.

"The remarkable thing is this relationship, this warmth, which has lasted for 30 years," says Zigurds Zile, a UW–Madison emeritus law professor who directed the Peruvian legal education program.

"We're talking about 10 or so people who have not been in touch with Madison for much of this time, but they still feel a very, very tight bond. And now it is their students who are the Wisconsin boys and girls—they are the ones who have been trained to be different and who are now taking their places in important posts in Peru."

Each summer and fall from 1968 to 1972, three junior law professors from Pontificia Universidad Catolica Del Peru would journey to Madison to study under Zile. The program was initiated by Jorge Avendano, who at the time was the new 31-year-old dean of Catolica's law school.

The Ford Foundation funded the program as part of a movement in the 1960s by the U.S. government and foundations to advance the development of law and legal institutions in Latin America.

For seven months, the Peruvian law professors explored issues in legal education under the tutelage of Zile, himself an immigrant to the United States from Latvia. The professors spent 10 weeks in a summer colloquium called "Rethinking Legal Education" and then prepared teaching materials for their courses over the fall semester. Senior law professors from Catolica traveled to Madison in the summers for a week of discussion with their junior colleagues and Zile.

Zile's approach went against the grain of traditional Latin American education, which is steeped in lec-



Three of the self-named "Wisconsin Boys" who came from Peru 30 years ago to learn about the U.S. legal system.

ture-based teaching. At the UW–Madison Law School, the Catolica professors studied a teaching style that emphasized extensive student involvement, with readings, assigned problems that involved legal research and classroom discussion.

Wisconsin's progressive tradition was what attracted the Peruvian law professors, according to Lorenzo Zolezzi, who studied here in 1968.

"Wisconsin had in 1968 something that none of the other schools had: a team of professors who represented the 'Law in Action' movement, [which demonstrated] that it was necessary to question everything, necessary also to question the role of the law and lawyers in society," Zolezzi say

Since their time in Madison, these law professors have identified themselves as the Wisconsin Boys. And they now occupy some of Peru's most powerful positions in government and law.

Zolezzi is dean of Catolica's law school. Avendano, the former law

school dean, is the minority leader in the Peruvian Congress. Eduardo Ferrero recently was the minister of foreign affairs. Jorge Santistevan is the country's ombudsman and investigates citizen complaints against the government. Others are leading legal experts and former politicians. Two of the Wisconsin Boys have died, and one no longer lives in Peru. Among the senior faculty who visited Wisconsin during the summers was Roberto McLean, who later became a Peruvian ambassador to the United States. Catolica paid for Zile and Law School Dean Kenneth Davis to travel to Lima in June to celebrate the 30th anniversary of the cooperative legal education program. "I was quite impressed with how the participants continue to cherish their experience in Madison, even though 30 years have passed," Davis says. "The exchange program changed not only legal education in Peru, but also led to a change in the substantive law. In fact, entire areas of current

Peruvian law can be traced to the work of the participants in trying to develop new law school courses and curricula right here at the UW Law School Library."

The anniversary of the program, and Zile and Davis' visit to Peru, were chronicled in Lima's leading daily newspaper and a national news-magazine. An editorial in the newspaper *El Comercio*, headlined "The 30 Years of the 'Wisconsin Boys'" gave credit for a student protest that week concerning corruption in some Peruvian magistrates to the legacy of the Wisconsin program.

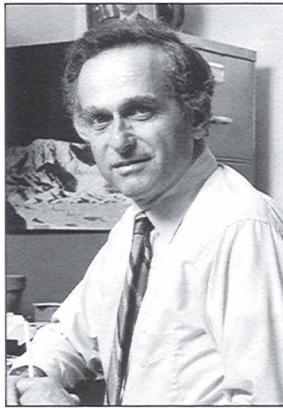
Because students were taught that law can be an instrument of social change, the editorial says, they took action.

"The spirit of the Wisconsin reform, 30 years later, has returned," it says. "The young law students have gone out to protest in defense of their teachers."

Reprinted with permission from *Wisconsin Week*, November 4, 1998 (Vol. XIII, No. 15)

Professor Takes On Death Row Appeal

BY ERIK CHRISTIANSON



Frank Tuerkheimer

At Holman Correctional Facility, just north of the Florida panhandle in Atmore, Ala., Jeffrey Day Rieber waits to die—and some Madison lawyers, UW–Madison law students and a law professor are laboring to prevent his death.

Convicted in the shooting death of a convenience store clerk in 1992, Rieber is one of about 160 inmates on Alabama's death row. A jury sentenced Rieber to life in prison without parole, but the judge overruled the verdict and sentenced him to death. Alabama is one of only four states that allows a judicial override of a jury verdict.

Rieber's case now rests with UW–Madison Law Professor Frank Tuerkheimer, several law students and two Madison attorneys. They are seeking to overturn Rieber's death penalty verdict because of what they believe was inadequate legal representation.

Because of attorney-client privilege and confidentiality concerns, Tuerkheimer and his students are prevented from discussing the specifics of

their legal work on the case. But in general, they are re-examining the defense by Rieber's former attorney, researching death penalty laws at the state and federal levels and investigating Rieber's background.

"We are going back and doing everything his lawyer should have done," says Tuerkheimer, a former U.S. attorney and former Watergate special prosecutor.

Like most of his fellow death row inmates, Rieber is poor and was represented by a court-appointed lawyer during the robbery/murder trial in Huntsville, Ala., where he had been living and where the crime occurred. In overriding the jury's verdict, the judge in the case cited evidence that the clerk was shot twice, the second time when she was helpless.

After Rieber exhausted his appeals and lost his state-funded attorney, a UW–Madison alumnus who works with Alabama death row inmates turned to her alma mater for assistance.

Ellen Wiesner, a 1992 UW law school graduate and lawyer with the Montgomery, Ala.-based Equal Justice Initiative, called Tuerkheimer in 1996. She asked him to represent Rieber, who has been on death row since 1992, saying her firm can only handle a few death row cases at a time.

After getting the support and financial backing of LaFollette & Sinykin, the Madison law firm where he also works as an attorney, Tuerkheimer took the case. LaFollette & Sinykin attorneys Larry Bensky and James Friedman are assisting.

Yet Tuerkheimer knew he needed additional assistance to prepare the defense for such an important case. He recruited students to help and created a clinical class at the Law School titled "Law and Contemporary Problems: The Death Penalty."

Tuerkheimer first recruited Elliott Milhollin, who joined Rieber's defense team as a first-year law student in 1997. Milhollin was later joined by law students Fred Burnside, Tina Galbraith and Mary Sowinski.

Among other things, Milhollin is researching state and federal Supreme Court decisions on standards of review concerning attorney performance. He has also interviewed Rieber twice on death row: in the summer of 1997 with Tuerkheimer and Bensky, and this past summer with Friedman and the other students.

The student journeys to the prison where Rieber is incarcerated mark the first time Wisconsin law students have visited death row while working on a capital case. Capital punishment is legal in 38 states, but not Wisconsin.

"It was strange at first to meet your client on death row," says Milhollin, who is from Washington, D.C., and will graduate this spring. "It puts an interesting take on things. I'm doing all this research on constitutional standards, which is very abstract until you meet Jeff."

Tuerkheimer recruited Galbraith and Burnside for the case after they clerked at LaFollette & Sinykin this past summer. Sowinski, who researched Rieber's social and family background, graduated in December and is now working in the Milwaukee district attorney's office.

"When I started working on the case, I wondered if you can separate yourself as an attorney from your clients, and in some sense you can," says Galbraith, a second-year law student from Westfield. "With this case, I think it's a lot different. When it's 10 p.m., I can close my books on my homework, but I stay up and work on this project. The stakes are different."

Galbraith and Milhollin say their work on the Rieber case has deepened their opposition to the death penalty. Their main concern, they say, is that the death penalty is applied predominantly to poor people with inadequate legal representation.

Tuerkheimer, however, does not consider a student's stance on the issue when recruiting them for the case.

"I don't believe in litmus tests or political preconditions for taking a course," he says.

A motion to set aside the conviction is currently pending before an Alabama judge. The motion maintains that Rieber had a significant drug problem that his attorney failed to mention. Tuerkheimer and his team have asked the court for permission to retain experts and examine numerous documents. Following that, they plan to file an amended petition, which, if granted, means Rieber could be resentenced or get a new trial.

Tuerkheimer says the students' efforts on the case have been invaluable.

"Their assistance is essential; we couldn't do the representation without them," he says.

(This article featuring Law School Professor Frank Tuerkheimer and his students appeared in the January 13, 1999 edition of Wisconsin Week — Vol. XIV, No. 1. Reprinted with permission.)

Kastenmeier Colloquium Focuses on Impeachment

On April 9, the Law School hosted the 1999 Kastenmeier Colloquium: "From Watergate to the Present: Impeachment, Presidential Accountability, and the Separation of Powers." The keynote speaker was David Broder, Pulitzer Prize-winning columnist for *The Washington Post*, who was joined by a panel of prominent players in the dramas of Watergate and the impeachment trial of President Clinton. Panel members were UW Law Professor Frank Tuerkheimer, former Watergate Prosecutor; Michael Gerhardt, Professor of Law, College of William and Mary, author of *The Federal Impeachment Process*,

U.S. Rep. Tom Barrett, Member of the House Judiciary Committee during the Clinton impeachment proceedings; UW Law Professor Linda S. Greene, moderator of the panel and a former staff member of the Senate Judiciary Committee; and Father Robert Drinan, Professor of Law, Georgetown University and U.S. Rep. 1970–80 (D-MA), Member of the House Judiciary Committee during Watergate. The event took place in Godfrey & Kahn Hall (Room 2260), with closed-circuit television transmission to Michael, Best & Friedrich Hall (Room 2211) and the Law School Atrium.

Introducing Broder was Robert Kastenmeier, who as a member of the House Judiciary Committee during Watergate drafted the rules used by the congressional panel during its impeachment hearings of President Nixon.

The Kastenmeier Colloquium is supported by a fund established by friends of the former Democratic representative to honor his service in Congress. Kastenmeier represented Wisconsin's Second Congressional District from 1958–1990. The first colloquium speaker in 1992 was Chief Justice William H. Rehnquist, who presided over Clinton's Senate impeachment trial.



Participants in the 1999 Kastenmeier Colloquium were, from left, UW Law Professor Frank Tuerkheimer; Michael Gerhardt, Professor of Law, College of William and Mary; U.S. Rep. Tom Barrett; UW Law Professor Linda S. Greene; keynote speaker David Broder; and Father Robert Drinan, Professor of Law, Georgetown University.

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Law School Hosts 25th Anniversary Celebration of Hastie Program

During the weekend of April 23–24, 1999, the Law School hosted a symposium on Diversity in Law Teaching in conjunction with a celebration of the 25th Anniversary of the William H. Hastie Fellowship Program. This event, co-sponsored by the UW and the Institute for Legal Studies, was also a UW Sesquicentennial Celebration Event.

Professor Linda S. Greene, Chair of the event, noted “The UW Law School initiated the Hastie Program to provide greater opportunity for minorities to enter law teaching. Twenty-five years later, the Program continues to identify talented minority lawyers, supervise their training as legal scholars, involve them in our exciting intellectual community, and place them as tenure track law professors in institutions throughout the United States.”

The celebration began on the evening of Friday, April 23rd, with a reception and banquet at the Best Western InnTowner. The keynote speaker was Daniel O. Bernstine, President of Portland State University, former Dean of the UW Law School and the first Hastie Fellow (1974). On Saturday, an all-day symposium at the Law School included a series of panel discussions on the past, present, and future of diversity in law teaching. The featured speakers included UW Law School Professor Emeritus James E. Jones, Jr. and others who played an influential role in developing teaching opportunities for minorities.

The symposium began with a panel discussion, moderated by Professor Jones, on access to teaching positions at historically white law schools during the 1960s and 1970s. Panel members included Professor

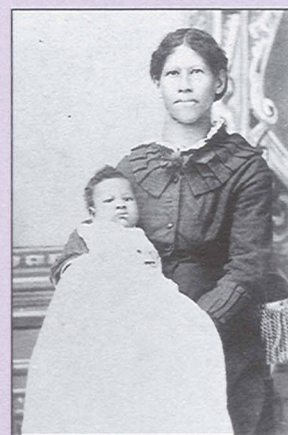
Alfred W. Blumrosen of Rutgers, who addressed what had to happen to create conditions of demand at these schools; Professor Henry W. McGee of Seattle University School of Law, who discussed early entry into law teaching; and Professor James Douglas, former President of Thurgood Marshall School of Law, who discussed the lessons of the past. The next panel, which addressed prevalent paths to law teaching and remaining barriers to entry for minorities, included Professor Emma Coleman Jordan of Georgetown and Professor Victoria Palacios, a former Hastie Fellow, of Southern Methodist University School of Law. Associate Dean Peter Carstensen of the UW

Law School served as moderator. The luncheon speaker, Burnele V. Powell, Dean of the University of Missouri-Kansas City School of Law, discussed the importance of law faculty diversity. The final session, moderated by Professor Linda Greene, engaged all participants in a discussion of the future of diversity in law school hiring. Leading off the discussion was H.G. Prince, Deputy Director of the Association of American Law Schools, and Professor Richard H. Chused of Georgetown, the principal author of the Society of American Law Teachers Report on Diversity in Law School Teaching. The day's events closed with a reception and a dinner hosted by UW Provost John Wiley.

Exhibit Studies Slavery, Freedom in Wisconsin

In September 1998, the Law School hosted a linked pair of events in honor of Wisconsin's Sesquicentennial: the symposium “Historical Perspectives on Race and Law in the United States” and the photo and text exhibit “Slavery and Freedom in Wisconsin.” The symposium featured talks by Professors Anthony Baker (LL.M. '98), Linda Greene and Lea VanderVelde (J.D. '78). The photo exhibit, which described experiences of African-American residents of the Wisconsin territory through the end of the Civil War, was prepared by Cynthia Poe (Ph.D. candidate in the UW History Department) and Professor Arthur McEvoy. Both events were a project of the Legal History Program of the Law School's Institute for Legal Studies.

After the exhibit was on view for the month of October in the Law School, it travelled to other display sites: the State Supreme Court, UW Multicultural Center, State Bar Convention in Milwaukee, UW's Union South for Black History Month, and Marquette University in Milwaukee.



In this undated photo, Harriet Shepard Greene holds her son Lester. Her husband, Thomas Greene, escaped from slavery in Missouri and moved to Pleasant Ridge. (Photo courtesy of the Grant County Historical Society.)

Law Faculty Publications and Projects

Following is a list of publications and other achievements by many members of the Law School faculty for calendar years 1997 and 1998. In many cases, only a few highlights from a person's list of achievements are given. Some faculty and academic staff members are not represented, because they did not have a chance to respond to the call for information. This collection of publications and activities can be viewed, therefore, as a sampler of the varied work going on at the UW Law School in many subjects and many arenas. Two future projects of a more comprehensive nature are planned: a "Faculty Directory" projected for Fall 1999, and a "Faculty Publications" brochure.

GORDON BALDWIN. In 1998, Professor Baldwin published "A Constitution's Wisdom and Failings: Selecting a President," in *Toward Comparative Law in the 21st Century: The 50th Anniversary of the Institute of Comparative Law in Japan*, and "Introduction: Celebrating Wisconsin's Constitution 150 Years Later," in 1998 *Wisconsin Law Review* 661-676.

Professor Baldwin has taken emeritus status, chiefly to fulfill the challenging duty of visiting 62 Rotary clubs in Wisconsin as District Governor for Rotary District 6250 in 1999-2000. His Rotary responsibilities will also take him to other U.S. cities and to Singapore.

STEVEN BARKAN. Professor Barkan, Director of the Law Library, published "Chapter 1: An Introduction to Legal Research," and "Chapter 2: The Legal Research Process," in *Fundamentals of Legal Research*, 7th edition (Foundation Press, 1998).

RICHARD BILDER. Emeritus Professor Bilder published "International Adjudication," in *Peacemaking in International Conflict: Methods and Techniques* (United States Institute of Peace, 1997).

TONYA BRITO. Professor Brito presented the paper "From Madonna to Proletariat: Constructing a New Ideology of Motherhood in Welfare Discourse" at the 33rd Annual Villanova Law Review Symposium in November 1998. The title of the Symposium was "Still Hostile After All These Years? Gender, Work and Family Revisited." Brito's paper will be published as an article in the *Villanova Law Review*. Brito also received a summer research grant from the Institute for Research on Poverty to work on her article "The Welfarization of Family Law."

RALPH CAGLE. Professor Cagle, director of the General Practice Skills Program, published "Chapter 2: Special Ethical Considerations" (co-authored with Barbara S. Hughes in *Advising Older Clients and Their Families* (State Bar of Wisc., 1997) and "Teaching Practice Skills in Law School: The University of Wisconsin Experience" in *The Bar Examiner*, Vol. 67, No. 1, February 1998.

PETER CARSTENSEN. Associate Dean Carstensen reports the success of the third annual Antitrust in Energy Markets workshop, run jointly in May 1998 by the Law School and the Wisconsin Public Utility Institute of the Business School. This is a 2.5-day intensive program to introduce lawyers, executives and public officials to the rules and concepts of antitrust law as they relate to the deregulating of energy industries. A second program, on Antitrust in Telecommunications Markets, also takes place once a year. Carstensen's co-instructors were Jade Eaton, a senior trial attorney from the US Department of Justice Antitrust Division, one of the primary staff lawyers on most energy cases; and Jerome Hochberg, a partner in a major DC law firm who has done antitrust litigation on energy issues all the way to the Supreme Court.

In addition, Carstensen published "The Problem of Characterizing Price Fixing and Other Restraints: The Functional Approach to Coherent Analysis" (123 pgs.) in Vol. 1, *Papers for the 8th Annual Workshop of the Competition Law and Policy Institute of*

New Zealand (Aug. 1997); and "Rule of Reason in Antitrust," in 3 *The New Palgrave Dictionary of Economics and the Law* 381 (Macmillan Reference, Stockton Press, 1998). He also was co-author with Marc Galanter and Gerald Thain of "The So-Called Global Tobacco Settlement" (see entry for Professor Thain).

R. ALTA CHARO. For the 1998 Spring Semester, Professor Charo was in California at Stanford University Medical School, as a Senior Fellow at the Program in Genomics, Ethics and Society at the Stanford Center for Biomedical Ethics. Charo, who holds a joint appointment in the Law School and Medical School, has been a member of the President's National Bioethics Advisory Commission since 1996, and was primary drafter of several chapters of the Commission's report "Cloning Human Beings," 1997, a topic on which she also testified before the Senate. She also gave a Congressional Briefing in 1997, "The Effect of Abortion Politics on Biomedical Research Funding." In Spring 1998, she was one of ten UW faculty members to receive a \$50,000 Romnes Fellowship, a grant which "rewards new professors who are making an immediate mark on their fields."

A partial list of Professor Charo's recent publications includes: "From Dusk to Dawn: The Use of Biological Categories for Ordering Legal Rights," in Youngner, Arnold, and Schapiro (eds.), *Defining Death in a Technological Era* (Johns Hopkins U. Press, 1998); "Dealing with Dolly: Cloning and the National Bioethics Advisory Commission," 38(1) *Jurimetrics* (Fall 1997); "The National Bioethics Commission: Bridging the Tension Between Scientific and Public Policy Analysis," 1(2) *Biolaw and Business* (1997); and "Family Planning Policies and the Politics of New Reproductive Technologies," in K. Petersen (ed.), *Intersections: Women on Law, Medicine and Technology* (Dartmouth Publishing, 1997).

WILLIAM (LARRY) CHURCH. Professor Church was awarded the degree of Honorary Doctor of Law by the

University of Giessen Law School in Germany, in May 1998, in recognition of his career achievements in legal education. The UW Law School has cooperated in an exchange program with Giessen since 1985, and Church has been an active contributor. In the German newspaper article that was published following the awards ceremony, he was cited for his contribution to legal education in developing countries, including Ethiopia, Afghanistan, Zambia and Indonesia, and for his pioneering work in environmental law, constitutional law, and criminal law. Finally, he was commended for being a "supporter of clear expressions"—a proponent of clear legal language and readable articles. Professor Church's monograph (in Indonesian and English) on law teaching methodology was published by the ELIPS Project in Indonesia, 1998.

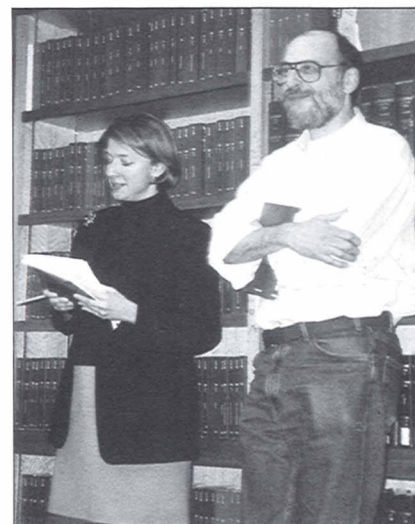
WILLIAM CLUNE. Emeritus Professor Clune published articles including "Building a Systemic Remedy for Educational Adequacy: Starting with What We Know," 29 *Education and Urban Society* 342-354 (May 1997); "The 'Standards Wars' in Perspective," 100 *Teachers College Record* 144-149 (Fall 1998); and "School Finance Systems: Aging Structures in Need of Renovation," (with co-author Allan Odden) in 20 *Educational Evaluation and Policy Analysis* 157-177 (Fall 1998).

KENNETH DAVIS. Dean Davis continues to serve as a member of the American Bar Association's Corporate Laws Committee, which is responsible for the Model Business Corporation Act, the model for corporate laws in a majority of states, including Wisconsin. He will now chair that committee's new task force on directors' conflicts of interest. His law review article "Corporate Opportunity and Comparative Advantage" is forthcoming in the *Iowa Law Review*. In March, he was one of a group of six law school deans invited to meet with Attorney General Janet Reno to discuss issues facing law school admissions policy. In June, he and Emeritus Professor Zigurds Zile journeyed to Lima, Peru, to celebrate the 30th anniversary of the "Wisconsin Boys" who visited the Law

School in the late 1960s and early '70s (see article in this issue reprinted from *Wisconsin Week*).

WALTER DICKEY. The paper "Three Strikes': Five Years Later," prepared by Professor Dickey and research specialist Pam Hollenhorst, was issued in November 1998 in the series "Public Policy Reports" by the Campaign for an Effective Crime Policy. Professor Dickey also chaired the Campaign's conference "Crime and Politics in the 21st Century" in Washington D.C. in November 1998. Dickey, former director of the Wisconsin Division of Corrections and an authority on prison issues, has been named to the panel working on revising the Wisconsin Criminal Code in connection with the new "truth in sentencing" law. He co-authored with Professor Michael Smith the much-commented-on article "What If Corrections Were Serious About Public Safety?" 2 *Corrections Management Quarterly* 12-30 (Summer 1998).

HOWARD ERLANGER. Professor Erlanger's draft of the new Wisconsin Probate Code was passed by the Legislature in March 1998 and signed into law by the governor in May 1998. It went into effect Jan. 1, 1999. Erlanger also completed *Wisconsin's New Probate Code: A Handbook for Practitioners*, published Fall 1998 by the Law School's Continuing Legal Education and Outreach Department (CLEW). A six-page article which Erlanger wrote, describing the probate code changes, appeared in *Wisconsin Lawyer* (Oct. 1998). Erlanger is the new Director of the Law School's Institute for Legal Studies. In addition, in a surprise phone call in November, Professor Erlanger was told that *Lawyers and the Pursuit of Legal Rights*, a book he co-authored twenty years ago, was one of two books to win the Reginald Heber Smith Book Award from the National Equal Justice Library. His co-authors for the book were former UW Law Professor Joel Handler and research associate Ellen Jane Hollingsworth. The congratulatory message to Professor Erlanger included the following explanation: "If you're wondering why a book you wrote in 1978 is



In celebration of the publication of their respective books, Professors Jane Larson and Howard Erlanger were called upon to do a reading for their colleagues after a faculty meeting in the Sheldon Lubar Commons. In 1998, Professor Larson published Hard Bargains: The Politics of Sex (co-authored with Linda Hirshman, Oxford U. Press), and Professor Erlanger, who drafted the state's new probate code, published Wisconsin's New Wisconsin Probate Code: A Handbook for Practitioners (UW Continuing Legal Education). The professors chose to make the event more unusual by trading books and reading from each other's work.

receiving an award this year, it's because this is the first year of these awards, and any books on this subject written in the 20th century were considered."

KEITH FINDLEY. Professor Findley of the Remington Center litigated a significant case in the U.S. Supreme Court in late 1997: as co-counsel with Professor James Liebman of Columbia University Law School, Professor Findley successfully litigated *Lindh v. Murphy*, 521 U.S. 320, 117 S. Ct. 2059 (1997), in which the Supreme Court ruled that the habeas corpus provisions of the Antiterrorism and Effective Death Penalty Act of 1996 may not be applied retroactively to habeas petitions pending at the time of the Act's enactment. On remand, Professor Findley argued successfully in the Seventh Circuit that Lindh's con-

frontation clause rights had been violated during his Wisconsin insanity trial by the trial court's refusal to allow cross-examination of the state's psychiatric expert witness for bias arising from the expert's own impending criminal charges. Professor Findley also joined the Remington Center's John Pray in successfully litigating *State v. Shonna Hobson* (see description in entry for John Pray).

TED FINMAN. Emeritus Professor Finman contributed " 'Hate Speech' Codes in Theory and Practice," to *Academic Freedom on Trial: 100 Years of Sifting and Winnowing at the University of Wisconsin-Madison 186-199* (UW Press, 1997).

MARTHA (MEG) GAINES. Meg Gaines, who began in her new position as Assistant Dean for Student and Academic Affairs this summer, has also been occupied in putting together the Patient Advocacy Project for the Law School's Frank J. Remington Center. This course, a joint clinical offering of the Law School and the Medical School, pairs law and medical students together to advocate for cancer patients.

MARC GALANTER. Among Professor Galanter's articles for this period are: "Anyone Can Fall Down a Manhole: The Contingency Fee and Its Discontents," 47 *DePaul Law Review* 457-477 (1998); "The Faces of Mistrust: The Image of Lawyers in Public Opinion, Jokes, and Political Discourse," 66 *University of Cincinnati Law Review* 805-845 (1998); and "An Oil Strike in Hell: Contemporary Legends about the Civil Justice System," 40 *Arizona Law Review* 717-752 (1998); and "Shadow Play: The Fabled Menace of Punitive Damages," 1998 *Wisconsin Law Review* 1-14.

HERMAN GOLDSTEIN. Emeritus Professor Goldstein has been named to a fellowship with the New York-based Open Society Institute, part of the Soros Foundations Network. He will serve as a Senior Soros Justice Fellow with the Center on Crime, Communities and Culture. The Center seeks to enhance safety in communities by fostering better understanding of crime and

more effective responses to it. Goldstein will spend much of next year researching new directions for urban policing. Since joining the faculty in 1964, he has gained national and international attention for his more than 40 years of research and writing on police discretion, police function, the political accountability of the police, and the control of police-citizen contacts. In 1997 he published "Problem-Oriented Policing: Restructuring the Delivery of Police Service," in *Problem-Oriented Policing: Towards Best Practice* 5-11.

MICHELE CAMMERS GOODWIN. Ms. Goodwin, one of this year's William H. Hastie Fellows, presented papers at: the 23rd Annual Law & Mental Health Conference in Paris; the 1998 Critical Legal Studies Conference (Lancaster, England); and the Mid-Atlantic People of Color Legal Scholarship Conference (Rutgers University, New Jersey); gave a talk at the University of Kentucky on "Women, Affirmative Action and the Law"; and coordinated and spoke at the Race, Class and Education Workshop on *Brown v. Board of Education* at the UW Law School.

LINDA GREENE. Professor Greene was one of three featured speakers at the September 1998 symposium "Historical Perspectives on Race and Law in the United States," which was co-sponsored by the Law School and the Department of Afro-American Studies. She presented the results of her study of *Gaines ex rel Missouri v. Canada*, the first Supreme Court decision to reject exclusion of African-Americans from state-supported higher (legal) education, with particular emphasis of Missouri's response to that decision. She also published "Hate in the Cloak of Liberty," in *Academic Freedom on Trial: 100 Years of Sifting and Winnowing at the University of Wisconsin-Madison 176-185* (UW Press, 1997).

KATHRYN HENDLEY. Among Professor Hendley's publications are: "Developing Commercial Law in Transition Economies: Examples from Hungary and Russia" (co-author with

Cheryl W. Gray) in *The Rule of Law and Economic Reform in Russia* (Westview Press, 1997); "Legal Development in Post-Soviet Russia," 13 *Post-Soviet Affairs* 231-256 (1997); "Temporal and Regional Patterns of Commercial Litigation in Post-Soviet Russia," 39 *Post-Soviet Geography and Economics* 379-398 (1998); "Struggling to Survive: A Case Study of Adjustment at a Russian Enterprise," 50 *Europe-Asia Studies* 91 (January 1998); and "Remaking an Institution: The Transition in Russia from State 'Arbitrazh' to 'Arbitrazh' Courts," 46 *American Journal of Comparative Law* 93-127 (1998).

CHARLES IRISH. Professor Irish participated in a training program for Chinese lawyers in October 1998 in Shanghai, lecturing on the effects of the East Asian Financial Crises on international trade laws and policies. Wisconsin Bar Association President Susan Steingass also lectured. In November, he lectured on US trade laws and policies at a training program for the Taiwanese Ministry of Economic Affairs.

LEONARD KAPLAN. Professor Kaplan was installed as president of the International Academy of Law and Mental Health this June in Paris, at the academy's 23rd International Congress, where Kaplan chaired a panel on "Law, Psychology and Literature," and delivered a paper entitled "The Metaphysics of Responsibility: The Philosophical and Political Limits of Human and Group Agency." Professor Kaplan also worked on organizing this October's conference in memory of Professor Fannie LeMoine, "Living with Divinity: The Place of the Spiritual in Academic Discourse." Kaplan won a Vilas Associate Award in the humanities division in 1998, for a project in which he is studying the implications for our understanding of criminal law and criminal responsibility that can come from fiction accounts of crime and its investigation. He published "A Poetics of Transgression and Forgiveness" in 4 *Graven Images* 250-265, the journal which he co-edits with English professor Andrew Weiner.

BETTY KARWEICK. Ms. Karweick, a Law School lecturer in legal research, spoke in October 1998 at the Midwestern Regional Law Librarian Conference, LibraryFest MidWest, held in Milwaukee. She highlighted developments in teaching legal research strategies to law students and attorneys in an age of "sound bites and Sesame Street."

BEN KEMPINEN. Professor Kempinen supervised 25 second-year law students who completed internships in 20 district attorney offices during summer 1998 as part of the Remington Center's Prosecution Project. Under the supervision of local prosecutors, students conducted pre trial conferences and hearings, and, in some instances, tried cases before juries. Kempinen presented talks at the winter and summer State Prosecutors' Conferences on ethical issues of significance to prosecutors, and he is a member of the Wisconsin District Attorney Association's Ad Hoc Committee on Revision of the Ethical Rules on prosecutor conduct with unrepresented defendants.

JOHN KIDWELL. Professor Kidwell, winner of the 1997 Law School Teacher of the Year Award, will serve as the new chairperson of the drafting committee for contracts questions for the National Conference of Bar Examiners, responsible for composing the questions for the Multistate Bar Examination.

BRUCE KITTLE. Through an arrangement between the Law School and the Department of Corrections, Professor Kittle of the Remington Center's Restorative Justice Project is working to develop victim-offender conferencing as part of the Dane County Enhanced Supervision Project. In June, Professor Kittle's work was honored by UW Chancellor David Ward as a "University Community Partnership."

HEINZ KLUG. Professor Klug published "Water Law Reform under the New Constitution," *The Human Rights and Constitutional Law Journal of South Africa* 5 (1997); "Introducing the Devil: An Institutional Analysis of the Power of Constitutional Review," in 13(2) *South African Journal on Human Rights* 185

(1997); and "Amnesty, Amnesia, and Remembrance: Obligations Past and Present Duties to Future Generations," in 4 *Graven Images* 123-126 (1998). He was awarded an S.J.D. degree from the University of Wisconsin Law School in December 1997, after completion of the thesis *Universal Principles, Local Prism: South Africa's Constitutional Transition in Global Perspective*.

NEIL KOMESAR. Professor Komesar published "Exploring the Darkness: Law, Economics and Institutional Choice," 1997 *Wisconsin Law Review* 465; and "The Perils of Pandora: Further Reflections on Institutional Choice," 22 *Law and Social Inquiry* 999-1009 (1997).

HERBERT KRITZER. Professor Kritzer's publications included: "Contingency Fee Lawyers as Gatekeepers in the American Civil Justice System," 81 *Judicature* 22-29 (1997); "Evaluating the American Law Institute: Research Issues and Prospects," 23 *Law & Social Inquiry* 667-671 (1998); and "Familiarity Breeds Respect: Evaluating the Wisconsin Courts," (co-author with John Voelker) 82 *Judicature* 58-64 (1998).

KATHERINE KRUSE. Professor Kruse, of the Law School's Frank J. Remington Center, published the article "Race, Angst and Capital Punishment: The Burger Court's Existential Struggle" in 9 *Seton Hall Constitutional Law Journal* (Fall 1998).

STANLEY KUTLER. Professor Kutler edited and wrote the introduction and commentary to *Abuse of Power: The New Nixon Tapes* (New York: Free Press, 1997).

JANE LARSON. Professor Larson's book *Hard Bargains: The Politics of Sex*, co authored with Linda Hirshman, was published by the Oxford University Press in 1998. She also received a grant from the Land Tenure Center to pursue further research on land and housing conditions along the Texas-Mexico border, and published "Even a Worm Will Turn at Last": Rape Reform in Late Nineteenth Century America," 9 *Yale Journal of Law and the Humanities* 1 (1997).

MICHELE LAVIGNE. Professor Lavigne, of the Remington Center, was appointed in 1997 to the Wisconsin Attorney General's Task Force on Children in Need. Both she and Meg Gaines worked on the faculty of the National Criminal Defense College, Macon, Georgia, and the Institute for Criminal Defense Advocacy, California Western Law School, in San Diego. She is currently at work on a mock trial program at the Wisconsin School for the Deaf, in Delavan.

STEWART MACAULAY. Professor Macaulay's article "Willard's Law School: Tributes to James Willard Hurst" appeared in 1997 *Wisconsin Law Review* 1163-1179.

ARTHUR McEVOY. Professor McEvoy was a co-creator of the photo and text exhibit, "Slavery and Freedom in Wisconsin," which was on display in the Law School atrium throughout October to mark the Wisconsin Sesquicentennial. With numerous photographs and documents from the Wisconsin State Historical Society, this exhibit presented the little-known history of Wisconsin's African-American population through the end of the Civil War. Preceding the official opening on Sept. 27, an overflow crowd attended the related Sesquicentennial Symposium, "Historical Perspectives on Race and Law in the United States," whose speakers included two Law School alumni, Lea VanderVelde and Anthony Baker, and Professor Linda Greene. Professor McEvoy also published "Markets and Ethics in US Property Law," in *Who Owns America?: Social Conflict over Property Rights*, ed. Harvey M. Jacobs and Kurt Brown (UW Press, 1998).

STEPHEN MEILI. Professor Meili published "Cause Lawyers and Social Movements: A Comparative Perspective on Democratic Change in Argentina and Brazil," in *Cause Lawyering: Political Commitments and Professional Responsibilities*, Sarat and Scheingold, eds. (Oxford U. Press, 1998) and presented the paper "Latin American Cause Lawyering Networks" at the annual meeting of the Law & Society Association, in

Aspen, Colorado in 1998. At the International Seminar and Meeting of Legal Clinics, in Buenos Aires in 1997, he presented the paper "Seeking to Make Justice More Accessible: A Clinical Portrait."

His paper "Paradigms for Prevention and Resolution Conflict: Experiences of the Consumer Law Litigation Clinic at the University of Wisconsin Law School" was presented at the UCLA/IALS Fourth International Clinical Conference, Los Angeles, in 1997. In April 1998, he presented an overview of state and federal consumer protection laws in a continuing legal education seminar entitled "Protecting Consumers for Fun and Profit," sponsored by the Wisconsin State Bar. In June 1998, the Consumer Law Litigation Clinic, which Professor Meili directs, received a grant from the Consumer Protection Committee of the State Bar to publish a legal manual informing Wisconsin consumers of their rights and obligations in a wide variety of situations, including consumer loans, credit cards, automobile repairs, insurance claims, and fraudulent sales tactics.

MARYGOLD (MARGO) MELLI. Professor Emerita Melli's publications include "The Changing World of Postdissolution Child Custody," with P. Brown and M. Cancian, 1997 *Illinois Law Review* 773; "The Economics of Shared Custody and Dual Residence," with P. Brown, 17 *Fairshare* 6 (May 1997); The Law of Divorce Jurisdiction, 18 *Wis. J. Fam. L.* 50 (1998); "Child Support Enforcement in Cases of Disputed Paternity Proceedings," chapter in *Disputed Paternity Proceedings* (Matthew Bender, 1997); and "Guideline Review: The Search for an Equitable Child Support Formula" in *Child Support: The Next Frontier* (tentative title), forthcoming from the U. of Michigan Press. Among papers she has presented was "The Changing Law of Intimate Relationships," for the conference "The Ties that Bind: Perspectives on Marriage and Cohabitation," sponsored by the National Institutes of Health in June 1998.

SAMUEL MERMIN. Emeritus Professor Mermin contributed "Thoughts on the Legendary Willard Hurst" in 1997 *Wisconsin Law Review* 155-161; and published "Further Aspects of the 'Purpose' Element in American Statutory Interpretation" in *Toward Comparative Law in the 21st Century: The 50th Anniversary of the Institute of Comparative Law in Japan* (Tokyo: Chuo U. Press, 1998).

RICHARD MONETTE. Professor Monette, director of the Great Lakes Indian Law Center, completed the supplement for the Clinton, Newton casebook on Indian law and "American Constitutionalism and Indian Tribes: An Old World to a New," a chapter for *American Constitutional History at the Millennium*, ed. Van Burkleo. He finished drafting the constitution of the Eastern Band of Cherokee (surrounded by North Carolina), and the Saginaw Chippewa (surrounded by Michigan). He completed his term on the Environmental Protection Agency's advisory committee on Environmental Justice, and was appointed to another EPA advisory committee dealing with application of Title VI (the Civil Rights Act) in the environmental arena, and completed his term as president of the National Native American Bar Association.

BEVERLY MORAN. Professor Moran published "Exploring the Mysteries: Can We Ever Know Anything about Race and Tax?" in 76 *University of North Carolina Law Review* 101 (1998); and *Taxation in Eritrea* (Wisconsin Center on Law and Africa, 1998); and has made numerous presentations, including talks at Duke University Law School and Georgetown University Law Center on "A Black Critique of the Internal Revenue Code," based on the 1996 article of the same name that she co-authored with Professor William Whitford (1996 *Wisconsin Law Review* 751-820).

VICTORIA NOURSE. Professor Nourse published "Passion's Progress: Modern Law Reform and the Provocation Defense" in 106 *Yale Law Journal* 1331-1448 (1997); "Making Constitutional Doctrine in a Realist Age,"

145 *Pennsylvania Law Review* 1401-1457 (1997); and "The New Normativity: The Abuse Excuse and the Resurgence of Judgment in the Criminal Law," 50 *Stanford Law Review* (April 1998); and "The Violence Against Women Act: A Legislative History," in *Violence Against Women: Law and Litigation*, ed. Franzee, Noel, and Brenneke (Clark Boardman Callaghan, 1997).

THOMAS PALAY. Associate Dean Palay published "Informal Contracts and Regulatory Constraints," in *The New Palgrave Dictionary of Economics and the Law*, ed. Newman (Macmillan Reference, Stockton Press, 1998).

JOHN PRAY. Professor John Pray of the Remington Center recently won a significant case in the Wisconsin Court of Appeals on the subject of prosecutorial misconduct, *State v. Lettice*, Slip. Op. No. 97-3708-CR (July 21, 1998). In *Lettice*, the Court of Appeals held that the defendant's double jeopardy rights would be violated by retrial, where his conviction was vacated on the ground of egregious prosecutorial misconduct (the prosecutor charged the defendant's attorney with a crime on the eve of trial, and dropped the charge as soon as the defendant was convicted). The State declined to petition for review in the Wisconsin Supreme Court. Professor Pray, along with Remington Center Professor Keith Findley, also successfully defended dismissal of the charges against the defendant in *State v. Shonna Hobson*, 218 *Wisc. 2d* 350, 577 *N.W.2d* 825 (1998). In *Hobson*, the Wisconsin Supreme Court abrogated the common rule that a citizen has the right to use force to resist an illegal arrest. However, on ex post facto grounds, the Court upheld dismissal of the charges against Ms. Hobson, who tried to prevent the police from taking her five-year-old son into custody for allegedly stealing a bicycle.

MARY BARNARD RAY. Ms. Ray, a legal writing specialist who conducts the Law School's Individualized Instruction Service, writes the regular column "In Plain English" for *Wisconsin Lawyer*. Recent columns include "Writing Good

News and Bad News Letters" (Sept. 1997); "Pet Peeves of Improper English Usage," (Dec. 1997); "Spell Checkers, Proofreading, and the Lack of a Free Lunch," (May 1997); "When Weaving Emotional Arguments into Legal Logic," (March 1998); and "A Dear John Letter . . . or How to Construct Your Litigation Documents," (April 1998). Ms. Ray made a presentation on persuasive writing for the American Academy of Appellate Lawyers in April 1998.

JOEL ROGERS. Professor Rogers published "The Folks Who Brought You the Weekend: Labor and Independent Politics," in *Audacious Democracy: Laborers, Intellectuals, and the Social Reconstruction of America* 247-261, ed. Fraser and Freeman (Houghton Mifflin, 1997); "A New Urban Agenda," 22 *Boston Review* 3-8 (1997); and *The State of Working Wisconsin* (co-author with Laura Dresser and Scott Mangum), (Center on Wisconsin Strategy, 1998).

DAVID SCHULTZ. Associate Dean Schultz, director of Continuing Legal Education and Outreach (CLEW), reports the success of the 34th annual ALI-ABA Summer Program at UW, co sponsored by CLEW in 1998. Titled "Estate Planning in Depth: A Comprehensive Review of the Principles and Techniques of Lifetime and Testamentary Planning," the program featured a faculty of experts from around the U.S. The week-long program, attended by approximately 210 participants, received the highest ratings of any program that year and perhaps the highest ever—among the top five in the history of the long-standing cooperative program between CLEW and the ALI-ABA.

GREGORY SHAFFER. Professor Shaffer received a National Science Foundation grant in 1998 for research in Geneva, Switzerland, addressing the treatment of trade and environment issues by the World Trade Organization. His publications include "Mechanisms for the Negotiation of International Trade Claims by Public Authorities on behalf of Private Enterprises in the European Union: A Public-Private Partnership," in 92 *Proceedings of the Annual Meeting of*

the American Society of International Law 212 (Spring 1998); and "Trade and Environment: Options for Resolution of the WTO Shrimp-Turtle Case," 15 *BNA International Trade Reporter* (Feb. 18, 1998). Among talks he has given within his field of international law are "Trade and Environment within the WTO: Accountability of an International Trade Organization: Tradeoffs and Constraints," at the American Society of International Law conference "Linkages as Phenomenon: An Interdisciplinary Approach" (1997); and "Employment Relations Law in France" at the conference "Strategic Issues for Midwest Business in the New Europe," at the UW Business School (1997). He also serves as program director of the exchange program between UW and the European University Institute in Florence, Italy.

MICHAEL SMITH. Professor Smith, in collaboration with the Wisconsin Department of Corrections, has received a grant to conduct four seminars a year with judges, academics and corrections professionals to search for more satisfactory ways to use the combination of the sentencing power and the corrections system to achieve important societal objectives, including justice and safety. Smith is also collaborating with scholars from Harvard and Minnesota in leading the National Executive Seminar on Sentencing and Corrections. This group of scholars and policy-makers also meets four times a year and focuses on issues related to the corrections system. Professor Smith co-authored with Professor Walter Dickey the article "What If Corrections Were Serious About Public Safety?" 2 *Corrections Management Quarterly* 12-30 (Summer 1998).

GERALD THAIN. Professor Thain is co-recipient of a grant from the Robert Wood Johnson Foundation to study the impact of litigation as a means of tobacco control. He was co organizer and presenter for the National Conference on "The So-Called Global Tobacco Settlement," held at the UW Law School in October, 1997, and he is co-author with Professors Marc Galanter and Peter Carstensen, of "The So-Called Global Tobacco

Settlement: Its Implications for Public Health and Public Policy—An Executive Summary of a Conference at the University of Wisconsin Law School," in 22 *Southern Illinois Law Review* (1998). His talk "The First Amendment and Cigarette Advertising," is published in the proceedings of the conference (UW Law School Institute for Legal Studies, 1998). He is co-author with Charyn Sutton of Advertising Regulation in Tobacco Prevention and Control, a Health Science Analysis Project policy analysis of tobacco legislation proposed in Congress, available from the Advocacy Institute, Washington, D.C. and Onyx Group, Philadelphia (1998). Among talks that Professor Thain has delivered was "Comparing Psychological and Legal Approaches to Interpretation of Cigarette Advertising" at the International Congress on Law and Mental Health (1998), to be published in the congress proceedings; and "An Overview of the Law of Commercial Paper," presented in various schools in Indonesia under a USAID grant.

JOSEPH THOME. Emeritus Professor Thome published "Land Rights and Agrarian Reform: Latin American and South African Perspectives," in Faundez, Julio, ed., *Good Government and Law: Legal and Institutional Reform in Developing Countries* (MacMillan and St. Martin's Press, 1997). He delivered the paper "Reforms and the Transitions to Democracy in Latin America" at the conference "Democracy and the Rule of Law; Institutionalizing Citizenship Rights in New Democracies" in Montreal (1998), and the paper "Searching for Democracy: The Rule of Law and the Process of Legal Reform in Latin America" in Onati, Spain at a workshop on judicial reform at the International Institute for the Sociology of Law (1998).

CLIFF THOMPSON. Professor Thompson returned full-time to the Law School in Fall 1997 after serving more than four years as the Legal Education Adviser to the Government of Indonesia, the world's most populous Islamic country, on an economic law project of the

government and USAID. He assisted the 26 public law schools to strengthen their capacity to teach the coming generation of lawyers, conducting training programs for 100 faculty full-time for one semester, 100 faculty full-time for one month, and 1600 teachers and lawyers in one- or two-day workshops. He was in residence at the University of Indonesia, and learned the Indonesian language for this project, which produced and published six basic books and produced three new sets of teaching materials and revisions of ten others. His documentation of the project, "Analysis of Economic Law Curriculum and Faculty in the 26 Public Law Schools of Indonesia, 1992-93 through 1996-97," was published by the ELIPS Project of the Ministry of Finance of Indonesia, 1998.

LOUISE TRUBEK. Professor Trubek, in collaboration with the Law School's East Asian Legal Studies Center, has received a grant from the Center for Global Partnerships of the Japan Foundation for the project, "Providing Legal Services for Under-represented Groups in East and Southeast Asia." The project will include a conference of the same name, whose papers will be published in the volume *Educating for Justice: Legal Education, Practice and the Community*. Professor Trubek contributed the chapter "The Health Care Puzzle: Creating Coverage for Low Wage Workers and Their Families," in the volume *Hard Labor: Women and Work in the Post Welfare Era* (M.E. Sharpe, 1998). She also published "Critical Lawyering: Social Justice and the Structures of Private Practice," co-authored with M. Elizabeth Kransberger [now UW Dean for Admissions] in *Cause Lawyering: Political Commitments and Professional Responsibility* 201-226 (Oxford U. Press,

1997). Her article "Reinvigorating Poverty Law Practice Sites, Skills and Collaborations" was published in 15 *Fordham Urban Law Journal* 1998. Trubek, Clinical Professor of Law, is director of the Law School's Center for Public Representation.

BERNARD TRUJILLO. Professor Trujillo published "The Wisconsin Exemption Clause Debate of 1846: An Historical Perspective on the Regulation of Debt," in 1998 *Wisconsin Law Review* 747-763.

FRANK TUERKHEIMER. Professor Tuerkheimer, who was associate prosecutor for the Watergate Special Prosecution Force, testified on Sept. 9 before the Constitutional Law Subcommittee of the Senate Judiciary Committee on the possibility of indicting a sitting president, in connection with Independent Counsel Kenneth Starr's report on alleged offenses by President Clinton. Tuerkheimer's recently released electronic evidence text, *Evidence: Theory and Practice*, (Lexis-Nexis, 1997) is the first of its kind. Currently, he has undertaken representation of an indigent person on death row in Alabama, and has four UW law students assisting on the case. He also published "United States v. Martinez on Appeal: The Disturbing Anatomy of Harmless Error," 21 *American Journal of Trial Advocacy* 269-291 (1997). Tuerkheimer received a Vilas Associate Award in the social studies division in January 1998, for his investigation of the fifth amendment, the privilege against self-incrimination.

GRETCHEN VINEY. Professor Viney came to the Law School in 1997 to join the Clinical Practice Program as Clinical Assistant Professor. In the last two years, she published two chapters in State Bar treatises: Chapter 6:

"Guardianship: Chapter 880," in the *Guardian ad Litem Handbook*, CLE Books, 1997, and Chapter 16 "Guardianship and Protective Placement," in *Advising Older Clients and Their Families*, CLE Books, 1998.

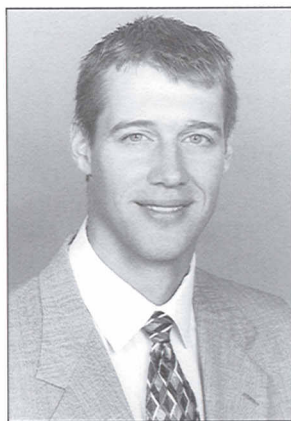
ALAN WEISBARD. Professor Weisbard's article "Against the Emerging Stream: Should Fluids and Nutritional Support be Discontinued?," co-authored with M. Siegler, was published in *Classic Works in Medical Ethics: Core Philosophical Readings* (McGraw Hill, 1998), reprinted from 145 *Archives of Internal Medicine* 129-131 (Jan. 1985). He also published "Unconventional Wisdom: Caring for the Dying: Can We Do Better?" in *On Wisconsin* 35 (Sept.-Oct. 1997).

WILLIAM WHITFORD. Emeritus Professor Whitford has made several presentations on consumer bankruptcy reform in the last two years, including to the National Bankruptcy Review Commission (1997), to the AALS and to the State Bar of Wisconsin (1998), and delivered a paper at a conference on comparative consumer bankruptcy law in Toronto, Canada (1998). He published "Changing Definitions of Fresh Start in American Bankruptcy Law," 20 *Journal of Consumer Policy* 179-198 (1997); and "Remarkable," (response to article by Lawrence Zelenak in same issue), 76 *North Carolina Law Review* 1639-1652 (1998), which arose from the symposium "Critical Tax Theory: Criticism and Response. The entire symposium was devoted to a review of a number of recent articles developing critical tax theory, including one that Professor Whitford co-authored with Professor Beverly Moran, "A Black Critique of the Internal Revenue Code," in 1996 *Wisconsin Law Review* 751-820.

HAVE YOU HEARD?



Julie A. D'Angelo, '98



Christopher T. DeMent, '98



Paul Hejmanowski, '72



Tanya A. Hubanks, '98

Bill Nathanson ('35), Chicago, has received the Wisconsin Loyalty Award from the Wisconsin Alumni Association. The award recognizes an individual who has provided service and leadership to the University over an extended period of time.

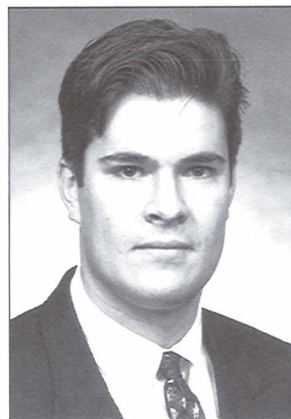
Ellen Ziemann

Chestnutt ('52) has received the 1998 Portia Award from the El Paso (Colorado) Bar Association. The award is given annually to a woman lawyer for outstanding service to the community and the bar, contributions to the advancement of lawyers, and service to women in the community.

Cir. Judge **Thomas H. Barland** ('56), Eau Claire, WI, was appointed by Gov. Thompson ('66) to a committee studying the state's criminal code. Judge Barland is the chair of the committee.

Eugene L. Johnson ('62), Wayzata, MN, retired as a partner of Dorsey & Whitney, has opened his own office where he will do alternative dispute resolution and provide expert witness services related to intellectual property law.

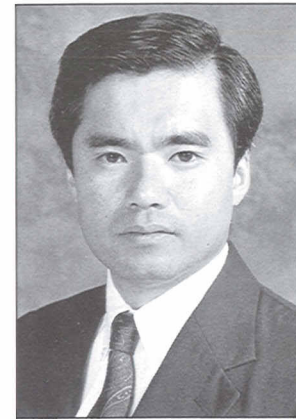
Len Dubin ('62), Los Angeles, has been elected to the national board of directors of the Epilepsy Foundation. He has been appointed co-chair of the Legal and Governmental Affairs committee. Dubin developed expertise in defending



Michael D. Martz, '91



Paul Voelker, '93



Masahiro "Max" Yoshimura, '94

the rights of people with epilepsy in his private practice.

Carl Kuehne ('66), Green Bay, has been elected to a three year term on the Board of Directors of the Green Bay Packers.

Joel Hirschhorn ('67), Coral Gables, FL, is serving as Treasurer of the Freedom to Read Foundation. Hirschhorn is a member of the Law School's Board of Visitors.

Wayne W. Hansen ('67), Seattle, has been named Managing Partner of the newly opened office of Jackson, Lewis, Schnitzler, & Krupman, a nationwide firm representing management in labor, employment and benefits law.

Jonathan I. Charney ('68), Professor of Law at Vanderbilt University,

has been elected Editor in Chief of the American Journal of International Law. Charney also delivered a series of lectures at the Hague Academy of International Law last summer.

John W. Rowe ('70), chairman, president and chief executive officer of Unicom Corporation, Chicago, has been elected to the Board of Directors of the Wisconsin Central Transportation Corporation board of directors.

Walter J. Dickey ('71), Professor of Law at the University of Wisconsin Law School, has been appointed to the state committee studying the state's criminal code.

Paul Hejmanowski ('72), a partner with Lionel, Sawyer & Collins, in Las Vegas, has been admitted to the American

College of Trial Lawyers. The College was created in 1950 to recognize excellence in trial lawyers, and to improve the standards of trial practice.

Mark A. Nordenberg ('74), Chancellor of the University of Pittsburgh, has been elected to the Boards of Directors of Mellon Bank and Mellon Bank Corporation. Nordenberg has been Chancellor since 1996, and served as Dean of the Law School there from 1985 to 1993.

Cir. Judge **Charles B. Schudson** ('74), Milwaukee, WI, has been awarded the 1998 Human Rights Leadership Award by Freedom Magazine. Schudson was honored for his efforts on behalf of women, children and the elderly.

Donald J. Barry ('74) has been sworn in as Assistant Secretary of the US Department of the Interior for Fish, Wildlife and Parks. A native of Monroe, WI, Barry has been with the Department since graduation.

Cir. Judge **John J. DiMotto** ('74), Milwaukee, WI, co-taught a six-day seminar for Chinese judges on the American system of law. The seminar was held in Beijing and was attended by 75 Chinese judges, law professors and prosecutors. Judge DiMotto also received the 1998 Judge of the Year Award from the Wisconsin Chapter of the American Board of Trial Advocates.

Dianne Greenley ('74), has received the 1998 Marigold Melli Achievement Award from the Legal Association for Women. The Award, named for UW Law School Professor Margo Melli ('50), recognizes Greenley's significant contributions to women in the law.

John E. Lange ('75), was the acting US Ambassador to Tanzania last summer when terrorists attacked his embassy. Lange was in the embassy during the attack, suffered some hearing loss, but remained on duty. The bombing killed 10 Tanzanians.

Barbara E. Arnold ('76), Los Angeles, has been appointed Corporate Diversity Manager for Toyota Motors. She was Senior Corporate Counsel prior to her promotion.

Stephen J. Nording ('80) has joined Solheim Billing & Grimmer in Madison. Nording will concentrate on corporate, finance, real estate, tax and estate planning.

Brian L. Anderson ('80) has been named a shareholder in the Madison law firm of DeWitt Ross & Stevens. Anderson practices in employee benefits, and business and estate planning.

Laurie J. Levin ('81), of counsel to the Orlando, FL, office of Baker & Hostetler, has passed the board-certification examination in health law conducted by the Florida bar. Levin will continue to represent individual and institutional clients in a wide range of health law issues.

Meg Gaines ('83) has been appointed Assistant Dean for Student and Academic Affairs at the University of Wisconsin Law School. Gaines also serves as the director of the Patient Advocacy Project for the Law School.

Joel D. Bertocchi ('83) has been named Illinois Solicitor General. Bertocchi had been an Assistant US Attorney for the Northern District of Illinois where he focused on both criminal trials and appeals.

Bridget G. Brennan ('83) has been appointed to the position of Special Narcotics Prosecutor in New York City. Brennan's jurisdiction spans all five New York boroughs.

Thomas Domer ('83), a partner with the Milwaukee firm of Shneidman, Meyers, Dowling & Blumenfeld, has been re-elected as chair of the Board of Directors of Whitefish Bay Dominican High School.

Sarah J. Elliott ('84), a shareholder in the Milwaukee, WI, firm of von Briesen, Purtell & Roper, had been appointed group leader for their health practice group. Elliott will lead a team of 30 health care attorneys.

Kenneth J. Meister ('86), has joined INSpire Insurance Solutions as executive vice president and chief financial officer. INSpire is headquartered in Fort Worth, TX.

Christopher Smith ('87) has joined U.S. Bancorp as executive vice president

and general counsel for institutional financial services.

Thomas G. Hancuch ('88) has been elected a partner at the Chicago firm of Vedder, Price, Kaufman & Kammholz. He is a member of the firm's Labor and Employment Practice area.

Anne Gallagher ('88), a partner at Gallagher Lazarus & Co., in Chicago, is a member of the board of directors of the Legal Marketing Association. Gallagher serves as Treasurer Emeritus.

Nichelle A. Mitchem ('88) has been appointed executive director of metro Atlanta's Partnership Against Domestic Violence.

Hiram E. Puig-Lugo ('88) has been appointed to a 15-year term on the Superior Court of the District of Columbia. Puig-Lugo had previously been with the U.S. Department of Justice.

Marc Ebbin ('88), formerly Special Assistant to the Secretary of the Interior, has joined the San Francisco firm of Beveridge & Diamond. His new practice will focus on natural resource issues.

Gay Ann Spahn ('88) has joined the Racine, WI, firm of Jansson, Shupe, Bridge & Munger, Ltd., where she will continue to practice intellectual property law.

Emery K. Harlan ('89), a partner in the Milwaukee firm of Gonzalez, Saggio, Birdsall & Harlan, has been appointed to the Governor's Advisory Council on Judicial Selection. Harlan becomes the first African-American to serve on the Council.

Gregory Lemmer ('89) has become a partner at the Menlo Park, CA, firm of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian. Lemmer will head the firm's labor and employment law practice.

Todd A. Rowden ('89), of the Chicago firm of Wilson & McIlvaine, recently spoke to the National Business Institute's seminar on Advanced Principles of Title Insurance.

Laura M. Sutherland ('89) has become an associate with the Madison firm of Boardman, Suhr, Curry & Field.

George R. Corrigan ('89) has become of counsel to the same firm.

Bryce Tolefree ('90) has joined the Milwaukee office of Gonzalez, Saggio, Birdsall & Harlan as a member of the firm's litigation practice.

Kevin M. Kelly ('91) has been appointed Assistant Director of the UW Law School Office of Career Services. Kelly comes from the U.S. Navy JAGC program and from private practice in Rhinelander, WI.

Philip H. Lucht ('91) has joined the Stevens Law Office in Cedarburg, WI. Lucht will concentrate in environmental, family and real estate law.

Michael D. Martz ('91) has been named a partner at the Columbus, OH office of Vorys, Sater, Seymour and Pease. Martz practices in the corporate and banking area.

Stephen A. DiTullio ('92) has been named a shareholder in the Madison office of DeWitt Ross & Stevens. DiTullio practices employment relations and general litigation. **Jennifer L. Dressler** ('92) has joined the same firm as an associate practicing securities and general business law.

Denis Stearns ('92) has become a founding partner in Marler Clark, a new Seattle, WA, firm specializing in litigation arising from foodborne illness outbreaks.

Beth Kransberger ('93) is the new Assistant Dean for Admissions and Financial Aid at the UW Law School. Kransberger had been Director of Financial Aid and Vice President of New College of California.

Paul Voelker ('93) has joined the Milwaukee, WI, firm of Gonzalez, Saggio, Birdsall & Harlan. Voelker will concentrate on litigation.

Masahiro "Max" Yoshimura ('94) has joined the Seattle, WA, office of Lane Powell Spears Lubersky. He will concentrate his practice in corporate tax and business transactions. Yoshimura is also a licensed CPA.

Pedro Colon Monclova ('94) has been elected to the Wisconsin Assembly from the Milwaukee area. Colon becomes Wisconsin's first Latino state legislator.

Matthew R. Falk ('94) has joined the litigation team in the Milwaukee office of Domnitz, Mawicke, Goisman & Rosenberg.

Patricia Smith King ('95) announces the opening of her law office in Madison. King will focus on computer law, law of the Internet and intellectual property law.

Marie Ann Dreher ('95) has joined the New York City firm of Struck, Struck & Levan. She will concentrate her practice on structured finance law.

Joseph W. Byrne ('97) has become an associate with the Madison firm of Boardman, Suhr, Curry & Field where he will do intellectual property law.

Laura C. Smythe ('97) is now an associate with the Sutter Law Firm in Appleton, WI. She will practice estate planning, real estate, Indian law and mediations.

Richard A. Heinemann ('98) and Kirsten E. Spira ('98) have become associates with the Madison firm of Boardman, Suhr, Curry & Field. Heinemann was Editor in Chief and Spira was Managing Editor of the Wisconsin Law Review while in school.

Julie A. D'Angelo ('98) has joined the Madison office of Balisle & Roberson where she will practice in the areas of estate planning, probate and appellate law.

Clayton E. Greenberg ('98) has become an associate at Locke Purnell Rain Harrell, a Dallas firm.

Christopher T. DeMent ('98) has joined Dykema Gossett in its Grand Rapids, MI, office. DeMent will focus on mergers and acquisitions, business finance and closely-held business law.

Tanya A. Hubanks ('98) has joined the Cincinnati, OH, office of Thompson, Hine & Flory.

IN MEMORIAM

Herbert A. Bunde '25, *in Wisconsin Rapids, WI*
 Adriana O. Hess '32, *in Tacoma, WA*
 Mary Eschweiler '33, *in San Francisco, CA*
 Robert K. Cullen '33, *in Frankfort, KY*
 Normal A. Stoll, '34, *in Portland, OR*
 Dorothy A. von Briesen '37, *in Milwaukee, WI*
 Glenn S. Kennigott '39, *in Ft. Lauderdale, FL*
 Floyd A. Brynson '40, *in Madison, WI*
 Edmund J. Hart '41, *in Madison, WI*
 Howard A. Huntington '42, *in Milwaukee, WI*
 Christ T. Seraphim '42, *in Milwaukee, WI*
 Laurence A. Weinstein '47, *in Madison, WI*

Ed J. Harris '48, *in Galveston, TX*
 Henry F. Renard '50, *in West Bend, WI*
 Donald C. Pressentin '50, *in Madison, WI*
 Elizabeth Gaspar Brown '52, *in Ironwood, MI*
 John W. McFadyen '53, *in Milwaukee, WI*
 Robert W. Warren '56, *in Milwaukee, WI*
 John R. Jacobs '62, *in St. Paul, MN*
 Peter D. Humleker III '72, *in Menasha, WI*
 Walter Kuhlmann '76, *in Madison, WI*
 Lee H. Karlin '84, *in Washington, DC*
 Barbara Andrews Benson '85, *in Marathon, WI*
 Omar Megahed '96, *in Madison, WI*

BY ASSISTANT DEAN
EDWARD J. REISNER

When you are away from the Law School, perhaps years away, what do you remember? A few classes, a card game in the lounge, friends, faculty? Do you remember any of the many functions that take place in the building? From my own law school days, I remember standing on the front porch of the building as protestors and National Guard troops pushed each other back and forth, up and down Bascom Hill.

To give you an idea of the variety of things that have happened in and around the building recently, here are a few highlights:

In February, the Benchers Society hosted a visit to the School by British barrister and author, Sir John Mortimer. Mortimer is best known for his series of stories featuring Rumpole of the Bailey, a feature on public television for many seasons. It came as no surprise to me that Rumpole and Sir John had more than a casual resemblance. Mortimer gave a 45 minute speech on his legal experiences and his writing career, and then signed copies of his books during a reception. We are pleased that the Benchers, donors recognized for their lifetime giving record to the Law School, could bring Sir John here.

The Benchers are also financing another project that will benefit the School. Before summer, a University-based cable TV system will be brought into our building and attached to the built-in audio-visual equipment in our two largest classrooms. The cable will also be extended to the DeWitt, Ross & Stevens Student Lounge, where a TV set for students has been waiting since the building opened in 1996. While the cable will bring some entertainment and relaxation to students, we also plan to use it to broadcast news events



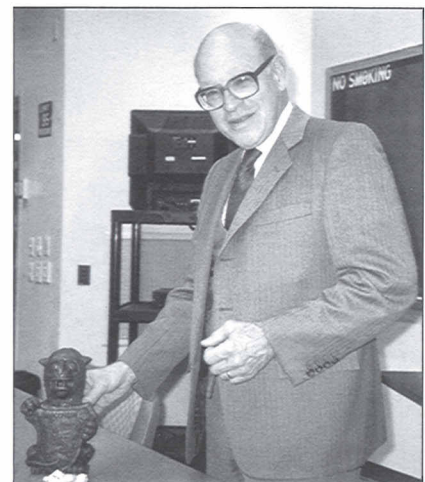
On February 15, 1999, the British barrister and author John Mortimer, creator of the "Rumpole of the Bailey" television plays, spoke to a Law School audience in Godfrey & Kahn Hall. Mortimer—who was knighted in 1998, but modestly declined to be addressed as "Sir John," spoke about growing up with his eccentric barrister father and about his courtroom experiences. He answered audience questions ranging from how judges are chosen in Britain, to which Shakespeare plays are his favorites. At a reception sponsored by the Benchers Society which followed the talk, Mr. Mortimer signed copies of some of his books, including the novel *The Sound of Trumpets*, just off the presses, and anthologies of Rumpole stories.



Dean Davis presents gargoyle to Professor Walter Raushenbush.

and other educational information to large groups in our classrooms.

The Wisconsin Law Alumni Association Lounge, in the building's atrium, has also been busy. Last August, Lynn Kreutzberg ('95) and Michael Combs were married in a nearby church and then brought their 200 guests to the atrium for their wedding reception! A number of Lynn's friends and classmates from School were either guests or part of the wedding party. I must say that



Professor Gordon Baldwin with gargoyle in recognition of his retirement.

the building served their purposes well and the live band on one of the catwalks added a very nice ambiance.

The atrium also saw the School's first Open House for prospective students this fall. Held in conjunction with the Midwest Association for Prelaw Advising meeting, the Open House drew about 70 students from undergraduate schools around Wisconsin who met here for a full day of tours, class visits, and informational programs. The Law School also

recently did its first solo off-campus recruitment event: while we regularly attend recruitment consortia around the country, these events are always done along with 100 or more other schools in some hotel ballroom. In February, a group of Law School people, including the Dean, the Assistant Dean for Admissions (Beth Kransberger), and the Chair of the Admissions Committee (Prof. Alta Charo), went up to Minneapolis and recruited prospective students from the University of Minnesota and other schools in Minnesota and northwestern Wisconsin. Some 70 students attended the event and complimented us for our outreach.

Elsewhere in the building, long-time professors Gordon Baldwin and Walter Raushenbush each ended their teaching careers at our School last semester. Baldwin joined our faculty in 1957 and, with the exception of several international visits, continued to teach constitutional law, admiralty and other subjects until his retirement. Baldwin will remain active as



Last August, Lynn Kretzburg ('95) and Michael Combs were married and held their reception in the atrium of the Wisconsin Law Alumni Association Lounge.

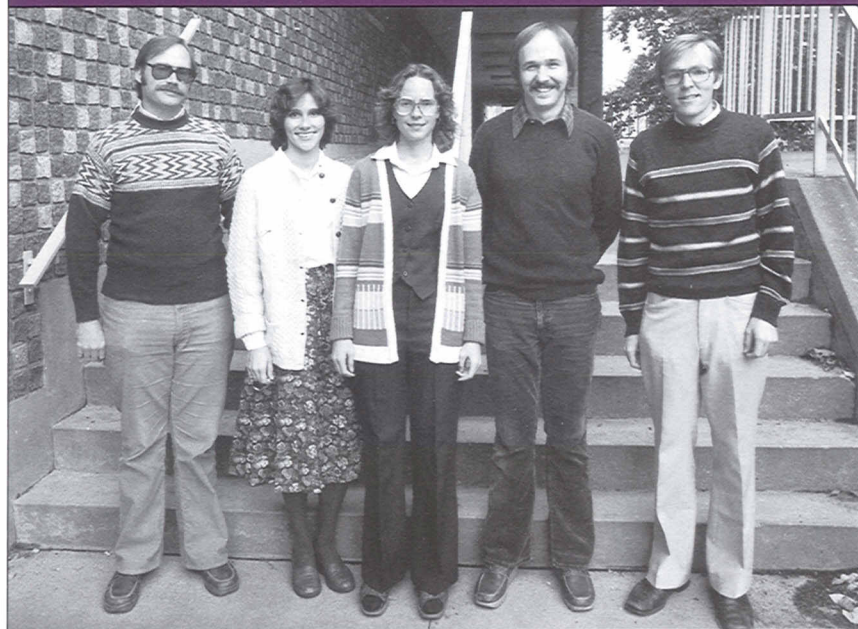
he brings a stint with the Rotary, visiting clubs around the midwest, during this year. Raushenbush joined the faculty in 1958. Our pre-eminent real property teacher, in recent years, he has frequently been a guest at other schools during the spring semester. His plans include continued visiting

stints at the University of San Diego Law School.

Mystery Picture: The mystery picture in the last issue, supplied by Prof. John Kidwell, and featuring John in a cowboy outfit and guitar, together with two mummy-like on-lookers, has been identified. The two mummies were Mary Matthias and Ruth Hovey (both '88). Ruth is now with the FBI, probably specializing in undercover work with her demonstrated ability at concealment. Mary is with the Wisconsin Legislative Council. She wrote that the picture was taken in their small section class with Prof. Kidwell at Halloween, 1985. The two mummies went on to their other classes while still disguised, much to the amusement of their fellow students and even to other faculty members.

The mystery picture in this issue should be easy: I had dinner with one of the people pictured just a few weeks ago. The picture was taken on the back steps, near the courtyard walk-through, a memory since the reconstruction of the building in 1996. Who are these folks and why do we have their group photo?

MYSTERY PICTURE



From the Law School Career Services Office: Seeking Alumni Willing to Talk to Students

BY JANE HEYMAN

Assistant Dean for Career Services

The job market for recent law graduates and law students is stronger than it has been in years, both nationally and here at the University of Wisconsin Law School. Over 120 law firms and other legal employers interviewed our second and third year students on campus during the fall of 1998. In addition, notices of job openings for posting on our web-based Job Databank continue to come in at a brisk pace. (Both students and alumni have free access to the Job Databank via a password, and non-alumni may purchase access. We post jobs for employers at no charge; so if you need part-time, full-time, or summer help, please fax us a description of the position (Fax No. 608.265.6289) and we will post it for whatever period of time you specify.)

Our graduates continue to seek positions predominantly in the upper Midwest: about two-thirds of the 1997 graduating class obtained employment in Illinois, Wisconsin, and Minnesota. The remaining third, however, went to work in 17 other states!

Because of our geographic location, it is relatively easy for a University of Wisconsin Law

School student to search for employment in Chicago, Madison, Milwaukee, or Minneapolis, or the smaller cities in Illinois, Wisconsin, and Minnesota. Students who are interested in leaving the upper Midwest, however, face a tougher challenge, particularly those who are not looking for positions with large national firms. For these students, the alumni network is our most valuable resource.

If you are willing to let us make your name and phone number available to students who are looking for jobs in your geographical area, please fill out the form on the reverse side of this page and return it to us. You can be of great assistance to our students by simply giving them information, by phone or email, about the legal market in your city, suggestions about which employers to approach and when, etc. If you prefer to call us rather than completing the form, you can call us directly at (608) 262-6413, fax us at (608) 265-6289, or e-mail me at jheymann@facstaff.wisc.edu.

Thank you for your assistance and support.

Alumni Network

Yes! I would be happy to help University of Wisconsin Law School students/graduates in the following ways:

- ☐ Serve as an alumni contact in my geographical/practice area (e.g., discuss employment opportunities in my geographical/practice area with students who contact me by telephone or e-mail)
- ☐ Visit campus to speak at career workshops/seminars
- ☐ Conduct mock interviews for students interviewing in my city
- ☐ Other _____

I prefer to be contacted at: ☐ Home ☐ Work

Name _____ Graduation Year: 19____

Title _____

Area of practice _____

Firm/Company/Organization _____

Work address _____

City/State/Zip _____

Work Telephone _____

e-mail address _____

Home address _____

Home telephone _____

Please mail this form to:

Assistant Dean Jane Heymann

University of Wisconsin Law School

Office of Career Services

975 Bascom Mall

Madison WI 53706-1399

or fax to: 608-265-6289