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members of the Class of '95 celebrate at a graduation brunch.
Alumni Weekend '95

Alumni from the “zero” and “five” classes — from 1930 through 1990 — gathered for Alumni Weekend on May 19-21. Numerous events, including class receptions, an alumni-faculty exchange, panel discussions, and a brunch at the Law School, provided an opportunity for alumni to renew old acquaintances and establish new ones while catching up on recent exciting developments at Penn, such as the completion of Tanenbaum Hall.
From the Dean

Gender and Legal Education: Fact and Fantasy

Do women do as well as men in law school? Do they participate as fully as men in the formal and informal networks of learning? Do they cope as well as men with the stress of legal education?

According to a recent study by Professor Lani Guinier and four co-authors that appeared in a recent issue of the University of Pennsylvania Law Review, the answers are no, no, and no. Looking at the academic performance of Penn Law students in 1990-1991, the Guinier study found that women students received somewhat lower grades than their male counterparts. A differential appeared at the end of the students’ first year of study and then closed slightly, but not completely, by graduation. The study also found that, according to a 1990 student survey and follow-up focus groups, women had higher levels of stress and participated less actively in class discussion and “informal mentoring” than men.

The Guinier findings are consistent with several other studies that point to a generic characteristic of American legal education. Recent surveys of students at Harvard, Stanford, Berkeley, and the nine Ohio law schools have all found that women experience law school as marginally more stressful and alienating than men. Even more significant are the findings of a recent nationwide study by the Law School Admission Council (which administers the LSAT test). After examining the academic records of 6,000 law students at 90 law schools, the LSAC found that, in virtually every category of law school, men outperform women in their first year of law school.

These studies comprise a small part of a growing body of literature on cognitive and psychological differences among men and women. Psychometricians have observed that men consistently outperform women on all of the major standardized aptitude tests. Medical researchers have shown that men and women use different parts of their brains to perform various mental tasks. Linguists have documented systematic gender variations in the use and selection of language. Behavioral scientists have confirmed many common intuitions about differences in the ways men and women cope with stress and conflict.

Since its publication in January, the Guinier article has received widespread attention and has put Penn Law School at the center of a growing national debate about legal education. Law schools around the country have called to inquire about the study and its implications. Here at Penn, it has been the subject of extremely healthy and constructive discussions among faculty and students, including a schoolwide open forum in April.

Many theories have been offered to explain the findings of these studies. Guinier and her co-authors point the finger at the so-called “Socratic method” of instruction, which, so it is said, systematically disadvantages women—a suggestion that many women find demeaning. Others have suggested gendered differences in students’ undergraduate majors, career aspirations, work habits, or attitudes toward conflict. One quack even suggested—in print—an unconscious faculty grading bias based on handwriting!

All of these theories are just that—untested speculation. What is clearly needed at this point is not more speculation, but more data. Accordingly, I have convened a task force chaired by Associate Dean Heidi Hurd, which will attempt to test various hypotheses about the sources of the differential in academic performance. The study will conduct careful statistical tests, using the most current data, to determine whether differentials in academic performance correlate with differences in student backgrounds and credentials or differences in the type of law school course.

The results of this study should enable us to begin separating fact from fantasy. In the process, Penn will be taking a leadership role in a much needed systematic rethinking of legal education.

An article about the Guinier study that originally appeared in the Washington Post is reprinted at page 23.
Louis S. Rulli is Appointed Associate Practice Professor

Louis S. Rulli, Esq., the Executive Director of Community Legal Services (CLS) in Philadelphia since 1986, will join the Law School faculty on July 1 as an Associate Practice Professor in the Clinical Program. His goal is to make the Program “the best in the nation.”

Mr. Rulli joined CLS upon his graduation from Rutgers University School of Law in 1974. At CLS, he served low-income clients as a Staff Attorney, Supervising Attorney of the CLS Housing Unit, and Managing Attorney of CLS’ South Philadelphia office prior to being named Executive Director. The recipient of numerous awards for his achievements as a public interest lawyer, Mr. Rulli also serves on numerous professional boards and commissions, including the Editorial Board of the Legal Intelligencer, the Third Circuit’s Task Force on Equal Treatment in the Courts, and the Board of Directors of Philadelphia Volunteers for the Indigent Program (VIP). Next year, he will chair the Commission on Judicial Selection and Retention, which screens judicial candidates for the Philadelphia Court of Common Pleas and Municipal Court and makes recommendations on their suitability for service. Mr. Rulli has been a member of the Commission since 1986.

Mr. Rulli hopes that his experience as a public interest lawyer will provide “new opportunities and perspectives to students” in the Clinical Program. In addition, Mr. Rulli hopes to serve as a “resource for the Public Service Program.” A strong advocate of this Program, Mr. Rulli has been a member of the Dean’s Advisory Committee on the Public Service Program since its inception in 1990. He believes that the Public Service Program “brings favorable attention and recognition to Penn nationwide,” and that the profession would benefit from more innovative programs of this type. Having worked closely with the Penn Law faculty through the Advisory Committee, Mr. Rulli looks forward to joining their ranks and deepening his service to the Law School.

Visiting Professors Bring Diverse Backgrounds and Interests to Penn Law

Penn Law welcomes a diverse group of visiting professors during the 1995-96 term. These visitors, who come from across the country as well as from Canada, Israel and Puerto Rico, will enhance the Law School’s course offerings, providing students with challenging perspectives in fields ranging from bioethics to women’s human rights, from torts to taxation.

Justice Menachem Elon, deputy president of the Supreme Court of Israel, will be the Gruss Visiting Professor of Talmudic Law at Penn for the 1995-96 term. Justice Elon is one of Israel’s foremost legal scholars. He holds degrees from the Tel Aviv School of Law and Economics and the Hebrew University in Jerusalem, where he received his doctorate of law in 1961. Prior to being named to the Supreme Court in 1977, he taught at Hebrew University, where he served as head of the school’s Institute for Research in Jewish Law and as a Professor of Jewish Law. In 1979 he was awarded The Israel Prize, the country’s highest civilian honor, in recognition of his outstanding scholarship, including a three-volume work on Jewish law. He has been a guest lecturer at Oxford University, University College London, and New York University.
Lisa Chiyemi Ikemoto, Visiting Associate Professor, looks forward to teaching a course on bioethics and a family law seminar at Penn during the 1996 spring term. Professor Ikemoto has been an Associate Professor at Loyola Law School since 1993. Prior to joining the Loyola faculty, she was an assistant professor at the University of Indiana and a legal writing instructor at Albany. She earned her bachelor’s degree on the coasts. She was drawn to the University of California at Davis and an LLM from Columbia. Professor Ikemoto has recently published articles on issues including surrogate motherhood and African American/Korean American relations in Los Angeles. At Penn, she plans to continue her research on reproductive rights, especially for women of color, and to examine issues within and between communities of color. As a Californian, she said that spending time in Philadelphia will give her the chance to compare race and urban issues on the East and West Coasts. She was drawn to Penn in part by the opportunity to work with colleagues who share her interests. In particular, she notes that her work in the areas of race, gender, urban issues and communities of color overlaps with the research concerns of Professor Regina Austin ’73. Professor Ikemoto also hopes to work with Penn’s Dr. Arthur Caplan on bioethics issues. Penn Law’s excellent reputation and well-respected students also attracted Professor Ikemoto to visit the Law School, she said. As the faculty advisor to APALSA at Loyola, she noted that Penn Law’s APALSA is an active organization with which she would like to be involved.

Stephen R. Perry of McGill University, Visiting Associate Professor, looks forward to visiting “one of the leading centers for legal theory in the United States” when he comes to Penn for the 1995-96 term. He noted the contributions of Professors Michael Moore, Heidi Hurd, William Ewald and Leo Katz to Penn’s reputation in the field of legal theory. Professor Perry will teach first-year torts, an upper level seminar in torts, and an elective in jurisprudence. He visited the Law School in February and was impressed by the friendliness of the students and the faculty, as well as the physical plant, he said. This positive impression of Penn, and of Philadelphia, led him to choose Penn over other schools that had offered him visiting professorships.

Professor Perry holds degrees in philosophy and law from the University of Toronto and Oxford University. After clerking for Madame Justice Bertha Wilson of the Supreme Court of Canada, he joined the McGill Faculty of Law in 1984. In 1994 he was a visiting professor at the University of San Diego School of Law. Professor Perry is currently working on a book on tort theory and continuing his research on general jurisprudence. He has published numerous articles in the areas of torts and jurisprudence and has forthcoming publications concerning interpretation and methodology in legal theory, justice in immigration, and the philosophical foundations of risk, harm and responsibility.

Celina Romany, Visiting Professor, believes she will find “a community of interesting, stimulating, provocative” colleagues at Penn Law, where the regular and visiting faculty will constitute “an interesting critical mass of women.” A scholar of feminist legal issues and labor law, she will teach courses in international human rights and employment discrimination. She also looks forward to developing her scholarship and discussing feminist jurisprudence with other faculty members. As Co-Director of the International Women’s Human Rights Clinic at City University of New York Law School, Queens College, where she is on the faculty, Professor Romany hopes to initiate among Penn faculty a dialogue regarding human rights issues. She also plans to continue work “with an activist component [that] reconceptualizes more traditional human rights work,” including her work on cases against Serbian and Haitian war
criminals before the Inter-American Commission on Human Rights. In one such case involving charges that Haitian officials violated the Organization of American States (OAS) Convention on Human Rights, the Commission made a groundbreaking “feminist pronouncement that rape is a form of torture” in certain contexts, she said. In addition, she will continue to work toward passage of the OAS Inter-American Convention on Violence Against Women by lobbying OAS member countries, including the United States. While in Philadelphia, Professor Romany plans to investigate the local art scene. An artist who works in oils, she describes her style as “neoexpressionistic.” Her work has been shown in New York, and she will have a solo exhibition in San Juan in December.

Professor Romany holds a BA degree from Trinity College, Washington, DC, a JD from the University of Puerto Rico School of Law, and an LLM in Labor Law from NYU. Before pursuing an academic career, Professor Romany was a trial examiner and consultant to the Labor Relations Board of Puerto Rico. Prior to teaching at CUNY, she was on the faculty of the Inter-American University School of Law. She has also taught at the University of Puerto Rico Law School and the Catholic University School of Law in Puerto Rico. She currently serves as an arbitrator on the New York and Puerto Rico panels of the American Arbitration Association.

Rebecca S. Rudnick, Visiting Associate Professor, comes to Penn from Boston University School of Law. Prior to teaching at BU, Professor Rudnick taught at Indiana University-Bloomington, and the Universities of North Carolina, Texas, and Connecticut. She has also been a Professor-in-Residence at the IRS Office of Chief Counsel in Washington, DC, and a clerk to Judge Charles Schwartz, Jr., of the United States District Court for the Eastern District of Louisiana. She practiced general tax planning and litigation as an associate at Winthrop, Stimson, Putnam & Roberts in New York. A graduate of Willamette University and the University of Texas Law School who earned an LLM in taxation at NYU, Professor Rudnick will teach federal income tax, corporate tax, and estate and gift tax. She has a “keen interest in issues of international and comparative taxation,” she said. Her current research involves tax policy issues in corporate and partnership taxation and wealth taxation in countries with developing and transition economies. She has published numerous articles on tax issues. She looks forward to enjoying Philadelphia’s museums and cultural life during her stay at Penn.

Emily L. Sherwin, Visiting Professor, will teach property at Penn. She always looks forward to teaching this course, she said, because she enjoys working with first-year law students. Professor Sherwin has been a professor of law at the University of San Diego School of Law since 1990. Prior to joining the faculty at San Diego, she was an assistant professor and an associate professor at the University of Kentucky College of Law. She also practiced bankruptcy and corporate law at Caspar & Bok in Boston, and clerked for Chief Justice Edward F. Hennessey of the Massachusetts Supreme Judicial Court. Professor Sherwin holds a JD from Boston University School of Law and a BA from Lake Forest College. In addition to property, she has taught remedies, trusts and estates, landlord/tenant law, and feminist jurisprudence. Her areas of research interest include remedies, equity, bankruptcy and creditors’ rights, contract theory, tort theory, and jurisprudence. She has published articles on topics in commercial law, including law and equity in contract enforcement, constructive trusts in bankruptcy, and private remedies.

William J. Woodward, Jr. C’68, Visiting Professor, will teach courses in secured credit and advanced contracts at Penn. A magna cum laude graduate of Rutgers-Camden School of Law, he has been a member of the faculty of Temple University School of Law since 1984. Prior to teaching at Temple, Professor Woodward taught at the Indiana University School of Law in Indianapolis, practiced in the trial department at Dechert Price & Rhoads in Philadelphia, and was a student law clerk to Judge James Hunter, III, of the United States Court of Appeals for the Third Circuit. Professor Woodward has published articles and chapters on commercial law issues including the
collection and enforcement of money judgments, judgment liens on personal property, and computer contracting cases under the UCC. He is currently completing an article on interference with contract and is conducting fieldwork for an evaluation program conducted for the bankruptcy court's mediation program in Philadelphia.

Professor Woodward was recently appointed Chair of the Committee on Legal Education of the ABA's Business Law Section, effective August 1995. The Section has over 50,000 members. As Chair, Professor Woodward plans "to use the Committee to encourage and facilitate collaborative work among practicing lawyers and law faculty in business law education," he said. "I have a particular interest in teaching transactional business law (as distinguished from litigation) and hope through the Committee to advance our understanding of how to do that."

At Penn, Professor Woodward will be particularly interested in seeing the "extent to which students differ" from those at other schools where he has taught. "The students will be quite fascinating to me," he said. In addition, he looks forward to meeting new colleagues and to "an opportunity for some enrichment from faculty, students, and the rest of the University," including colleagues and resources at Wharton.

Alison Harvison Young, Visiting Adjunct Associate Professor, will teach a seminar on new reproductive technologies during her sabbatical from her position as associate dean and associate professor at McGill University. Professor Young holds degrees from Carleton University in Ottawa, McGill, and Oxford. Her primary research interests are administrative and family law, with an emphasis on comparative law and regulatory issues. Professor Young has published articles on such topics as the treatment of evidence in child sexual abuse cases, Canadian administrative law, and the relation between human rights tribunals and courts. She recently authored a forthcoming article on joint custody, comparing the legal cultures of the United States and Canada. The fact that Canadian law has elements of both English common law and French civil law has fostered her interest in comparative law, she said.

At Penn, she looks forward to continuing her research on reproductive technologies and children's testimony — an issue she is investigating for the Canadian Department of Justice. She notes that Canadian law differs significantly from American law on this issue, particularly with regard to the right of confrontation, which is guaranteed by American law but not by Canadian law. At the end of her sabbatical, she will travel to Israel to participate in a Canadian/Israeli exchange on administrative law. The Canadian Charter of Rights is of particular interest to Israeli law reformers, she said.

Professor Young looks forward to spending her year at Penn in "a beautiful city" at a school with "a really interesting law faculty."

Lectures and Conferences

Law School Hosts Civil Rules Advisory Committee

In a meeting organized by Professor Stephen B. Burbank, the Advisory Committee on Civil Rules convened at the Law School on February 16 and 17, 1995. The Committee, whose members are appointed by the Chief Justice of the United States, is responsible for preparing amendments to the Federal Rules of Civil Procedure. Its work product is reviewed by the Standing Committee on Rules, by the Judicial Conference of the United States, and by the Supreme Court; if approved, it is transmitted to Congress, becoming effective unless Congress passes legislation to the contrary.

Over the last twenty years, this rulemaking process has been the subject of recurrent controversy, and it has been the central scholarly concern of Professor Burbank, the Robert G. Fuller, Jr. Professor of Law. Two years ago, proposed amendments to Rule 11 (sanctions) and Rule 26 (discovery) proved intensely controversial and were transmitted to Congress by the Court with a strongly worded dissenting opinion. Noting this renewed dissatisfaction and criticisms of Congress for passing the Civil Justice Reform Act of 1990, Professor Burbank published an article calling for a moratorium on procedural reform by either the rulemakers or Congress. "It is time for a breather, for a group that includes rulemakers, members of Congress and members of the bar carefully to review where we have been, where we are going and where we should be going. It is time for a moratorium on ignorance and procedural law reform."


Responding to criticisms of the rulemaking process, including the objections that practicing lawyers have played a diminished role in recent years and
The Advisory Committee on Civil Rules convened at Tanenbaum Hall in a meeting organized by Professor Burbank.

Professor Edward Cooper, Reporter of the Advisory Committee on Civil Rules, Judge Patrick Higginbotham, Chair of the Committee, and Professor Burbank discuss proposed amendments to Rule 23.

that proposed rules changes are not based on empirical data, the Committee, led by a new chair, Judge Patrick Higginbotham, has made a determined effort both to reach out to the bar and the law schools and otherwise to improve the Committee’s knowledge base. As part of that effort, Judge Higginbotham asked Professor Burbank to organize a meeting of the Committee at the Law School and to invite a small group of academics, practicing lawyers, and judges to help the Committee in its work on possible amendments to Rule 23, which governs class actions in federal courts.

The meeting was held in Tanenbaum Hall. Members of the Committee, representatives of the Standing Committee, and researchers from the Federal Judicial Center heard presentations on matters relating to class action practice and exchanged views with the invited participants. According to Professor Burbank, “The meeting was important to the Advisory Committee’s goal of gathering information about current practice, particularly practice under Rule 23.” Professor Burbank also commended the Committee and Judge Higginbotham. “There are those who attribute some of the problems of federal court rulemaking, including some of the political problems, to the perceived insularity both of the bodies that formulate the rules and of the process by which they conduct their business. There are more practicing lawyers on the Advisory Committee now than in the recent past, and the Committee’s outreach bespeaks genuine interest in learning about the law in action.”

Irving R. Segal Lectures in Trial Advocacy Focus on Professional Responsibility

The Segal lecture series continued this spring with two presentations on professional responsibility in trial advocacy. Perspectives were offered from both sides of the bench on topics of special relevance to trial lawyers. On March 16, the Hon. J. Clifford Wallace, Chief Judge of the United States Court of Appeals for the Ninth Circuit, gave a lecture entitled “Today’s Trial Lawyer: The Need for Ethical Considerations and Common Sense.” Robert S. Bennett, Esq., head of the international criminal enforcement group of Skadden Arps Slate Meagher & Flom, presented “Ethical Representation of the High Profile Client” on April 11.

Irving R. Segal C ’35, L ’38, graduated first in his Law School class, having served on the editorial board of the Law Review, winning most of the prizes awarded that year, and having been elected to the Order of the Coif. He has been a member of the American College of Trial Lawyers for three decades and has served as a Regent and Secretary of the College. He is currently active in the College’s Committee on the Federal Civil Procedural Rules. He has also served on several ABA committees. Mr. Segal is senior among the trial lawyers in Schnader, Harrison, Segal & Lewis. He has argued extensively in state and federal appellate courts around the country, and has lectured widely on techniques and strategies of trial and appellate practice.
Bill Usery Presents the Edward B. Shils Lecture in Arbitration and Alternative Dispute Resolution

Former Secretary of Labor William J. (Bill) Usery, Jr., who is widely regarded as the nation’s top mediator, presented the third annual Shils lecture on April 26. Mr. Usery’s topic was “The Mediator’s Role in Public and Private Sector Labor Disputes.”

During a career in labor relations spanning nearly four decades, Mr. Usery has participated in hundreds of collective bargaining disputes in a variety of private industries as well as the public sector. He has held six Presidential appointments, three of which required Senate confirmation, including his post as Secretary of Labor under President Gerald Ford. In addition, he was the National Director of the Federal Mediation and Conciliation Service, serving as the government’s chief mediator in nationally significant labor-management disputes. In 1985, he founded the Bill Usery Labor Management Relations Foundation for the improvement of public awareness and understanding of labor-management relations, collective bargaining, and other human resource issues in the free enterprise system. Mr. Usery is currently the President of Bill Usery Associates, Inc., a Washington, DC-based firm dedicated to enhancing organizational competitiveness and productivity through cooperative union-management relations and innovative human resource strategies. He also is a member of the Commission on the Future of Worker-Management Relations, which investigates the state of worker-management relations and labor law and recommends changes to improve productivity through increased worker-management cooperation and employee participation. Most recently, Mr. Usery has received public attention as the presidential mediator in the baseball strike.

The Shils Lecture Series is part of the educational program related to the Shils Chair in Arbitration and Alternative Dispute Resolution, which was established at Penn Law in 1991 through the efforts of friends, family, and colleagues of Penn alumnus Dr. Edward B. Shils, BS ’36, MA ’37, PhD ’40, JD ’86, LLM ’90. Dr. Shils is the George W. Taylor Professor Emeritus at the Wharton School, where he is still active as a professor. Dr. Shils intended the Shils Chair and Lectureship to honor his late Wharton colleague Professor George W. Taylor, who is known as the “Father of American Arbitration.” Professor Taylor was the labor advisor and crisis dispute conciliator to five US Presidents, from Roosevelt to Johnson. He was posthumously elected to the US Labor Hall of Fame on January 5, 1995.

Annenberg Public Policy Center Hosts Symposium on Women, Sexuality and Violence

A four-day international symposium entitled “Women, Sexuality and Violence: Re-Visioning Public Policy” was held on March 30 - April 2. Law School Professor Susan P. Sturm served as a conference coordinator, while Professors C. Edwin Baker, Sarah Barringer Gordon, and Barbara Bennett Woodhouse were members of the faculty planning group. The conference brought together scholars, public policy planners, activists, and journalists from around the world to explore the individual dynamics and dynamic interactions of gender, sexuality and violence and to establish networks among conference participants across countries, regions and disciplines. The conference further sought to reconceptualize problems and redesign public policy. Penn Law professors participated in numerous panel discussions during the conference: Professor Baker moderated a discussion of "Sexual Prisms: Race, Gender and the Law"; Professor Woodhouse presented a paper on "The Impact of No-Fault Divorce on Remedies for Spousal Abuse"; Professor Regina Austin ’73 discussed "The Vulnerability of Women Who Work Outside the Home at Night"; and Professor Sturm presented a paper entitled "Re-Framing Sex Talk: Transforming Legal and Administrative Process," offered opening remarks, and moderated the closing plenary session.
Institute for Law and Economics Completes Successful 1994-95 Program

The Institute for Law and Economics, a cross-disciplinary center of the Law School, the Wharton School, and the Department of Economics in the School of Arts and Sciences, conducted a full and interesting program during the 1994-95 academic year. The Institute's seminar series, which brings law and economics scholars to the Law School, sponsored ten seminar speakers during the year. The Roundtable Series, which brings together academics, legal practitioners, business executives, and government officials to discuss the issues that emerge from the teaching and research agenda of the Institute, included two roundtables. On October 28, 1994, the Institute sponsored a full-day corporate roundtable on current issues in the regulation of mutual funds. On April 7, 1995, the Institute sponsored a full-day labor roundtable entitled "Labor-Management Issues: Relocation, Electromation, and Binding Arbitration." As part of the Institute's Distinguished Jurist Series, the Hon. Stephen F. Williams of the US Court of Appeals for the District of Columbia Circuit addressed a large audience on March 22, 1995. The Institute's Discussion Paper Series was distributed to law and economics faculty throughout the country.

Sadie T.M. Alexander Lecture and Dinner

Two events sponsored by BLSA honored outstanding lawyers and the spirit of Sadie T.M. Alexander '28, Penn Law's first African American alumna. On February 1, Elaine Jones, Esq., the recently appointed director of the NAACP Legal Defense Fund, presented the Alexander Lecture at the Law School. Ms. Jones discussed the future of the NAACP. On March 31, the annual Alexander dinner was held at the Penn Tower Hotel. Edward S.G. Dennis, Jr. '73, a Law School overseer, served as master of ceremonies. Former Congressman Bill Gray, who is the executive director of the United Negro College Fund, gave the keynote address on self-empowerment for African Americans in the twenty-first century. Awards were presented to Judges Frederica Massiah-Jackson '74 and Carolyn Engel Temin '58, alumnae who have upheld the ideals personified by Sadie Alexander.

Law School Benefactors Dinner

Dean Diver hosted Law School alumni and friends at the Law School Benefactors Dinner on April 7 in Lewis Hall. Shalom Baranes, the architect for the restoration of Lewis Hall, spoke with guests about plans for the building's renovation, which include two new classrooms in Goodrich Hall, a faculty library/coloquial center in Sharswood Hall, and new clinical offices in the lower level. Guests viewed architectural renderings, and historic aspects of Lewis Hall were revealed, including original woodgrained plaster walls, original paint colors, and mosaic floors. The highlight of the evening was the music provided by Stephen Goodman '65, an accomplished jazz pianist.

Keedy Cup Competition

Does Section 501(b) of the 1978 Ethics in Government Act, which prohibits receipt of honoraria for any appearance, speech, or article by members of Congress and by employees and officers in all three branches of government, violate the first amendment rights of employees in the executive branch by prohibiting receipt of honoraria when neither expression nor payment has any nexus to federal employment? This year's Keedy Cup finalists argued this issue, which the Supreme Court recently ruled upon in National Treasury Employees Union v. US. Jonathan Roberts '95 and Linda Thomasson '95 represented the Union and Christian Neira '95 and Edward Normand '95 represented the US before judges Stewart Dalzell '69 of the US District Court for the Eastern District of Pennsylvania, Damon Keith of the US Court of Appeals for the 6th Circuit, and Carol Los Mansmann of the US Court of Appeals for the 3rd Circuit. Mr. Roberts and Ms. Thomasson won the competition, and Ms. Thomasson was honored as best oralist.
Stephen Goodman '65, at the piano, provides jazz accompaniment at the Law School Benefactors Dinner. Enjoying the music are Fred Blume '66 and Beth Brown, Director of Annual Giving.

PUBLICATION UPDATE

As the trend toward pro bono programs at the nation’s law schools continues, Penn Law’s Public Service Program, which is completing its fourth year, continues to serve as a model. Program Director Judith Bernstein-Baker spoke about the Program this year at meetings of the National Legal Aid and Defender Association (NLADA) and the National Association for Public Interest Law (NAPIL), and at the ABA Pro Bono Conference. Ms. Bernstein-Baker serves as an advisor to the ABA’s Standing Committee on Lawyers’ Public Service Responsibilities, which has promoted law school pro bono initiatives. A recent ABA survey found that 103 of the 172 responding law schools have a pro bono program, with seventeen of these currently or soon to be mandatory. Penn’s Program is the second mandatory program in the country.

This year students worked at over 495 separate placements, delivering direct service to indigent clients, researching policy issues, and teaching law at inner city high schools. Four students worked on cases referred to the US Supreme Court. Heesup Chung '95 and Robert K. Khedouri ’95 researched issues for a petition for certiorari in a first amendment case under the supervision of Henry T. Reath ’48 of Duane, Morris and Heckscher. Victor Diaso ’95 and

Linda Thomason ’95 and Jonathan Roberts ’95 win the 1995 Keedy Cup competition.

Federal judges Carol Los Mannmann, Damon Keith, and Stewart Dalzell '69, from left, question the Keedy Cup finalists.
Israel Sanchez '96, supervised by Leslie Smith of Ballard Spahr Andrews and Ingersoll, researched issues for a petition for certiorari in a case involving the proposed sterilization of a retarded woman. Other students counseled victims of domestic violence, appealed adverse social security disability benefit decisions, researched issues in death penalty cases, and worked on cases with local and federal agencies.

One particularly popular placement involves teaching law in area public schools. After several years of informal cooperation between the Public Service Program and Temple Law School's Law Education and Participation Project (LEAP), these two organizations formed a partnership to expand their work in the schools: the Philadelphia Urban Law Student Experience (PULSE). PULSE was awarded one of seven law-school-based Learn and Serve grants through the Higher Education Learn and Serve Program of President Clinton's Corporation for National and Community Service. The $137,000 grant enabled PULSE to hire a coordinator who places law students in the classrooms of interested teachers, where they develop and teach law-related lessons focused on conflict resolution, especially in the context of important social issues such as drugs, AIDS, violence, and free speech. "The grant permits Penn and Temple to serve both the Philadelphia public school teachers and students, while creating a valuable educational endeavor for law students who will use their legal training to reach inner city youth," said Dean Diver. PULSE initially expected to place 70 students from Penn and Temple; however, students were so eager to participate that the program sent 110 law students to classes from kindergarten through twelfth grade where they each taught 10 to 20 lessons.

Many participants in the Public Service Program pursue pro bono interests fostered at Penn after graduation. One Penn PULSE student, Adriana Katzew '95, was awarded a prestigious Echoing Green Post-Graduate Fellowship to continue her work with Latino children at Roberto Clemente Middle School.

Penn Law Hosts 6th Annual Public Service Fair

On Wednesday, January 11, 1995, the Law School's corridors were filled with eager students and informative practitioners attending the 6th Annual Public Service Fair. Representatives from more than 50 public service law-related organizations and pro bono firm committees participating in the Law School's Public Service Program staffed tables and described their work to scores of interested students. All Penn Law students have an opportunity to perform from 35 to 70 hours of work with these organizations in order to fulfill their public service requirement. Some upper-class students selected placements with organizations they learned about at the Fair, while first-year students pondered the choices that would be available to them in their second and third years of law school. In addition to informing Penn Law students about their public service options, the Fair has become a regular event in Philadelphia's public interest community, as leading practitioners mingle with each other and with Penn Law faculty and students.

Alumni Public Service Committee Formed

The newly formed Law Alumni Society Public Service Committee strives to promote the Public Service Program among alumni and in the legal community. Initiated by Jerome B. Apfel '54, the Committee includes representatives from the Penn Law Alumni Society Board of Managers as well as other alumni. The Committee is chaired by Michele K. Cabor '93, Stephen M. Goodman '65, and Lisa Washington '92. Committee members are Wilfredo A. Ferrer '90, Morris M. Shuster '54, Amy C. Goldstein '82, and Mr. Apfel.

Ms. Cabot, an associate at Wolf, Block, Schorr & Solis-Cohen who is active in pro bono work at her firm, is an avid supporter of the Public Service Program, which she says benefits both
students and alumni. Like many recent graduates, Ms. Cabot said that her Public Service participation, which she fulfilled in the Pennsylvania Attorney General’s Drug Prosecution Unit and the US Attorney’s Civil Division Health Care Fraud Unit, was her most positive Law School experience. Alumni involvement is particularly important, she said, because it fosters ties between alumni and the Law School. “Many students find that they have particularly valuable experiences when they work with alumni,” she said. “The experience is positive for alumni as well because they have the opportunity to reconnect with the Law School.” Ms. Cabot emphasized the Committee’s goal of “creating awareness about the Public Service Program through Penn alumni and their firms and recruiting directors, so that the Program becomes more important to students. The more important it is to alumni, the more important it will be to students,” she said. Support for the Program is especially vital today because of cuts in funding of public legal services.

“The Program works because it offers students a wide range of choices,” Ms. Cabot added, “such as the Guild Food Stamp Clinic, the Public Defender, organizations such as Philadelphia Volunteer Lawyers for the Arts, and pro bono work supervised by attorneys in law firms. It is important for students to see the great diversity of pro bono opportunities, and to realize how many practicing attorneys are committed to pro bono work. The Program helps students get started in a lifelong habit of public service.”

For additional information on how you can become involved in the Public Service Program, see page 58.

Administrative Update: New Assistant Deans Help Keep Penn at the Forefront of American Law Schools

Three new Assistant Deans have brought a renewed sense of energy and purpose to the offices of Admissions, Career Planning and Placement, and Development and Alumni Affairs. Drawing on years of academic administrative experience and sharing a commitment to Penn Law, these Deans have reassessed the workings of their offices and improved services to Penn Law applicants, students, and alumni. In recent conversations with the Journal, they described their objectives and their exciting plans for the future.

Attracting the Best to Penn

The Admissions Office serves the Law School by attracting the best possible students — a goal that Janice L. Austin, Assistant Dean of Admissions, has advanced through significant changes in admissions procedures and programs. One of her priorities since her arrival at Penn last July was to introduce new technology to the Admissions Office. For example, new software installed last November enables the office to keep track of applicants from the time they request application materials until an admissions decision is made. Applicants can be tracked by several parameters, including geographic region. Dean Austin believes that this software “may pave the way for on-line application and a different relationship with peer schools” to which Penn applicants have also applied. Having applicants apply to Penn via computer will significantly decrease the volume of two to three tons of paper that the Admissions Office currently handles annually, Dean Austin said.

Dean Austin is also working to improve the admissions office’s publications in order to “enhance and maintain” Penn’s national presence in the face of a contracting applicant pool and increased competition from “up and coming” law schools, such as Duke and the University of Virginia, that offer lower tuition. Nationally, law school applications have decreased, but Penn did not experience this trend last year, she observed. The number of women applicants has declined slightly, however, and “extra energy” may be directed to recruiting women. Dean Austin also noted that many applicants come from non-traditional backgrounds, and even recent college graduates are delaying law school in order to gain work experience and save money. Dean Austin said that she and Dean Diver will work together “to formulate a strategic plan to head off dramatic or even small changes in competition” for applicants.

Current students and alumni can play an increasingly important role in admissions. Dean Austin has worked with the Council of Student Representatives (CSR) to provide student outreach to applicants. From February through April, CSR led tours of the Law School and conducted weekly information sessions open to applicants, admitted candidates, or people who were thinking of applying to Penn. Visitors met with students and admissions staff and were taken to lunch in the Stern Dining Commons. CSR also conducted phonathons from January through March, ensuring that every admitted candidate was called at least once by a current student. An
Open House for admittees was held in conjunction with the Women in Judging conference on March 14. Ninety-nine admittees attended classes, panel discussions, and the conference, and CSR arranged for students to take the admittees to lunch in small groups.

Like students, alumni have been an underused resource in Law School admissions. Dean Austin would like to see increased alumni involvement in the admissions process; she has been working with Deans Shell and Verrier (see below) to reach this goal. There are plans to encourage alumni to meet with admittees, especially in regions far from Philadelphia, such as Florida, California and the Midwest. Outreach to admittees may be conducted in conjunction with alumni receptions in these regions. Next year, the first open house for admittees in New York will be held. Dean Austin also encourages alumni to participate in recruiting at major universities in their areas. Interested alumni may contact Dean Austin at (215) 898-9043.

Responding to a Changing Legal Job Market

A changing legal job market has mandated changes in the Office of Career Planning and Placement (CP&P), according to Assistant Dean Jo-Ann M. Verrier ’83, who applauded the CP&P staff for their willingness to "rethink all aspects of service" provided by the Office and their commitment to providing more personal service than at other law schools. Alumni are already familiar with changes in the market, such as lengthening partnership tracks, firm downsizing, and increasing competition for non-traditional jobs, such as law school teaching. Now, "the rules of the game are changing in the face of the students," Dean Verrier said. "Students must preserve their place in the job market." Rather than seeking simply to begin their careers after graduation, students want to start out at the "best résumé building firm," she observed. In response, CP&P is providing students with more discussion of the job market, beginning in the first year, in order to help them keep their employment options open. In addition to meeting with students individually, next year CP&P will meet with 1Ls in small groups of students who share similar career interests, such as government work, academia, public interest, or practicing in a particular geographic area. The goal of this approach is to "build communities so students can support each other in their job searches," Dean Verrier said.

Overall, Dean Verrier hopes to make Penn Law students "more sophisticated consumers of the [job] market and more sophisticated prospects for employers." Law firm representatives tell Dean Verrier that the best candidate is well-rounded, not just bright and academically successful. Rather, law students must have "people skills" enabling them to deal effectively with clients, opposing counsel, court personnel, and the countless others with whom a new lawyer will have contact, Dean Verrier said. Students who are informed and prepared for this reality will fare better in the search for employment.

In addition, Dean Verrier hopes to provide the "easiest, most customer-friendly recruiting system" for students. While on-campus recruiting is a large part of this effort, placing 67% of the class of ’96, Dean Verrier and her staff are also working to serve the needs of those students who do not find positions through this system.

Prior to joining CP&P, Dean Verrier was the Director of Alumni Affairs and Editor of the Penn Law Journal. Her background in alumni affairs has been an asset in her current position, she said, because she knows many alumni who provide Penn Law students with entree to law firms and other practice opportunities. Alumni can assist CP&P by participating in on-campus recruiting, submitting requests for student résumés, and providing listings of job opportunities for lateral hires. Interested alumni may contact Dean Verrier at (215) 898-7493.

Dean Verrier noted that there is enhanced communication and cooperation among the administrative offices at Penn under the leadership of the new
Assistant Deans. For example, all accepted students will receive a letter from Dean Verrier with their acceptances. In addition, C&P&P will work with the Admissions Office to promote employment opportunities for minority students. Joint activities of C&P&P and the Alumni Office include a breakfast for hiring partners in New York firms. These efforts will improve the experience of Penn Law students from the time they are accepted, throughout their Law School years, and beyond.

Defining the Role of Development and Alumni Affairs

The Office of Development and Alumni Affairs at Penn Law, as at other institutions in his experience, has traditionally been "shrouded in veils and mystery," observed Assistant Dean Martin W. Shell. Alumni and, to a greater extent, students have only a hazy notion of the Office’s role in Law School life. Dean Shell said that the Office serves multiple purposes. First, it provides "the vehicle alumni can use to keep in touch with each other and the institution." This goal is accomplished through the Journal and through alumni events such as receptions and reunions by which the Office communicates with alumni about important issues affecting the Law School. Second, the Office identifies sources of financial support for the Law School. This function is "important to our graduates and to current students," Dean Shell said, because "resources secured by the Office affect the cost of tuition, financial aid, and the quality of programs and resources including the physical plant and computers."

Dean Shell believes that the Office, which is currently located in International House, will become "more visible and relevant to current students" when it moves to Lewis Hall after that building’s renovation is completed in an estimated twelve to fifteen months. "A real strength of the Law School is access — people see the Dean, see the faculty, and there is a lot of impromptu interaction, which is extremely important," Dean Shell said. The Development Office “is responsible for communicating about and selling — in the best sense of the word — the Law School to the community. The Office needs to be close to its product.”

Dean Shell has joined the Law School at what he believes is a unique time for the institution as Dean Diver completes his first six years and the Campaign for Penn Law has drawn to a close. This “affords us the opportunity to take a step back and evaluate programs in the areas of alumni relations, communications, and fundraising to analyze what’s working well and identify what needs improvement,” he said. In this regard, the Office plans to conduct focus groups with alumni “to see if we are meeting alumni needs and if we’re responding appropriately.” It is especially important to “make the Law School relevant to all our graduates, including non-traditional alumni” who are not in private practice, Dean Shell said.

“As we approach the end of the century, the sesquicentennial of the Law School, and the centennial of Lewis Hall, which, like Tanenbaum Hall, was one of if not the finest physical facility of any law school in its day, we should revel in the successes of Penn Law and look forward to its continued future as one of the premier law schools in the country.”

In sum, the goal of the Office is to communicate and “inspire people to invest in the vision of Penn Law,” Dean Shell said. He noted that there are many ways to contribute to the Law School other than through large financial gifts. The Office wants "to provide other opportunities to invest" in Penn. Recent alumni are encouraged to begin giving small amounts, and the Office hopes to ensure that alumni “feel their money is well used to make the Law School a better place. The future of the Law School depends on them.” Dean Shell may be contacted at (215) 898-7489.
Edward S.G. Dennis, Jr. '73, a partner at Morgan, Lewis and Bockius and a former Assistant Attorney General in the United States Department of Justice Criminal Division, addressed this year's graduating class at commencement exercises on May 22. The following are excerpts from his speech, "Optimism and the Quality of Life at the Bar."

You, the Class of 1995, in some respect inhabit a different world than that of my generation. We entered the profession at a different time. Our view of the profession is influenced by an experience that in some ways it may be helpful you do not have, because it means you bring a fresh perspective to problems of our society and our world. But the quality of your lives in the profession and the satisfaction that awaits you in your pursuits must be cultivated from within. Lawyers often find themselves caught in the unrealistic expectations of a client while struggling to balance the demands of a profession that often promises much more than it delivers.

From the expanse of history that I have witnessed while in the profession, and even before going to law school, it is the issue of race in American Society and its gradual receding from the conscience and consciousness of the profession that is for me the most troubling change in the profession. The remembrance of the heroic and courageous contributions of lawyers, judges and government officials to do simple justice in this area is a legacy that the profession desperately needs to preserve. Although many of the cutting-edge racial issues are moving to the political and economic arena, the profession has a compelling interest in telling the story so that each generation of new lawyers will have a sense of perspective as to the core values that the profession should stand for.

The glaring disparities that continue to characterize the gulf between black and white America and the scars that our society carries with it to this day have repercussions for us all. Old wounds that were healing are seemingly reopened as we struggle with the legacy of our history as a society divided by race. The popular view that the advancement of some is at the expense of others more deserving is an unyielding logic that only those with great optimism would even attempt to resolve. But maybe that person or those people with the necessary optimism are in the Class of 1995.

We have come too far and made too many sacrifices in strengthening human relations in our country to undo the progress that has been so painfully achieved at such great cost to so many. If we are ever to achieve a color-blind society, it will never be through ethnic and racial polarization based on the premise that society can only afford to feed so many, educate so many, employ so many, accommodate a decent quality of life for so many, or that one person's gain is necessarily another person's loss. . . . [O]ur nation must be committed to encouraging and indeed demanding the best and the most constructive contribution from each of us, no matter what our color, no matter what our economic circumstances, no matter what our family name.

I fear that we are shaping a vision of a future America based on the proposition that all men are created equal but that social justice is too expensive; a nation based on the ideal that government has no higher calling than to be a spectator in the battle of the survival of the fittest. America is at a crossroads and is leaning in the direction of a wide and expedientious way where the problems of the present are not responsibly addressed but left as snare for the next generation. I hope that America will not choose that course. I hope that America will plunge into the thicket and into the thornbush and wrestle these problems honestly into submission, that she might truly earn the title of peacemaker among peoples of the world and be able to speak with some authority in the capitals of the world concerning the common heritage of all mankind.
In an extraordinary conference on "Women in Judging: Transforming the Image of Justice," the Law School and the Annenberg Public Policy Center brought together Justices Sandra Day O'Connor and Ruth Bader Ginsburg of the United States Supreme Court along with seven Law School alumnae currently on the bench to discuss how women judge.

Held on March 14, the conference included Linda Bernstein '74, Phyllis A. Kravitch '43, Frederica Massiah-Jackson '74, Sue Lewis Robinson '78, Norma Levy Shapiro '51, Carolyn Engel Temin '58, and Helene Nita White '78, all currently serving as federal, state or administrative law judges. Professors Barbara Bennett Woodhouse and Susan P. Sturm organized the conference and served as moderators.

All nine women agreed that women are valuable members of the judiciary. When asked how women contribute to the profession, the panel revealed through a wide range of observations and anecdotes that there is no simple answer. The question of whether women are especially qualified to be judges because of their gender or the multiplicity of their roles in society was ducked neatly by nearly all the panelists. As fellow alumna Carrie Menkel-Meadow '74, a law professor at UCLA, observed in her closing remarks, some members of the panel may feel that there is some truth in that controversial claim, but are too judicious to say so in public.
They had on one stage "every single woman to serve on the Supreme Court in its 206-year history."

Hon. Sue Lewis Robinson '78

After serving as a United States Magistrate Judge for almost four years, Judge Robinson was appointed to the District Court for Delaware in 1991. Asked to describe her docket, she acknowledges that as a federal judge in Delaware, she has a smaller, more specialized case load. "When you think of Delaware... if you ever think of Delaware... you may think of patent cases." Before being a judge, Robinson was an Assistant US Attorney, and before that was in private practice.

The panelists and guests were welcomed by Penn President Judith Rodin, who reflected, "I don't know whether we will eventually conclude that women exercise and represent authority in ways that are fundamentally different from men." But if it proves to be true, she predicts "profound changes in the image of justice" in the years ahead, as we turn to women judges for "insights and compassion, new ideas and new perspectives, for role models and new models of roles."

The theme of women's roles in society was echoed by Kathleen Hall Jamieson, Dean of the Annenberg School for Communication. She explained that the conference was part of a year-long series on women's roles and experiences, noting that it was Justice Ginsburg who remarked that "women come into the public arena in tokens of one." Dean Colin S. Diver expressed the Law School's pride in the seven alumnae who "have done us proud... representing the Law School with distinction." Diver also pointed out that they had on one stage "every single woman to serve on the Supreme Court in its 206-year history."

Justice O'Connor opened the Conference by saying that when she is asked whether it makes a difference to have women judges and whether justice dispensed by women is somehow different from that we would expect from men, she remembers her own experience in Arizona. "It mattered a lot to me that a woman — Justice Lorna Lockwood — served on that state's highest court and that she showed an interest in women in the profession." This was at a time, the 1950s, O'Connor reminded the audience, when women on the bench were automatically assigned to Juvenile or Family Court.

"It is my intuition and my experience that having women on the bench is extremely important," she said. O'Connor feels that the self-perception of women is changed by seeing the examples of women serving as judges. "Breaking through the stereotypes [of women in the legal profession] requires role models." Having women serving on the same court with you is also an important source of support and guidance. Those panelists who blazed the trail for others noted the difficulties of being the first woman; the other panelists all expressed their gratitude to the trailblazers on the panel, most notably Justices O'Connor and Ginsburg.
For those women who were unable to follow in the footsteps of other women already on the court, learning the craft of being a judge was that much more difficult. Some, like Judge Kravitch, went to judicial college in Reno, Nevada. Others, like Justice O'Connor and Judge Shapiro, watched a colleague. However, Shapiro had trouble getting a colleague to show her the ropes; only one was willing to allow her to sit in on his courtroom. O'Connor said that as a state supreme court justice, she was lacking federal experience. In addition, the Supreme Court has several "very old traditions." She told the audience that the first time she voted to dissent, the senior justice on the dissenting side asked her to write the dissent. She demurred, saying that she would wait until she read the majority opinion. It was then that she learned that a "request" to write something on the Supreme Court is "an offer you can't refuse."

The panelists were asked to suggest strategies for women interested in judging. There was agreement that there is no one path, and that the paths to the bench have changed in the last fifteen years. However, some suggestions mentioned by the panelists include public service, legislative or political involvement, and trial experience. There was some acknowledgement that it may be easier to be elected to the bench than appointed in some jurisdictions, since half the electorate is female and since some voters may make the assumption that women are fairer and would make better judges.

Regardless of how one structures her career, however, the panel agreed that there was more to consider than just pursuing the goal. Judge White, for example, stressed the value of self-knowledge. "Find out what you want to do and do it well. There are lots of paths [to judging] to take and none of them are going to work if you're not dedicated to your own particular path. Know yourself well enough to know that you are doing what you want to do and doing it as best you can."

Hon. Phyllis A. Kravitch '43

Appointed to the Eleventh Circuit Court of Appeals in 1979, Judge Kravitch was the third woman to serve on a federal circuit bench and the first woman elevated to a federal bench in the Southeast. This distinction was not the first for Kravitch, who worked as a trial attorney in Savannah, Georgia at a time when there were no women judges, no women jurors, and few women lawyers. In 1975, she was elected the first woman president of the Savannah Bar Association and in 1976 she was the first woman elected Superior Court Judge in Georgia. Prior to her appointment to the federal bench, she worked in many ways to improve the lives of women, children and families in Savannah.

Hon. Linda M. Bernstein '72

After practicing law with Community Legal Services for nine years, Judge Bernstein was appointed an administrative law judge (ALJ) in the Social Security Administration in 1982. For the last seven years, she has been the Hearing Office Chief Judge. She describes social security cases as non-adversarial and closed to the public, allowing the ALJ to influence the tone and setting. Unlike conventional litigation, Bernstein notes, there will often be disability cases where everyone involved — the litigant, her attorney, the expert witnesses, and the judge — will be female.

Hon. Frederica A. Massiah-Jackson '74

"The better background that we have, the better knowledge that we have of a variety of people — the desperate, the poor, as well as those at the top — the better judges we will be."
For fourteen years after being appointed to the District Court for Eastern Pennsylvania in 1978, Judge Shapiro was the only woman on that court. "It was my greatest pleasure to be joined by another woman in 1992 and by another last year," she notes. Shapiro was also the first woman appointed to the Third Circuit. Prior to her appointment to the bench, she was a partner in the Philadelphia law firm of Dechert, Price & Rhoads, where she says she had a specialized litigation practice in securities law. "I was very good at settling cases, so I didn't get into court that often." She cites the National Association of Women Judges as helping her to survive her transition to judging. "I was painfully aware [in those first few years] that I didn't meet my own standards. At NAJW conferences, she says, she got to hear from other women judges with the same problems.

Elected to the Philadelphia Court of Common Pleas in 1983, Judge Massiah-Jackson currently serves on the civil side, hearing medical malpractice, tort liability and complex product liability cases. Because Philadelphia is such a large city, Massiah-Jackson describes hers as a "hustling, bustling court." Outside the courtroom, she serves on the Foundation Board of the Philadelphia Heart Institute, the Board of Trustees of Pennsylvania College of Podiatric Medicine, the Board of the National Catholic Educational Association, and the Temple University Law-Related Education Advisory Board. She also lectures at the Wharton School.

Judge Massiah-Jackson observed, "Whether elected or appointed, those looking for judges are looking for well-rounded individuals, not [candidates with only] one or two dimensions." She added that awareness of public issues is important. "We're dealing with people. The better background that we have, the better knowledge that we have of a variety of people — the desperate, the poor, as well as those at the top — the better judges we will be."

Among the dimensions that women judges can have are as wives and mothers. The panel was asked how those multiple roles made a difference in the performance of their judicial duties. Justice O'Connor reflected that it has always impressed her, as a wife and mother, that "a part-time cook, janitor, and chauffeur can rise to high public office." Judge Temin said that she feels "a full life outside the bench adds a great deal to the maturity, experience and depth that you're able to bring to the bench."

Asked about presiding over criminal cases, Judge Shapiro said, "Being a mother is a good preparation for being a judge of criminals: you get comfortable asserting authority." Judge Robinson agreed, but admitted that when she is faced with a criminal, she feels compassion and wonders what that defendant's mother is feeling. "It doesn't mean I don't send them to jail and it doesn't mean I don't give them the maximum sentence," she assured the group.
Justice O’Connor supplied an example of the practical application of mothering to the task of judging. She told the audience about a time she had volunteered to hear overflow divorce cases in Arizona. She had one case in which the husband and wife were greyhound trainers and had to split up the dogs. The attorneys began to present copious information about each dog’s worth and abilities, and O’Connor could see that she was about to learn more about those dogs than she cared to. So, having sons who would fight over whose portion was bigger, she took the lawyers into chambers and instructed one to divide the dogs into two groups, and the other to select the group that his client wanted. Within 45 minutes, she said, they had a settlement.

The tough questions came at the end of the day: Do women’s experiences make them especially qualified to be judges, perhaps because of their other roles, or perhaps because they think about the issues differently? This struck many panelists as dangerously close to the old Victorian notions of women being unsuited to the legal profession because they weren’t analytical enough and were too kind-hearted. Justice Ginsburg referred back to her experience as a law professor as well as on the bench. “I have detected no reliable indication of distinctly male or surely female thinking,” she stated.

While women might be more sensitive to gender bias issues, the judges noted, their own gender wouldn’t make them unable to be impartial in gender bias cases. As Justice Ginsburg pointed out, it would be absurd to say a woman judge would be biased on a Title VII case, since “all judges are of one sex or the other.” What you want to do as a judge, she noted, is “bring to the enterprise the full richness of humanity.”

Judge Massiah-Jackson concurred. “If we answer and say yes, there is a difference [to how women judge gender-related matters], then you let yourself open to saying a black judge would rule differently, a physically challenged judge, judges of different religions, and so forth. All of us have to be fair, impartial, unbiased, unprejudiced. For us to respond backs us into a corner when we know that we have to decide each case based on the facts.”

As Judge Temin noted, “Diversity, including gender, affects the institution of the bench, but doesn’t affect impartiality, which is the goal of all judges.”

Judge Shapiro added, “I have a right to be a judge. I have a duty and a responsibility to do the very best I can. That’s the obligation of men [on the bench] as well.”

In the course of the discussion, possible ways were mentioned in which women judges can change the landscape of the judiciary and the legal profession: as highly visible tokens, as part of the fabric of the judiciary, as providing a unique perspective, as providing a sensitivity to women’s issues, and as a different voice. If all those roles can be imagined performed by impartial, unbiased, fair judges, that would be the enduring image of this conference. Women judges are both women and judges, but neither role excludes or diminishes the other.

Diversity, including gender, affects the institution of the bench, but doesn’t affect impartiality, which is the goal of all judges.”
After serving as an Assistant District Attorney in Philadelphia and practicing family law privately, Judge Temin was elected to the Philadelphia Court of Common Pleas in 1984, and retained for a second term in 1994. She currently serves as the Homicide Calendar Judge, scheduling the entire Homicide Docket for the court. She notes that there are currently 19 women judges out of 95 in the Court of Common Pleas; there were only eight women on the bench in 1984. Temin is also the Education Chairman of the Court's Trial Division and organizes the special new judges' orientation program, among other educational programs.

PULSE Student Essay Contest

At the suggestion of Professor Barbara Bennett Woodhouse, the PULSE project, which places Penn and Temple law students in public school classrooms in Philadelphia, sponsored an essay contest on “Women in Judging.” Winners were selected from elementary, middle and high school entrants. The young winners received a certificate from Justices Sandra Day O'Connor and Ruth Bader Ginsburg and an award of $100. Professor Woodhouse quoted the winning essays in her presentation at the conference.

The essayists' comments raised some of the very issues addressed by the judges: Do women bring a unique perspective to the bench? Does being a woman affect one's decisionmaking? Some students believed that women do have a special point of view that is particularly relevant in cases that affect men and women differently, such as abortion. Maribeth Hohenstein, a seventh grader at St. Christopher's, wrote, “It might help if we had more female judges on the Supreme Court because in such cases as abortion they’d have a different insight. Also, it doesn’t seem fair for a man to decide what a woman can or cannot do with her body… [H]aving women make this decision only seems fair.” Others asserted that women are especially well suited to judging because of their roles in society and family life. “Women were judges all their lives. Not just in the legal field but in our society as well. They judge their husband’s lives, children’s lives and other people’s lives,” wrote Ashanti Prentice, a junior at Furness High School. This idea was echoed by fourth grader Ariel Hayes of Meyer Elementary School: “When there is an argument at home who gives the punishment? Who says what's fair? Mom… Moms are probably the most experienced judges in the whole wide world, because they must judge between so many things in a day!” Principles of equal representation were also invoked in supporting a need for women judges. “Why is it important to have women judges? Judges interpret laws, and I think that the people who have to live by these laws should be represented in equal proportion,” wrote Michelle Tolbert, a third-grader at Greenfield Elementary School.
Docket

Lani Guinier Takes Law School to Task as ‘Hostile’ to Women

Study Says Penn Men Score Higher Than Equally Qualified Female Students

By Dale Russakoff
Washington Post Staff Writer *

When President Clinton gave Lani Guinier the boot in 1993, her colleagues at the University of Pennsylvania Law School gave her bouquets. Dubbed “Quota Queen” in Washington for her unorthodox view of voting rights, here Guinier was crowned the “Misquoted Queen,” an adventurous scholar whom politicians just didn’t understand.

Eighteen months later, Guinier again faces controversy, triggered by the publication this week of another law review article. This one concerns institutional sexism, not racism, and her laboratory for exploring it is none other than Penn Law School itself, where, said one professor, “it would be fair to say that a number of her colleagues are furious.”

Here, however, the fury has stopped short of the fever pitch reached in Washington. This is partly because law faculties, unlike politicians, have much to lose from screaming matches, and partly because Guinier has some powerful data on her side. A recent national study found the same pattern at law schools generally that she uncovered at Penn: Women who entered with credentials equal to men on average received grades inferior to those men.

“Some people think I’m trying to incite a riot, but that’s not what I’m doing,” Guinier said in an interview here, with a certainty akin to her demeanor after Clinton pulled her nomination as assistant attorney general for civil rights. “I’m trying to speak truth to power and to use the fact that I have a voice to speak on behalf of those who may not, or may feel their voice is silenced.” Her article, titled “Becoming Gentlemen: Women’s Experiences at One Ivy League Law School,” to be published in the University of Pennsylvania Law Review, reports that men in the Penn law classes of 1990 and 1991 were three times as likely as women to be in the top 10 percent of the class by the end of the first year — and twice as likely by graduation — although there was no significant difference in the men’s and women’s entrance credentials.

Writing with four coauthors, including social psychologist Michelle Fine, an expert witness in recent court
cases on institutional bias, Guinier attributes the disparity to a pervasive male culture at Penn and other elite law schools that she says damages female students' self-esteem and ability to compete.

The sweeping tone of the article, with its scorching critique of Penn as "a hostile learning environment for a disproportionate number of its female students," has disturbed even some of Guinier's allies here.

"Lani is very good at pushing people's hot buttons," said Colin Diver, Dean of the Law School. "She has such a wonderfully soft-spoken style in the flesh that you sort of marvel at how she can go out and provoke people the way she does. She's somebody who says, 'Look, I'm seeing what I see and I'm calling it as I see it.'"

This time, however, Guinier is finding support in a soon-to-be-published study of 6,000 male and female students at 90 law schools by the Law School Admission Council, which administers and develops the Law School Admission Test (LSAT). The study found a similar pattern of men outperforming women who entered law school with the same LSAT scores and undergraduate grades, according to Linda Wightman, who directed the study.

In both Guinier's and Wightman's studies, men outperform women with comparable entrance credentials by the equivalent of one grade in one of eight courses in the first year. Given a male student with seven B's and one A, an equally qualified woman emerges with eight B's.

The gender gap is small, but because it appears consistently across law schools, and because a one-grade shortfall is enough to keep a student out of the top 10 percent of the class at many law schools, it could result in large disadvantages for women in the profession, according to Diver.

"As somebody involved in trying to hire faculty in recent years, I have been puzzled by what seemed to me to be a real underrepresentation of women in the very top tier of the job market," Diver said. The top is determined largely by law school performance, he said. "We look at grades, we look at whether you went to a very good law school, whether you had a clerkship with a fancy federal judge. There weren't as many women in that part of the market as I would have expected, given their numbers in law school."

Diver said he cooperated with Guinier's study, giving her confidential data on student admissions credentials and grades, because he wanted to get to the bottom of the disparity. After reviewing her findings, he said, he recruited a professor of statistics from Penn's Wharton School to lead an in-depth investigation of law school performance at Penn.

Among other issues, the study will look at whether differences are more prominent in classes taught using the Socratic method, in which a professor calls on students, usually without advance warning, and challenges them in front of their peers to apply legal principles to specific problems. Male as well as female law students interviewed at Penn this month said they found the format intimidating.

Guinier and her coauthors assert that the Socratic method, as practiced by some professors, encourages a sort of "ritualized combat" among students.

The fight comes more naturally to men, they write, forcing many women to become "social males," assuming cultural traits of men, submerging their "former selves" to succeed. Those who chose not to do this often suffered a loss of self-esteem, the article says, making it harder for them to succeed.

The model lawyer molded at Penn and other law schools, a footnote states, "demonstrates characteristics traditionally associated with maleness: aggression, willingness to fight, emotional detachment and exaggerated bravado."

Men and women interviewed randomly at the Law School said they believe legal training forces students regardless of sex to change from "whole people" to lawyers.

"My girlfriend took off after me after I'd been here a month," said a man in his second year. "She said I'm becoming too logical. I don't look at anything with emotion anymore. That's part of what people so dislike about the profession."

A number of studies going back more than a decade have reported that men respond more readily than women to the culture of law school and participate more frequently in class, and some have suggested changes in the format. But Guinier's and Wightman's studies are apparently the first to look at gender differences in law school performance.

Guinier herself recalled feeling inhibited in classes at Yale Law School in the 1970's. Recently, she said, a former professor of hers remarked: "Lani, you've really blossomed since law school! I thought of you as so quiet."

New York Law School professor Bert Newborne said he has noticed that women are not equally represented on NYU's law review or among those receiving top honors. He rejected Guinier's theory of a hostile atmosphere, but recalled going out of his way to encourage women to speak in one of his courses, which he said unnerved many of the men.

"I actually kept a journal on how long women and men spoke because I was interested in this, and at the end
“I’m trying to speak truth to power and to use the fact that I have a voice to speak on behalf of those who may not, or may feel their voice is silenced.”

of the year, women had spoken about 40 to 45 percent of the time,” he said. “The fascinating thing was that when I asked the men, they said the class was so dominated by women it was completely unfair. They thought women were speaking about 80 percent of the time.”

The call for a change in the teaching format is hardly universal among women in law. Said Susan Estrich, a law professor at the University of Southern California who was the first female editor in chief of the Harvard Law Review and a Harvard law professor for 10 years: “The intellectual challenge of a large-classroom first-year course is not inherently male or female. I think the argument that it is certainly is not part of any brand of feminism that I feel comfortable with.”

Guinier’s data show that a Penn law student’s performance was more closely correlated with his or her sex than with traditional predictors such as board scores or undergraduate grades. Similarly, whites outperformed equally qualified minorities, but Guinier said the minority pool was not large enough for further statistical analysis.

Her data also indicate that the male advantage in the first year narrowed or disappeared in the second and third years in the classes she followed. However, the gap that opened in the first year was large enough that at graduation, women still lagged behind men. Diver said this may show that women and men have slightly different learning curves in law school but ultimately reach parity. Guinier said that women should not have to pay a price in class rank if this is true.

Diver, who was interviewed jointly with Guinier, said he considered her article “a piece of advocacy” that did not make a sufficient case for major institutional change. But he said Penn takes her findings seriously and is moving positively to address them.

The coolheaded response here provided a striking contrast with the rage and name-calling that Guinier faced in Washington for her attacks on voting rights enforcement, which were similarly scorching.

For two hours, Guinier and Diver answered questions and occasionally sparred over whether her conclusions were justified, sometimes swallowing hard at each other’s statements. But they never allowed their differences to interrupt a collegial, lawyerly — yes, gentlemanly — casiness between them.

At one point, Guinier chided Diver for his choice when he said he found her hard data on student grades persuasive, but was not convinced by her soft data on the attitudes of female students at Penn.

“Those are....,” she began.

“Gendered words,” Diver suggested collegially.

“They could be,” said a lawyerly Guinier.
MEET THE NEW

Editors-in-Chief

David Elchoness '96, editor-in-chief of the Journal of International Business Law (JIBL), views JIBL as an integral part of an international community that he would like to see established at the Law School. Through JIBL, David plans to "initiate a dialogue with international law practitioners [including] alumni." One aspect of this initiative is increased involvement from the LLM program. While working on his comment as an associate editor, David realized that Penn's international LLM students are an untapped resource in international law. These foreign practitioners, who David thinks would like to have more contact with Penn's American JD students, might suggest comment topics, provide research guidance, or participate in panel discussions on international law, he said. Participation by LLM students would enhance the JIBL experience for associate editors, who may face difficulty in identifying comment topics and conducting international research, while affording LLM students a chance to be more involved in Law School activities.

David also invites alumni to subscribe and contribute to JIBL. "Nothing would make us happier than to receive more submissions from alumni," he said. Both academicians and practitioners are encouraged to submit articles. Those who subscribe will find articles on "cutting edge international business issues" and top-notch quality. David would like alumni to know that JIBL covers a "broad spectrum of topics — it's not as narrow as it may sound." Recent topics include international tax, illicit trade in art and artifacts, the Russian securities market, and business and organizational science. David said that subscriptions provide a "two-way benefit: JIBL gets a subscription, and alumni keep in touch with Penn."

Like other inhabitants of Tanenbaum Hall, David and the JIBL staff are enjoying their quarters, which are more spacious and pleasant than JIBL's former office in the basement of Lewis Hall. "The people who designed Tanenbaum Hall did a great job with the Journal office," David said. Proximity to the Law Review and Comparative Labor Law Journal offices fosters exchange among the staffs of these publications, David said. He also noted that JIBL's computer system permits in-house conversion "from WordPerfect to camera-ready," while the availability of E-mail facilitates communication with authors.

A 1993 graduate of Rutgers with a BS in finance and a minor in philosophy, David chose Penn Law because, in addition to its outstanding reputation, it offers smaller class size and a less competitive environment than peer schools. David will be a summer associate in the San Francisco headquarters of Littler Mendelson, Fastiff, Tichy & Matthaison, which he described as the largest firm exclusively devoted to labor and employment law in the country.

Cathy Barbieri '96, editor-in-chief of the Comparative Labor Law Journal, was drawn to the publication by her interest in writing and journalism. In her new position, she plans to continue her involvement in writing, editing, and production, as well as handling the administrative duties of editor-in-chief.
She also emphasized that the entire editorial board will be involved in decisionmaking.

The Labor Journal "has had a lot of continuity," Cathy said, under the guidance of Professors Janice Bellace and Clyde Summers. The Journal receives a steady stream of foreign submissions, which require editors to be sensitive to the nuances of the authors' expression, she said. The Journal will continue to reflect changes in labor law, including an issue devoted to NAFTA that is planned for next year.

Now that labor law is no longer a mandatory first-year course, Cathy said that the Journal will "try to spark an interest in labor law" among 1Ls. For example, she will make "compelling arguments" encouraging involvement with the Journal when she and the other editors-in-chief hold a panel discussion for interested 1Ls. In addition, the comparative labor law seminar that accompanies Journal participation will have to be revised, she said, "to provide more background that 1Ls will lack."

In addition to her Journal duties, Cathy participates in a variety of other activities at the Law School. She was co-chair of the Women's Law Group in 1994-95. As a 1L, she served on the committee designated to handle student complaints of racial or sexual harassment and was pleased to note that the committee did not receive any complaints. She has also participated in public interest activities, including research for the AIDS Law Project. Currently she is working with attorney Judy Berkman to examine domestic violence issues for the Pennsylvania Bar Association Task Force on Gender Bias in the Courts. She has determined that more victim assistance funding is needed in this area.

A native Philadelphian who holds a BA in English from the University of Delaware, Cathy will be a summer associate at Fox Rothschild this summer. She plans to stay in the Philadelphia area and may pursue a career in labor law.

KATHI KELLY '96, editor-in-chief of the Law Review, chose Penn Law because it seemed to be "less hierarchical and less competitive than other schools" — characteristics that Kathi valued because, as an electrical engineer for GE with an interest in business management, she had learned that "people perform better in a less competitive environment." As editor-in-chief, she emphasizes that "the new editorial board is working as a team to evaluate the way Law Review worked last year" in order to keep what worked and to improve what did not. In addition, she reports that women are well represented on the 1995-96 Law Review staff. Seven of sixteen board members, or 44%, are women, compared with 38% of the class of '96. Eighteen of forty-four new associate editors, or 41%, are women.

Law Review alumni would be impressed by the Review's offices in Tanenbaum Hall. Kathi notes that the space was specifically designed for Law Review and is much less crowded than the previously occupied office in Lewis Hall. The computer system has also been upgraded, and this year an experimental system for retrieving journal articles will be implemented.

Upcoming Law Review plans include a symposium on Law, Economics and Norms, Kathi said. This interdisciplinary subject involves the work of legal scholars to combine the empirical investigation techniques of social scientists with the formal modeling techniques of economists in order to study the interaction of law and norms.

Alumni can support the Law Review by subscribing, Kathi said. Subscriptions are available for $38.00 per year. For further information, please contact Deborah Showell, Office Manager, at (215) 898-7060 or write to the University of Pennsylvania Law Review, 3400 Chestnut Street, Philadelphia, PA 19104-6204.

Kathi earned a BSEE at Binghamton University and an MSEE at Syracuse University, graduating in 1992. She worked for GE as an undergraduate, participating in the company's Edison Engineering Program, which she described as a management program for engineers. Although she considered pursuing an MBA, she chose law school instead because she believes that the skills learned in law school will better serve her professional goals of integrating "business, law and technology, for example, by negotiating contracts involving technology, possibly in an international context." Kathi will be a summer associate at Howrey & Simon and at Dorsey & Whitney in Washington, DC this summer. After graduation, she will clerk for the Hon. Alvin A. Schall of the US Court of Appeals for the Federal Circuit.
DISQUIET ON THE EASTERN FRONT: LIBERAL AGENDAS, DOMESTIC LEGAL ORDERS AND THE ROLE OF INTERNATIONAL LAW AFTER THE COLD WAR AND AMID RESURGENT CULTURAL IDENTITIES

by Jacques deLisle

What role will international law play in a world reshaped by the collapse of the Soviet bloc and the rise of ethnic and religious nationalism? Professor Jacques deLisle considers this question in the following article. Drawing on examples from China, Singapore and Malaysia, Professor deLisle observes that changes in the world order have created a crisis in international law, presenting opportunities as well as dangers. He concludes that as international alignments shift and intranational schisms deepen, international law may play an important role in promoting liberal values within nations.

On the eve of the twenty-first century, a fin-de-siècle unease pervades assessments of the future roles of international law. The recent past seems a poor guide to what promises, or threatens, to be an era posing unfamiliar transnational problems and calling for innovative legal solutions. Two developments have struck at the foundations of contemporary international law. One is the collapse of the Soviet Union and global retreat of communist ideology. The other is the resurgence of ethnicity, religion and culture as principal bases of identity and foci of conflicts with international significance. These developments have rendered suspect the underlying premises of much received wisdom on both sides of the debate about whether international law plays, or would come to play, a major or a marginal role in world affairs.

The result is a crisis in international law and in thought about the nature and importance of international law. It is a crisis in the Chinese sense — a conjunction of danger and opportunity. This concept of crisis is apt, for the dangers and opportunities of the era come in large part from events in the East (not least from the Chinese world) and from the choices the West faces in responding to them.

The full text of this article may be found at 18 Fordham Int’l L.J. 1723 (1995), from which it is reprinted with permission. (Citations omitted)
Strong claims, both explicit and implicit, that culture, religion or ethnicity define the proper boundaries of a sovereign state, and the appropriate content of its legal rules, are rampant. On the battlefields of the former Yugoslavia, in the latter-day Confucian pronouncements of Singapore’s Lee Kuan Yew, and in the proliferating struggles over the place of Islam in society and government throughout much of Asia, there emerges a broad challenge to the relevance of an international legal order that does not take as a central concern cultural differences among and within nations, and the substantive and substantial diversity in approaches to domestic and international law and politics that such differences entail.

The culturalist challenge to international law as we enter the twenty-first century is qualitatively different from seemingly similar past challenges, and more at odds with the principles of the existing order, in two ways. First, contemporary assaults on the integrity of many nation-states and on the character of their internal political and legal orders are not simply Balkanizing; they are often supranational, cutting across international boundaries and binding together dissident or nationalist groups in several states. Pandemonium looms, but the fragments also threaten to coalesce into broader clashes of civilizations. Thus, Islam not only defines the fault lines between secular central governments and their religious revivalist local opponents in China, in Malaysia, and in nations much nearer the heart of the Muslim world and as far west as Bosnia. It also joins some of these groups together in a shared project that numbers among its aims a return to the substantive legal and governmental principles of Islam.

Second, culturalist challenges to international legal norms, particularly in the area of human rights, have grown more aggressive and self-confident. Thus, there is little tone of excuse, request for temporary indulgence, or even much interest in dialogue to be found in Lee Kuan Yew’s exegeses on the superiority of an Eastern way in law and politics that stresses order and community over rights and extreme individualism. The same can be said of China’s post-Tiananmen assertion of its own great human rights achievements and criticism of Western nations’ shortcomings, and its longer-standing dismissal of human rights as a “bourgeois” concept and mere pretext for Western interference in China’s internal affairs, and of several governments’ united insistence upon a valid, distinctively Asian interpretation of human rights in the face of the 1993 Vienna international conference on universal human rights.

Furthermore, the regimes urging alternative concepts of purportedly universal legal norms increasingly meet the formal and procedural requisites of democracy, thereby weakening potential criticisms that invoke liberal international law principles. At least absent the unlikely and disquieting advent of superstates organized along cultural or civilizational lines, irrelevance or perversion of consequences seems to lie ahead for any approach to international law that fails to take such richly substantive and strikingly transnational developments as something much more than peripheral issues in a game among coherent, unitary actors, essentially undifferentiated except in their levels of power.

The crumbling of Soviet power and the retreat of communist ideology inside and beyond the former Soviet empire are central elements in another challenge to the existing order in international law and politics. Shaken, indeed shattered, are a bipolar structure and a polarizing ideology which together made the nation-state the central institutional focus and marginalized concern with differences in legal and political regimes among and within nations, except for those differences immediately relevant to the Manichean struggle between communism and liberal democracy. It has become less plausible to conceive of international law and politics in either of two familiar ways: (1) as a global order, anchored by two superpowers, in which two types of states, although very different internally, can play by shared and neutral, albeit sparse, rules, even as they take sides in other countries’ civil conflicts (conceived of as conflicts over which “side” such ultimately unitary states will join); or (2) as a partial order among the nations of the West and some of their ex-colonies in which the United States, as hegemon, provides and enforces more elaborate, more law-like rules of international interaction within a more limited community. Exposed and perhaps encouraged by the decline of such analytical frameworks and the patterns of behavior they explained and endorsed is a world in which states are more seriously fragmented internally, with many groups embracing radically divergent ideas about domestic and international law, and sharing common goals with like-minded groups in other countries.

We now seem to face a more volatile combination of deeper and more varied intranational schisms between groups and potentially stronger international links among them. Cold War
organizational and ideological structures are no longer available to suppress, channel, or at least mask, primordial or nascent cleavages in seemingly countless states, old and new. In Eastern Europe and the former Soviet Union, in reform-era China, and in the rapidly developing nations of East Asia, the network of transnational economic ties has expanded rapidly to encompass, and to penetrate more deeply, areas that are more thoroughly non-Western in their legal and political cultures and less fully market-oriented in their laws, policies and practices. Moreover, with new legal tolerance and new technology, a diverse transnational flow of ideas has rapidly come to supplement, and sometimes threaten, ties based on business relations or on links among narrow elites. Thus, Chinese leaders determined to rein in perceived excesses of reform face not merely the risk that hard-won, modest advances toward rule by law may wither, but also the prospect of stinging trade sanctions under American law and costly US-backed delays in joining world trade bodies. Domestically, they face an unprecedentedly Westernized and outward-looking group of dissidents and critics who are sophisticated about, and insist upon, domestic law reform and adherence to international legal norms.

Similarly, a Malaysian political leadership that turns away from Malay-Muslim nationalism and economic planning to reaffirm a secular legal order, the virtues of English education for access to knowledge from the West, and the benefits of pro-market laws and policies confronts newly radical challenges from movements that seek to enact Islamic law as state legislation or that threaten to become a diffuse state within the nation, beyond the reach of sovereign power. The regime, correctly or not, sees conspiracies that cross national boundaries and a rising international tide of Islamic fundamentalism behind its troubles, and it feels compelled to prove its own Islamic bona fides even as it cracks down on religious radicals. In such a world, a perspective that sees a prime virtue in rules that are simple, uniform and international (in the sense of being rules for and among nation-states) does not portend a central and leading role for law in international affairs.

The great danger for those who favor a strong role for international law in the coming years is a failure to adapt to the challenges of internal fragmentation and transnational ties.

The crisis confronting international law presents opportunities as well as dangers. For those in the West who seek a vibrant role for international law, there is something potentially liberating in the new cultural challenge’s shaking the early post-colonial belief in an elaborate and largely inseparable, if internally contradictory, package of a liberal legal order among nation-states and liberal legal orders within states. The same can be said of the impact of the Soviet collapse and the more widespread softening of communism on the sense of mortal duty to promote and protect that package unquestioningly. With former senses of confidence and urgency gone, proponents of a liberal order and a leading role for law in global affairs may, indeed must, turn to a more critical examination of their goals and a more strategic approach to the roles of international law.

The critical examination entails an inquiry into what on the laundry list of specific human rights, democratic values, sovereignty, self-determination, and the like make the most compelling demands now that it seems impossible, and unnecessary, to pursue progress on all fronts. In light of the decline in the persuasive power of Cold War, cultural relativist and anti-colonial justifications for an order based upon unitary nation-states, the most appealing and promising move may well be a shift in emphasis toward the previously subordinate project: international law’s contribution to the promotion of liberal values within nations. Thus, minimal dignitary interests — freedom from torture or arbitrary imprisonment or severe material deprivation — may merit pride of place, possibly on the ground that little else of value can be secured in their absence. Alternatively, political process values, such as democratization, might warrant preeminence, perhaps on a theory that such principles best combine the promise of participation, which may be valued for its own sake, and of a mechanism well suited to the achievement of preferred substantive outcomes.

If a persuasive lexical ordering of specific values proves elusive or incomplete, a strategic approach becomes all the more essential. A strategic approach requires asking whether it will be successful or efficient to undertake expenditures of concededly limited material and moral resources to advance the realization of particular principles. Promotion of minimal dignitary interests, for example, may score high in expected efficacy, for these may well be matters of broad transnational consensus (and of even broader lip-service). Alternatively, democratic values may seem strong candidates because their lack of obvious and immediate substantive content promises flexibility sufficient to accommodate diverse political and legal cultures.

These prudential concerns also point to the other side of the opportunities presented by the intranational fragmentation and transnational linkages that seem to characterize the era now upon us. Within the nations of the East and the South, significant groups have come to adapt and adopt as their own views quite compatible with many items on an imaginable agenda for promoting liberal domestic legal orders and a central role for international law. Such groups offer fertile soil for the growth of transnational linkages to foster domestic legal and political changes. By establishing ties with like-minded counterparts in the West and by making appeals to international legal principles, such groups may find material, diplomatic and intellectual resources with which to strengthen their hands at home. Thus, for important segments of profoundly different societies, prudence and principle can coincide both in defining the roles of international law and in shaping domestic law in non-Western nations.
July 5, 1995 marks the 30th anniversary of the effective date of Title VII of the Civil Rights Act of 1964 — the most comprehensive federal law ever passed to eliminate discrimination and guarantee equal opportunity in employment. Professor Alan M. Lerner notes that this anniversary is an occasion for reflection on the great strides that have been made, as well as recognition that the goal of non-discrimination and truly equal employment opportunity have not been reached.

Of particular concern is the continuing problem of sexual harassment. In a recent poll, 78% of the female lawyers employed in law firms in a medium size, Mid-Western city reported being the recipients of unwelcome, on-the-job, gender/sexual focused comments, and 43% reported receiving unwanted advances. And at the ABA’s 1995 mid-year meeting in Florida, the Association’s Commission on Women in the Profession heard numerous women from all over the country attest to the continuing problems of discrimination and sexual harassment in law firms.

Why does it is that in the legal profession, where all of us have studied about equality and due process, and where we are familiar with the law, and the risks — personal, professional and financial — that we take in violating it, we seem unable to kick the sexual harassment habit? Professor Lerner suggests a few of the reasons and presents a program for recovery.

Why Does Sexual Harassment Continue to be Such a Problem?

Change

The years immediately after World War II, in contrast to the earlier part of this century, showed a return to the traditional role for women as “homemaker.” The “Women’s Movement,” and its aftermath, has produced a sea change in society’s attitude towards women — particularly in the workplace — but only in the last 2 to 3 decades. But change is challenging. Old “truths,” and the habits they generate, die hard. They are passed down to us in both overt and implied messages (as well as being reinforced in our daily dose of TV, movies, etc.), and it takes conscious and continuing effort to overcome them.

The Workplace Pressure Cooker

As lawyers we spend more of our waking hours with our colleagues than we spend with our spouses and families. The more time we spend with someone the more likely we are to find things we have in common and that we like about that person, if for no other reason than the necessity of making the best of a bad situation — we have to be with them. Moreover, we are engaged in a high energy, high stakes enterprise, where the pressure of the work requires that we strive together toward a common goal. We sublimate our personal goals (and sometimes our personal values) to those of our common client. We have a common adversary. We plan, and execute, our strategy together. We celebrate victories and mourn defeats together. We share confidences. We come to understand what pleases, excites, angers and discourages each other. We are on a “power trip.” It is not surprising that in
this atmosphere our inhibitions will be lowered and we will overstep boundaries of our co-workers that we might otherwise respect.

**Subjectivity and Variation in Defining Boundaries**

Sexual harassment implies either the abuse of power or one person invading the boundaries of another, or both.

Whether we touch someone without permission, in an unacceptable way persist in asking for a date after a clear expression that the other person is not interested, engage in sexual discussion with a reluctant or embarrassed person, or offer sexual literature, or, make sexual comments or jokes around, someone disinclined to participate in that conduct in the workplace, the boundaries of the recipient are being violated.

Certainly, when a superior tells a subordinate that continued employment, advancement, or pay raises depend on providing sexual favors, the boundaries of the subordinate are being violated.

What complicates the problem is that in our culture, which respects individual autonomy, each person is accorded a great degree of freedom in setting his or her own boundaries, and they may not be clearly delineate.

Moreover, what may be acceptable conduct in a social context outside the workplace may be entirely inappropriate at work. If I am on a date and talk about what I think about the sexual side of a relationship during the dating phase, that might be fine to my date — even helpful communication. But that same conversation could be seen by a co-worker as entirely out of place at work.

For a variety of reasons, most of us are very hesitant to express how we feel about another’s actions or speech of a social/sexual nature. We are encouraged to be cooperative, not confrontational. So, we avoid confronting the other person and telling him or her that their conduct is unwelcome and makes us uncomfortable. Perhaps we feel that we are somehow to blame for the unwelcomed communications or advances we are receiving, or try to avoid the problem by telling ourselves that we misperceive the other person’s intent. I once interviewed a woman lawyer who described classic examples of obvious sexual harassment. The woman, however, insisted that the man was merely being inappropriate, not engaging in sexual harassment.

**The Power Imbalance**

The problem is compounded when the source of the unwelcome advances is a person in a position of power over the victim. Unfortunately, some people feel quite comfortable using their power in the workplace for personal gratification. The power-abuser, like other predators, seeks out the vulnerable as prime prey. Workplaces are filled with unequal power relationships. The less powerful are vulnerable and insecure — weak negotiators and unlikely whistleblowers. The subordinate may feel that there is no choice but to comply. Jobs are scarce, rent has to be paid, etc. And telling the offending person to stop — challenging his or her exercise of power — creates the threat of retaliation. Reporting them to someone else in power — a peer, perhaps a partner and longtime social friend, or the harasser — could appear to the victim to be whistling in the wind.

Even those people with power who do not consciously use it to abuse others may not perceive the way that a subordinate receives their communication.

Often, they don’t consider the perspective of the other, or think that the other person might feel threatened or intimidated, embarrassed or humiliated by what might even be intended as a compliment. A partner’s “compliment” to an associate or secretary, “Boy, you really look sexy today!” might be embarrassing, or even intimidating to the associate or secretary. My discussion with an associate or secretary about my problems with my spouse, even if done because I am so upset about it that I need to talk it out with someone, is likely to be seen as at least embarrassing (“Why are you telling me these intimate details of your personal, non-work life?”) and potentially threatening. (“Is this supposed to make me more receptive to a sexual proposition?”)

**The Nature of the Adversary Business**

The adversary system tends both to attract and to encourage personalities that are competitive and individualistic, rather than cooperative and supportive. It demands that each lawyer be able to stand up for him- or herself, and “duke it out” with the adversary, whether in negotiation or litigation. Winning is our business. Usually, however, winning means exercising power, and overcoming the boundaries that one’s adversary has established. It means getting one’s own position to prevail — often at any cost.

Lawyers’ stock in trade includes taking our client’s position, identifying with it, analyzing the arguments on both sides and defending that position — sometimes with arguments that merely attack our client’s adversary, or even just the outer fringes of the adversary’s position taken to its logical limits. And when it is our own conduct, past or future, that we are defending, we advocate with all of the analytical skill and impassioned rhetoric that we have developed over our careers to convince ourselves and others that we are right and our adversary is wrong. PERIOD. END OF DISCUSSION!!

All too often, instead of really trying to come to terms with the problem, perhaps admitting that one, or all of us as a responsible group, may have erred in failing to live up to our responsibilities, we circle the wagons, roll out our heavy guns and hunker down for a war to the death. If ever there was a situation of environmental pollution caused by testosterone overflow, this is it. The result is a landscape littered with the dead and wounded, tens, if not hundreds of thousands of dollars wasted, and a workplace filled with distrust and anger instead of trust, cooperation and mutual support for the common mission.
“Workplaces are filled with unequal power relationships. The less powerful are vulnerable and insecure — weak negotiators and unlikely whistleblowers.”

There are, however, alternatives. We can kick the habit with a firm commitment and persistent hard work.

Ten Steps Toward Remedying and Preventing Sexual Harassment

Leadership

Leadership from the leaders — REAL AND SOMETIMES COURAGEOUS LEADERSHIP — not merely a written policy in the inch-thick policy manual handed out to new employees. It must demonstrate a real commitment to a healthy, mutually respectful workplace — even if it takes getting rid of powerful partners, or even clients, who repeatedly engage in sexual harassment, although such extreme measures are usually not required. Most of us are educable — some through conversation with respected peers who can provide feedback about why the behavior in question is inappropriate, what impact their unwelcome behavior is producing and why that is unacceptable. Some may need the intervention of third parties — a therapist, or perhaps a respected colleague, friend or family member. Some minds will be focused only by the sight of the guillotine.

Policy

Every firm needs to have a clear, written policy that is communicated and understood throughout the firm. Publicizing it is critical. Posting it on the bulletin boards and periodically reminding everyone about it is a good idea.

Investigation & Complaint Procedures

There should be both formal and informal procedures for making a report or complaint, or even inquiring whether particular unwelcome behavior is sexual harassment. The informal procedures will often be preferred and will usually be successful in stopping the unwanted behavior — and that, after all, is what we really want. There should also be more formal procedures for instances in which the behavior is particularly serious or persistent.

Also, the procedure must give complainants an alternative. Going through your department chair, whose failure to prevent the harassment may be at least part of the problem, just won’t do. But the persons to whom a complainant is directed (and that might include every partner) must have a voice that will be listened to.

Whenever conduct which violates the firm’s policy comes to management’s attention, it should be investigated; and where the recipient of the unwelcome behavior is the source of the report or complaint he or she should be told the result of the investigation. In any event, the firm must assure its personnel that they will not be retaliated against for presenting any good faith report or complaint of sexual harassment, regardless of the result of the investigation or the firm’s decision about the appropriate remedy.

Confidentiality & Non-Retaliation

People who believe that they have been the recipients/victims of sexual harassment almost always fear reporting it because they fear that it will become public within the firm or that it will become known to the person about whom they are complaining. In the former case the victim fears a loss of privacy, and the embarrassment and humiliation, which stems from both the intimate nature of the subject — sex — and the concern that they will stand out in the firm from then on as the “victim.” With respect to the latter, fear of retaliation is an ever-present concern. Consequently, some assurance of confidentiality and a very strong assurance of non-retaliation are crucial to an effective policy.

At the same time, the firm has an institutional interest in investigating the report in order to take whatever action is necessary to assure that the inappropriate behavior is not repeated. The assurance of confidentiality cannot, therefore, be absolute. But we can assure those that complain that we will do our best within that context to minimize the dissemination of the information as well as telling those that must know that they, too, are to maintain confidentiality.

It is extremely important that the persons designated to receive and process complaints (and that could well include every partner) be seen by associates and staff as individuals who will listen to them, hear them and, in turn, have the ear of those in power at the firm.

Education

How many of us work at law firms that make a point of creating and marketing speeches, articles and even training programs for other lawyers, clients and prospective clients about how to avoid, and how to respond to, sexual harassment complaints? Yet how many of us practice what we preach? Do we conduct those programs for our own personnel? And are partners required to attend? Our speeches, articles and training programs demonstrate that we know what the law requires in the way of behavior. We need to demonstrate that we do care about our own behavior, and insist on attendance by every partner in the firm.

Monitoring

Both formal monitoring, such as periodic surveys about how the policy is working, and informal monitoring, such as informal discussions coordinated by
some responsible and respected partner—particularly where confidentiality and freedom from retaliation are assured—are of great value. Monitoring not only permits the firm management to assess the effectiveness of its policy, it also gives the employees another opportunity to identify situations that make them uncomfortable, and lets them know that the firm really is interested in the quality of their workplace experience. Thus, it can contribute independently to building firm morale.

**Enforcement**

If the policy is to mean anything it must be enforced, and the fact that it is enforced must be visible to the complaining party. Whenever there is a complaint, the complaining party should be made aware of what was done. Courts have repeatedly ruled that the failure of the employer to respond promptly and effectively was at the very least, evidence which supported the claim that the work environment was hostile.

**Peer Support**

In the highly competitive atmosphere frequently found in law firms, encouraging peer support is not easy. Indeed, some partners may view it as threatening to management’s autonomy. But mutual support is important when dealing with pressure being applied by a superior. Talking with someone who may have had a similar experience can be validating and reassuring to the victim that her/his understanding of what has happened is accurate. In addition, the firm has an interest in early reporting of such incidents before they multiply. No firm wants to learn during the discovery phase of litigation that their partner has harassed others in addition to the plaintiff. Interestingly, the survey of women employed in law firms in the Mid-West, referred to above, indicated that women in firms which had more than a “token” number of female lawyers and a strong feminist presence, also reported lower rates of sexual discrimination and harassment.

Offering associates financial support (and time) to participate in organizations outside the office, or to use office resources on behalf of such organizations, is one approach. It will give them the opportunity to be with peers, and will also communicate your recognition that they are multi-faceted people, not merely cogs in your machinery.

“**General Counsel**”

Recently, a number of prominent writers on ethics and bar leaders have suggested that law firms have a partner appointed as “general counsel” for the firm to receive and investigate complaints of discrimination and harassment, as many firms already do with respect to ethics issues. As long as the person has the time to do the job, the respect of the personnel in the firm, commitment to the issue and the clout to be effective, I think that such a procedure can be effective.

**Individual Responsibility**

Finally, each of us must accept our individual responsibility. If I am aware that there is a problem of sexual harassment in our workplace, and am not part of the solution, I am part of the problem. Wherever I believe that my firm treats women (or African Americans, or Jews, or gays, or handicapped persons) unfairly, I have only three options: (1) stay and live with it; (2) leave; or (3) stay and work to change the situation. The strongest weapon that women and men have to bring about change is the strength of their mutual support and commitment. In almost every firm there is a pool of advocacy talent willing to stand up—at least in a group—for decent, non-discriminatory treatment (i.e., to put their money where their mouths are). And in most firms, the recognition that there is such a group will usually be sufficient to convince the firm’s management that it, too, would be well served to invest heavily in making its non-discrimination policy a reality (i.e., to put its money where its mouth is) before every reader of the morning paper and every viewer of the evening news watches some jury take that money and hand it over to a former employee and her attorney, along with a chunk of the firm’s image and reputation in the community.

Of course, standing up and speaking out is risky. “They” wouldn’t like it. I wouldn’t be seen as a team player. I would become a pariah. No partner would want to work with me. It would blow my chances for partnership. I would be out on my butt the first chance they got.... Maybe so. But, if I wait in silence, while my colleagues are abused, hoping that those in power will one day voluntarily give some to me, even if I wait long enough, will the benefits be worth the price I have paid?

**Conclusion**

As with most institutional problems, leadership is the key. Unless and until management takes a strong moral stand and enforces its words with action, nothing will change. Management “must focus not only on educating the potential victim, but also upon the task of deterring the victimizer. In sum it must educate those who hold the power in the business community about the reason why sexual harassment is morally wrong and why they have ethical responsibilities to eliminate it.”

Understanding the law, education and training in principles of due process and equality, the inexorable increase in the number and role of women in the profession and our desire to create supportive and productive workplaces for ourselves and our colleagues can lead us from sexual harassment policies to an environment free of sexual harassment. The key, however, is that those in positions of leadership, and each of us, must make it crystal clear that we are committed to do what it takes to assure that the policy means what it says and that it applies to partners, and even clients, as well as associates and support staff. All of us must make sure that “No” means “No,” only “Yes” means “Yes,” and this means “YOU!”
LISTENING FOR GOD
by Howard Lenick

In his forthcoming book, Listening for God, Jefferson B. Fordham Professor of Law Howard Lenick seeks to "articulate the ways in which I find it illuminating to turn to religious language, religious metaphors, religious images, not as a source of metaphysical knowledge or belief, but as an aid to understanding, an aid to discernment of moral truth." The following excerpt is taken from the book's introduction. In it, Professor Lenick begins with an account of a conscientious objector's challenge to the Selective Service Act's definition of "religious training and belief," and then considers the "internal" and "external" sources of moral obligations and the ways in which religious experience can teach us about law.

In September 1953, shortly before the end of active warfare in Korea, Daniel Seeger, the son of an observant Roman Catholic family, with two uncles in the clergy, reached his eighteenth birthday, entered college, and registered for the draft. Four years on, his student deferment still in effect, Seeger applied for the first time for exemption from military service as a conscientious objector. The Selective Service Act then in force exempted from the draft anyone who "by religious training and belief is conscientiously opposed to participation in war in any form." It went on to define the term, "religious training and belief," as:

an individual's belief in relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a purely personal moral code.

In completing a form whose printed yes-or-no questions tracked the language of the statute, Seeger placed quotation marks around the word, "religious," and left blank his answer to the question about belief in a Supreme Being, adding this explanation: "The existence of God cannot be proven or disproven, and the essence of His nature cannot be determined. I prefer to admit this, and leave the question open rather than answer 'yes' or 'no'." He explained the basis of his claim for exemption in these words:

It is our moral responsibility to search for a way to maintain the recognition of the dignity and worth of the individual. I cannot participate in actions which betray the cause of freedom and humanity. War, with its indiscriminate crushing of human personality, cannot preserve moral values. To resort to immoral means is not to preserve or vindicate moral values, but only to become collaborators in destroying all moral life among men.

Interviewed according to established procedures by the FBI, and given a hearing by the Department of Justice, Seeger was unreservedly acknowledged to be sincere and honest. Nevertheless, both the Justice Department and the Selective Service System rejected his claim because it was not grounded in belief "in relation to a Supreme Being," as the statute required. Classified 1-A, and ordered to report for induction, he did report, but refused to submit to induction, and was convicted of a felony.

I tell this story, and begin with it, because of the remarkable disposition of Seeger's appeal by the courts that reviewed his conviction. See 163 U.S. 65; 326 F.2d 846. The government made an argument that had a lot of plain common sense behind it. Congress sought to differentiate, the Justice Department contended, between those whose beliefs are "solely the result of individual reflection" and those that "the believer assumes to be the product of divine commands." Citizens whose refusal is based on "obedience to a power higher than that exercised by a mortal Congress" are
entitled to have their refusal respected, even though most of their fellow citizens hear the voice of God differently, because God trumps Congress and in our pluralist society neither an agency of government nor a plebiscite can claim to have authoritatively discerned the will of God. Congress should therefore respect a sincerely held belief that service in the armed forces would violate a draft registrant’s obligation to his God. But those who merely invoke their own fallible judgment against that of the legislature stand on weaker ground. A citizen who listens only to an internally generated voice must accept the contrary judgment of the representatives of the community.

The court of appeals called this argument “persuasive” but not “dispositive.” The Constitution forbids discrimination among religious beliefs, and religion may not, the court held, constitutionally be limited to belief in a Supreme Being. The court’s judgment rested in part on this fundamental ground:

Today, a pervading commitment to a moral ideal is for many the equivalent of what was historically considered the response to divine commands. For many, the stern and moral voice of conscience occupies that hallowed place in the hearts and minds of men [sic] which was traditionally reserved for the commandments of God.

The court thus rejected a distinction between “internally derived” and “externally compelled” beliefs, concluding that, when Seeger insists that he is “obeying the dictates of his conscience or the imperatives of an absolute morality,” he is “bowing to external commands in virtually the same sense” as one who “defers to the will of a supernatural power.”

In affirming the court of appeals’ decision, the Supreme Court interpreted the statute to adopt the view held by the lower court to be constitutionally required: “The statute does not distinguish between externally and internally derived beliefs.” The Court quoted (among many others) these words of the leading Protestant theologian, Dr. Paul Tillich, as indicative of the accepted breadth of the concept of religious belief:

I have written of the God above the God of theism, [in which] the God of both religious and theological language disappears. But something remains... in which meaning within meaningless is affirmed. The source of this certitude within doubt is not the God of traditional theism but the ‘God above God,’ the power of being, which works through those who have no name for it, not even the name God.

To both courts, then, it was the binding force of the constraint upon the conscience that is critical. The source of a belief was explicitly seen as irrelevant to its “religious” quality. A moral belief generated wholly from within is not necessarily a “merely personal moral code” (declared by the statute to be insufficient to warrant exemption); “personal” it may be, the courts in effect declared, but not “merely” so if held with a force comparable to that thought to reside in a “supernatural power.”

This book is designed in large part to describe my own experience of the “certitude within doubt” of which Tillich wrote. I have come to find in religious language and practice an expression of a belief in that for which I “have no name,” and which I can locate neither wholly within nor wholly outside myself, but which nonetheless illuminates my efforts to live a moral life and to understand myself and the world.

That illumination is at times powerful enough to take on the quality of an imperative, but it is not accurately described as the “dictate” of an “external command.” The court of appeals revealed the constricted quality of its understanding of religious sources of obligation, when it used words like “commands,” “commandments,” “dictates,” and “imperatives” to describe the nature of the constraints on Seeger’s conscience, and “compelled” and “bowing” to describe the nature of his response. The court’s implicit view of the relation between humans and God is that of servant to master, one who gives orders and one who carries them out. But, for that view not to be fatal to Seeger’s claim, we must supply (for the judges did not) an answer to the objection that it is incoherent to speak of one dictating to oneself, or “bowing” to one’s own “commands.” For that response asserts as self-evidently true that either the self is bound or it is free, and that the term, “self-imposed obligations,” is an oxymoron: If their source is recognized as within the self, they are not obligations; if they are imposed on the self, they must perforce have an external source.

This book will seek to express a notion of “obligation” that denies the conclusiveness of this objection, and finds in a version of the religious tradition a way out of the dilemma that it seems so logically to pose. It is a point of view that locates the problem in the vigorously hierarchical words I have quoted.

The journey of my thinking has in large measure been made in dialogue with two polar world-views, each widely held, that unite in denying that what I am drawn to has any coherence. I don’t know which is Scylla, which Charybdis, but my effort has been to avoid attaching to either, while giving each a full measure of respectful attention.
To most people who identify themselves as religious, my approach to religious language and practice would be a misappropriation of the term. Judged by the beliefs of most who call themselves believers, I am not a believer, for (like Daniel Seeger before his draft board) I cannot avow the reality of a being or force that exists wholly apart from human experience. I acknowledge the widespread reality of this understanding of religion. However, I have found it important to attend to those aspects of the religious tradition — and I will write primarily of Judaism, my own religion, and Christianity, but also of Buddhism — that have been hospitable to a broader understanding of religious belief, albeit it is one that many religious people would call non-belief.

The polar objection comes from a secular stance, which looks wholly within human thought and experience to understand the world. On such a view, Seeger’s “obligation” arose outside of himself only in the sense that the principles of rational decision-making are universal. His obligation was grounded in his being a person; it was to act rationally, not to engage in warfare if there is sufficient reason to abstain from it. To speak in religious terms is simply a mystification, a projection onto the external world of the contents of one’s mind. To such people, the failing is not in my world-view, which they (like those who are religious) would characterize as essentially non-religious, but in my clinging to the obfuscatory use of religious language and practices.

I can illustrate these polar critiques, and triangulate my own view on them, with an example drawn from the Christian Scriptures. It is the story of the disciples setting out in a boat for Bethsaida. Mark describes Jesus, alone on the land at evening time:

*When he saw that they were straining at the oars against an adverse wind, he came towards them early in the morning, walking on the sea. He intended to pass them by. But when they saw him walking on the sea, they thought it was a ghost, and cried out: for they all saw him and were terrified. But immediately he spoke to them and said, “Take heart, it is I; do not be afraid.” Then he got into the boat with them and the wind ceased. (6:47-51)*

The question I ask myself about this story is not, Do I believe that it happened as reported on a night in Galilee some two thousand years ago? I rather ask, What does it teach me about my life and the world? I learned an answer to that latter question only recently, when I heard a woman of my acquaintance speak of her experience of the story. First, she said, “I am often like those disciples in the boat, tossed on the sea and afraid, and I realize that, if I let Jesus into the boat,” by which I understand her to mean, when I live my life experiencing God as present with me, “the winds buffeting me will quiet themselves.”

But also, she went on, “I realized a more striking truth. A good friend was hospitalized with cancer, and his family was under great stress,” straining at the oars against an adverse wind. “I spent time last week visiting my friend, sitting with his wife, running errands for them, and helping the children at home. Like Jesus, I got into the boat with the family, and for a time at least the winds were easier for them to bear.”

I hear both the religious and the secular voices I have spoken of respond with some exasperation to this account. To the former, I am eliding, first, the fact that I am a Jew and don’t “believe in Christ,” and therefore don’t believe that Jesus could walk on water. To many religious people, Jewish and Christian, I simply have no business telling Christian stories in any event. More fundamentally, if I acknowledge, as I do, that I don’t believe that God makes the seas swell and settle as acts of “His will,” I am misusing a sacred story to support a merely personal (the words of the Seeger statute) psychological insight.

The secular voice is glad that I don’t “believe” the story, and may even think that my friend’s account contains some important truths. But what, this voice complains, is the point of dressing them up with ancient supernaturalism? In seeking to buttress the authority of my point by cloaking it in the voice of a God that I acknowledge isn’t “really there,” I am simply evading my responsibility to support the validity of my claimed truth with some respectable mode of proof.

My effort in this book is to articulate the ways in which I find it illuminating to turn to religious language, religious metaphors, religious images, not as a source of metaphysical knowledge or belief, but as an aid to understanding, an aid to discernment of moral truth. Judged by that standard, Mark’s story carries truth. I will also say why I use this form of words, rather than simply saying that the story “is true.” (Chapter 3 is entitled, “Speaking of God”).

That truth is there for a Jew to see as well as a Christian, indeed, I suggest, for an avowed secularist also. The story speaks in Christian terms because it is told by a Christian, in the Christian language, if you will. But what it is saying is no more foreign or unacceptable to me than it is to hear a French person speak, in his or her own language, words that draw me when they are uttered in mine, or when I understand the French. (Chapter 4 is entitled, “Truth without Triumphalism, Mystery without Mystification”). While there are certainly secular modes of access to the truth that the story points toward, I have come to apprehend, and will try to give voice to, the special ways in which religious language and practices do the work of discerning it. (Chapter 5 is entitled, “Listening for the Voice of God”).

In responding to what I have called these polar voices, I will not be seeking to invalidate them logically or empirically, to justify a demand that they be still, that they accede to my view or be found deficient in reasoning or integrity.
Rather, I will speak from a stance that acknowledges them as coming only in part from others, a stance that acknowledges that they speak in part for me as well. The great Twentieth Century Jewish philosopher Franz Rosenzweig has written in felicitous terms of the importance of this stance:

I really believe that a philosophy, to be adequate, must rise out of thinking that is done from the personal standpoint of the thinker. To achieve being objective, the thinker must proceed boldly from his own subjective situation. The single condition imposed upon us by objectivity is that we survey the entire horizon; but we are not obliged to make this survey from any position other than the one in which we are, nor are we obliged to make it from no position at all. Our eyes are, indeed, only our own eyes; yet it would be folly to imagine we must pluck them out in order to see straight.


It is necessary therefore to begin (but, following Rosenzweig, only to begin) by acknowledging the difference between explanations and justifications or arguments, between causes and reasons. I probably believe as I do in large measure because of the life I have led, because of formative or transformative moments in my life, and not only because of the reasons that seem to warrant or compel belief or doubt. That is, in setting out to examine the compatibility of my beliefs with my self-concept as an honest and reflective person, committed to intellectual integrity, I need to start by acknowledging my own subjectivity. It is only in that way that I can honestly be in dialogue with my subjectivity, and with you. (Chapter 2 is entitled, “Odyssey”).

If, however, we only acknowledge and do not go beyond our individual subjectivities, dialogue is gravely impaired. Religious language, whether expressed as metaphysical truth or only as the speaker’s personal “testimony,” often tends simply to be proclaimed, in a manner that both speaker and hearer too easily allow to shut off rather than invite reflective engagement. I look therefore for reasons, and not only causes, that might explain — to myself, as well as to you — why I cannot say that I believe as most who call themselves believers do, and why I nonetheless find the religious tradition a valuable source of guidance, one to which I can attend without bringing with it the triumphalism and mystification with which it has too often been expressed.

Even here, however, I say “explain” rather than “justify” or “persuade.” For an honestly self-reflective process of subjecting one’s beliefs to the scrutiny engendered by reason, experience and the responses of others can all too easily slip from its moorings in the self, can become transformed into a debate, a search for compelling, respectable, or impressive arguments, and lose unnoticed its base in the person of the speaker. The question is not alone whether a reason is persuasive, but also whether it is in fact salient. So, even when being rational, I must stay in close touch with my subjectivity.

I have spent nearly all of my working life as a teacher of law. I believe that a view of obligation that rejects so sharp a boundary between internal and external sources, and an experience of religion that I can best describe in a phrase as listening for the voice of God, have much to teach us about law, and about how we should respond to it. The evolution of my approach to religion has affected my view of law. A final section of the book (Chapter 6, “Professing Law”) describes some of this learning, as applied to our lives as ethical citizens living “under” the law and, more specifically, to central aspects of the lawyer-client relation and the meaning of an ethical practice, and a moral life, as a lawyer.
Dean Diver Reappointed

THURSDAY, MAY 25, 1995

MEMO TO: The Faculty of Law

SUBJECT: Reappointment of Colin Diver as Dean of the Law School

Having received the report of the Dean’s Review Committee, it is with pleasure that we will recommend to the Trustees the reappointment of Colin Diver as Dean of the Law School.

Colin has led the School to great heights over the past five years. He has successfully met the important challenges the School faced: recruiting new faculty, enhancing support for research, creating interdisciplinary linkages with the rest of the University, bringing the Tanenbaum Hall and Law Library projects to successful completion, and creating an atmosphere of collegiality within the School.

We are confident that under his leadership, the Law School will continue to strengthen its research and professional programs, expand the faculty, enhance its leadership in legal education, and play an increasingly significant role within the University and our society.

We know you join with us in congratulating Colin on his reappointment and expressing enthusiasm for working with him in the years ahead.

Judith Rodin
President,
University of Pennsylvania

Stanley Chodorow
Provost,
University of Pennsylvania

Regina Austin ’73, Professor of Law, is a member of the National Research Council’s Committee on the Health Effects of Waste Incineration. At the AALS annual meeting in January, Professor Austin participated on a panel organized by the AALS’s Section on Law and the Humanities; she discussed her paper on Kwanzaa and the commercialization of black culture. In March she gave a presentation at the Critical Networks Conference held in Washington, DC on the subject of black street vending; her talk was entitled “The Occupation of 125th Street” and the Ouster of the Street Vendors.” In addition, Professor Austin took part in the Symposium on Women, Sexuality and Violence: Revisioning Public Policy, which was held at the University of Pennsylvania. She spoke on “The Vulnerability of Women Who Work Outside the Home at Night.” For more information on this conference, see page 9.

C. Edwin Baker, Nicholas F. Gallicchio Professor of Law, published “Merging Phone and Cable,” 17 Hastings Comm/Ent Law Review 97 (1994). In February he presented a paper entitled “The Evening Hours,” at the Villanova University Law School Symposium on FCC Regulation of Indecent Broadcasting. In March he gave a paper and discussed “Listener Versus Speaker Autonomy” at the New York University Law School Constitutional Law Colloquium; made a panel presentation on “Mass Media and Class” at the Critical Legal Studies Conference in Washington, DC; was a panelist at a
Burbank organized a meeting of the Advisory Committee at the Law School. For more information on this meeting, see page 7. He also helped to plan, and made a presentation at, an invitational conference on the Federal Rules, sponsored by the Southwestern Legal Foundation and Southern Methodist University Law School in Dallas at the end of March. In April he commented on two papers at a research conference on Class Actions and Related Issues in Complex Litigation, sponsored by the Institute for Judicial Administration, the proceedings of which will be published. Professor Burbank was appointed to the Philadelphia/Pittsburgh panel of the Center for Public Resources. He serves on the Nominating Committee and the Amicus Curiae Committee of the American Judicature Society.

Jacques deLisle, Assistant Professor of Law, presented lectures in Chinese comparing Chinese and American "economic law" and providing an overview of the American judicial system to a delegation of lawyers and managers from the State Science and Technology Commission of the People’s Republic of China. Professor deLisle’s “Disquiet on the Eastern Front: Liberal Agendas, Domestic Legal Orders, and the Role of International Law after the Cold War and Amid Resurgent Cultural Identities” appears in a collection of essays on the role of international law in the twenty-first century in the Fordham International Journal. For an excerpt of this piece, see page 28.

William Ewald, Assistant Professor of Law, published an article for the University of Pennsylvania Law Review entitled, “Comparative Jurisprudence (I): What Was It Like to Try a Rat?” His article, “Comparative Jurisprudence (II): The Logic of Legal Transplants,” dealing with the work of Alan Watson, formerly of Penn Law, will appear in the American Journal of Comparative Law.
Douglas N. Frenkel, Practice Professor and Director of Clinical Programs, served as moderator, together with Dickinson Law School Dean Peter Glenn ‘68, of an ABA Litigation Section focus group entitled “Beyond Ethics,” held in Jackson Hole, Wyoming in June. This program, observed by social scientists specializing in the study of professions, was an in-depth discussion by leading practitioners of the determinants of the professional choices they make.

Sarah Barringer Gordon, Assistant Professor of Law, delivered a paper on the territorial bench and bar of Utah at the Western History Association meetings in Albuquerque, New Mexico, and published a review of Martha Sonntag Bradley’s Kidnapped from that Land in the Western Historical Quarterly. She also gave papers on anti-women suffrage at the University of Chicago History Department and a paper on marriage in the nineteenth century at the Law and Society meetings in Toronto, Canada.

Robert A. Gorman, Kenneth W. Gemmill Professor of Law, was a Scholar in Residence at the Bellagio Study and Conference Center of the Rockefeller Foundation in November and December 1994. While there, he worked on a revised edition of his book, Basic Text on Labor Law: Unionization and Collective Bargaining. Professor Gorman served as a Reporter for a conference on Intellectual Property. In March he presented a talk in Yokohama, Japan, at the Japan-United States Symposium on the Intellectual Property Protection of Software and Algorithms. In addition, Professor Gorman served as Chair of an Association of American Law Schools committee, which planned a one-day workshop on recent developments in the law for the 1996 Annual Meeting of the AALS. In April he addressed, along with Professor Jane Ginsburg of Columbia Law School, the Copyright Society of the United States of America, in New York City, on “Access to Research Materials in the University Setting: Issues of Copyright Ownership, Photocopying and On-Line Access.” In July he will serve as a member of the faculty at the Salzburg Seminar in Salzburg, Austria.

Geoffrey C. Hazard, Jr., Trustee Professor of Law, participated in the January meeting of the Standing Committee on Rules of Practice and Procedure of Judicial Conference of the United States in January. He testified in legal malpractice and lawyer disqualification cases in several jurisdictions. In February Professor Hazard participated in a conference on the Federal Rules of Civil Procedure, held at the University of Pennsylvania. He presented the Hiram Lezar Lecture, “Law, Morals and Ethics,” at the Southern Illinois University Law School. He participated in the American Bar Association’s American Law Institute Program Committee planning meeting in March, as well as the Florida State Bar Section of Probate Law’s special committee on professional ethics seminar. Also in March, Professor Hazard served as a Reporter for a conference on Federal Rules of Civil Procedure at Southern Methodist University. He lectured at the University of Pavia, Italy, on the concept of substantial evidence in American law. In addition, Professor Hazard participated in a program in Continuing Legal Education, Ethical Issues in International Practice, which was held in Paris.

Heidi M. Hurd, Professor of Law and Philosophy and Associate Dean for Academic Affairs, gave talks on “The Content of Consent” and “The Puritanism of Feminist Theories of Rape” at the February Conference on the Nature of Consent in Sexual Relations, held at the University of San Diego School of Law (to be published under the title “The Moral Magic of Consent,” forthcoming in a law review symposium issue and a volume of collected essays). In March she presented a paper entitled “The Deontology of Negligence” at the Conference on the Tort-Crime Distinction at Boston University School of Law, which is
Assistant Professor
Matthew Adler has completed his first semester at Penn Law, where he found a collegial faculty and excellent students. He taught administrative law, which was offered for the first time as a 1L elective. “I had a great time, and I think the students enjoyed it,” he said. “I wasn’t sure that first-year students would be able to do well at administrative law while taking constitutional law at the same time, but they did fine. Getting a good discussion going was the best part of teaching.” Next year Professor Adler will teach a course in food and drug law and a seminar called “Theories of the Administrative State,” as well as administrative law. He will also pursue research in administrative law.

Professor Adler earned his BA and JD at Yale. A Marshall Fellowship winner, he also holds an M. Litt. in Modern History from St. Antony’s College, Oxford University. After clerking for Judge Harry Edwards of the US Court of Appeals for the District of Columbia Circuit and Justice Sandra Day O’Connor of the US Supreme Court, he practiced at Paul, Weiss in New York. He lives in Haverford with his wife, Julia Rudolph, who is a lecturer in the History Department at Penn, and their infant son, Jonathan.

“I’ve always wanted to go into law teaching,” Professor Adler said, “and it’s everything that I expected.”

forthcoming in a symposium issue of the Boston University Law Review. In May she served as the Outside Honors Examiner for the Department of Philosophy at Swarthmore College, setting questions in jurisprudence, social, and political philosophy and conducting oral examinations of Swarthmore’s graduating philosophy majors. She has given a Penn Women’s Law Association Workshop on “The Puritanism of Feminist Theories of Rape,” and a keynote address as part of the Penn Sorority Distinguished Lecturer Series, speaking on “Women in Law and Teaching.” At the recent invitation of the Yale Law Journal, she is currently working on a review of John Rawls’ Political Liberalism, forthcoming in 104 Yale Law Journal (1995).


Elizabeth S. Kelly, Director of the Biddle Law Library, has been promoted to the rank of Professor of Law.

Seth Kreimer, Professor of Law, delivered a paper entitled “School Vouchers and the Pennsylvania Constitution” to a conference on school vouchers, sponsored by the Americans United for Separation of Church and State and held on March 21, 1995 in Harrisburg, Pennsylvania. Professor Kreimer published “Does Pro-choice Mean Pro-Kevorkian? An Essay on Roe, Casey and the Right to Die,” 44 American University Law Review 804-854 (1995). His article held that there are no substantial differences between the issue of women’s reproductive choices and the “right to die.”

A. Leo Levin ’42, Leon Melzer Professor of Law Emeritus, taught a Philadelphia Bar Association CLE session on Changes to the Federal Rules of Civil Procedure. In March he served as Chair of the Program Subcommittee of the ALI-ABA Committee on Continuing Professional Education and Chair of the Rawle Award Subcommittee. Professor Levin moderated a plenary session program at the Third Circuit Judicial Conference entitled, “Is the Civil Justice Reform Act Serving the Litigants?” He moderated a break-out session on The Future of Civil Justice Reform. In addition, Professor Levin reported at the Breakfast Meeting of the Eastern District of Pennsylvania on the results of a survey of judges and lawyers on self-executing disclosure.

Bruce H. Mann, Professor of Law and History, was a resident scholar at the Rockefeller Foundation’s Bellagio Study and Conference Center in Italy for four weeks in February and March, where he continued work on his book, The Problem of Debt in the Age of the American Revolution. In April he presented a paper entitled, “Prisoners of Hope: Imprisoned Debtors in the Early Republic,” to the Legal Studies Workshop at Washington University, St. Louis. In June he chaired a panel on “Colonialism and Law in the Native Northeast” at the First Annual Institute of Early American History and Culture Conference in Ann Arbor, Michigan.
Charles W. Mooney, Jr., Professor of Law, has written, with Professor Steven L. Harris, articles to be published in symposium issues of the University of Minnesota Law Review and the Idaho Law Review. In December 1994 Professor Mooney was a panelist at an ALI-ABA program, The Emerged and Emerging UCC, and in January 1995 he was a discussion leader at the Eastern District of Pennsylvania Bankruptcy Conference’s annual forum. In April Professor Mooney moderated a three-day conference in Palm Springs, sponsored by the Financial Lawyers Conference, and he was the guest of the faculty of Wayne State University Law School in Detroit, where he made a presentation on the ongoing project for the revision of UCC Article 9. In May Professor Mooney was a panelist in a program on UCC Developments at the Annual Spring Meeting of the American Bankruptcy Institute. He made an informational presentation on the Article 9 revisions to the membership of The American Law Institute at its annual meeting in Chicago. In June he spoke on the commercialization of space, at the 1995 Annual Conference of the ABA Air & Space Law Forum. Professor Mooney was elected by the Law School faculty as the school’s representative to the University’s Faculty Senate. He continues to serve as co-reporter for the Drafting Committee for the Revision of Uniform Commercial Code Article 9 (sponsored by the National Conference of Commissioners on Uniform State Laws and The American Law Institute), as a member of the Securities and Exchange Commission’s Market Transactions Advisory Committee, and as a member of the Secretary of State’s Advisory Committee for Private International Law.

Michael S. Moore, Leon Meltzer Professor of Law and Professor of Philosophy, participated in a Symposium, held last October, to honor Joel Feinberg on the occasion of his retirement, which was sponsored by the University of Arizona at Tucson. Professor Moore’s tribute to Feinberg was published in the Arizona Law Review, Volume 37 (Spring 1995). In November and December, Professor Moore finished the writing and editing of his part of Foundations of the Criminal Law, a reader co-edited by Professors Leo Katz and Stephen Morse, to be published by Oxford University Press. In February Professor Moore gave a luncheon talk to Penn’s Jewish Law Students Association on the torture of terrorist suspects in Israel. He gave a lecture on “The Distinction Between Wrongdoing and Culpability in the Criminal Law” at Columbia University Law School. In March Moore debated Professor Jeremy Waldron of UC-Berkeley on the issue of whether there can be a justification of judicial review based on the protection of human rights. The latter debate inaugurated a series of debates on contemporary topics planned by the Cases and Controversies Society, a student group at Penn Law School. Also in March, Moore participated in a conference on Law and Linguistics, sponsored by the Linguistics Department of Northwestern University, Evanston. Professor Moore’s remarks will be published in a Law and Linguistics Symposium Issue of the Washington University (St. Louis) Law Review. In April Moore presented a paper entitled “Prima Facie Moral Culpability,” to the Boston University Conference on the Crime/Tort Distinction. This paper will be published in the Symposium Issue of the Boston University Law Review. In addition, he spoke on “The Authority of the Past” to the Fourteenth Annual National Symposium on Law and Public Policy of the Federalist Society, held in Chicago. During May, he met in Charlottesville, Virginia, with other members of the American Academy of Arts and Sciences Study Group on Intra-Disciplinary Disagreements to assess the state of American scholarship on a discipline-by-discipline basis. In June Professor Moore, together with Professor Heidi M. Hurd, went to San Diego to teach judicial interpretation to the Federal Judicial Center-sponsored Annual Workshop for Federal Circuit Court Judges.

Eric Posner, Assistant Professor of Law, spoke at the Georgetown Law Center in January on “The Regulation of Groups: The Influence of Legal and Nonlegal Sanctions on Collective Action.” He presented a talk at the University of Chicago Law School entitled “The Regulation of Groups.” In February he spoke at the Penn Legal Studies Workshop, commenting on Professor Lisa Bernstein’s “The Newest Law Merchant: Private Commercial Law in the United States.” In March Professor Posner spent a week at the University of Southern California Law Center through the John M. Olin Fellowship, where he spoke on “The Regulation of Groups.” He presented a talk at the Boston University School of Law entitled, “The Legal Regulation of Religious Groups.” Professor Posner’s paper, “Contract Law in the Welfare State,” will be published in the Journal of Legal Studies in June.

Curtis R. Reitz, Algernon Sidney Biddle Professor of Law and Director of the Center on Professionalism, was a member of a task force reviewing Rule 4.2 of the Model Rules of Professional Conduct, at the request of the Supreme Court of Delaware. That rule, which limits lawyers in communication with represented persons, has been challenged as inappropriate when applied to federal prosecutors in criminal and civil proceedings. Recently Attorney General Reno promulgated a controversial regulation that purports to supersede state law on this matter. The Delaware Supreme Court has placed the subject on the agenda of that state’s annual bench-bar conference on June 7. Professor Reitz will participate as a panelist on the matter.
Edward B. Rock '83, Professor of Law, has been named a Fulbright Senior Scholar and Visiting Professor of Law at the Hebrew University of Jerusalem for the 1995-96 academic year. While in Israel, Professor Rock will co-teach a seminar on corporate law with Professor Uriel Procaccia, SJD '71, will lecture on US and European competition law, and will research the role for antitrust in a small economy. In addition, he will be a consultant to the Israeli Antitrust Authority, the independent agency charged with enforcing Israel's antitrust law. In gearing up to enforce Israel's antitrust law, which lay dormant for many years, the Antitrust Authority faces numerous problems, including lack of experience both in the substantive law and in litigating cases. Professor Rock, who was an antitrust litigator prior to joining the faculty, has been asked to consult with the Antitrust Authority on pending cases and to teach a seminar on Competition Law for the staff.


Edmund B. Spaeth, Jr., Senior Fellow, wrote an article for The Philadelphia Lawyer, the Philadelphia Bar Association Quarterly Magazine, fall 1994 issue, entitled “Do the Rules of Professional Conduct Help a Lawyer To Be Ethical?” On May 6, 1995, Professor Spaeth and his brother, Dr. George L. Spaeth, were presented with the Newberg Peace Award, in memory of Herbert Newberg, Esq., founder of Philadelphia Lawyers’ Alliance for World Security.

Susan P. Sturm, Associate Professor of Law, co-chaired a four-day international conference on Women, Sexuality and Violence: Revisioning Public Policy, held at the University of Pennsylvania, at which she delivered a paper entitled, “Re-Framing Sex Talk: Transforming Legal and Administrative Process.” For more on this conference, see page 9. She organized and moderated, along with Professor Barbara Woodhouse, a conference on Women in Judging, which included Justices Sandra Day O’Connor and Ruth Bader Ginsburg, as well as seven women who graduated from Penn Law and currently serve as judges. For more on this conference, see page 17. Professor Sturm presented a paper with Professor Lani Guinier at the Legal Studies Workshops at Penn and at Rutgers Law School, entitled “Reflections on Race Talk.” She presented the Report of the Working Group on the Implementation of the Sexual Harassment Policy to various committees and groups at the University of Pennsylvania.

Elizabeth Warren, William A. Schnader Professor of Law, received a Rockefeller Foundation grant to study at their center in Bellagio, Italy, for a month this spring. While there, she worked on a new book, The Fragile Middle Class: Going Broke in the Land of Plenty. The book uses the data from her empirical study of the bankruptcy courts in order to explore the financial risks facing middle class Americans. Her latest book was published this spring with Professor Lynn LoPucki; it is entitled Secured Credit: A Systems Approach (Little Brown 1995). The casebook covers secured lending by integrating coverage of real and personal property, UCC and other state law, and the Bankruptcy Code. It uses a systems approach, emphasizing the strategic use of formal legal rules. Professor Warren held a workshop at Washington University on “To Keep Our Home,” which addressed consumer debtors’ efforts to use bankruptcy to avoid losing their homes. In November she spoke to federal bankruptcy judges on “The 1994 Amendments to the Bankruptcy Code” at their meeting in San Diego, California. Professor Warren and her co-authors received a grant from the Small Business Administration and a grant from the National Conference of Bankruptcy Judges to continue their work on The Business Bankruptcy Project, a five-year empirical study of businesses that file for bankruptcy in twenty-three states. Principal funding has been provided by the National Conference of Bankruptcy Judges. They completed the work on drawing the sample for the study and made their first-round contacts of the debtors.

Barbara Bennett Woodhouse, Professor of Law, is on leave for the 1995 calendar year, and is engaged in writing a book for Harvard University Press on children’s rights and the transformation of family law and policy. In February she appeared on a panel at the American Academy for the Advancement of Science addressing issues of bonding in adoption. The next month, she presented a paper critiquing the trust model of parental authority at a conference on New Directions in Family Law, sponsored by the Olin Foundation and the University of Virginia. Also in March, Professor Woodhouse delivered the Walter and Sidney Siben Distinguished Professorship Lecture at Hofstra Law School, on the topic “Testing the Limits of Belonging: Children’s Rights in Historical Perspective.” She served as co-organizer and moderator of the conference on “Women in Judging: Transforming the Image of Justice,” which brought Justices Sandra Day O’Connor and Ruth Bader Ginsburg to Penn on March 14. For more on this conference, see page 17. In April she presented a paper on “The Impact of No-Fault Divorce on Remedies for Spousal Abuse” at the University of Pennsylvania’s Conference on Women, Sexuality and Violence. Professor Woodhouse co-authored the petitioner’s brief in Doe v. Kirchmer, in which the Does and four-year-old Baby Richard challenge the constitutionality of summarily removing the child from his adoptive home without a hearing. Among her scholarly works published this spring are “Sex, Lies and Dissipation: The Discourse of Fault in a No-Fault Era,” appearing in Georgetown Law Journal, and “Are You My Mother?: Consideration of Race and Culture in Adoption,” in a symposium issue of the Duke Journal of Gender Law and Policy. Professor Woodhouse has been featured on various talk shows, including programs in Oregon and Minnesota and NPR’s “Radio Times” with Marty Moss-Cowane. Her opinion piece on welfare reform, titled “Will the Nation Abandon its Poor Children,” appeared in March in The Philadelphia Inquirer.
HENRY T. REATH, Of Counsel to the law firm of Duane, Morris & Heckscher, received the 1994 Judge William H. Hastie Award from the Philadelphia Committee of the NAACP Legal Defense and Educational Fund (LDF) for his pro bono work with three Pennsylvania state prison inmates serving life sentences. This award is presented to Philadelphians who, in the spirit of Judge Hastie, the United States’ first African American federal judge, stand at the forefront of their professions and, in both their professional and volunteer efforts, make important contributions to civil rights and national well-being. In addition, Reath was named to a statewide criminal justice reform task force for Justice Fellowship, the public policy arm of Chuck Colson’s Prison Fellowship Ministries (The Legal Intelligencer, 2/28/95).

MARSHALL A. BERNSTEIN, senior trial attorney and founding partner in the Philadelphia and Morristown, New Jersey law firm of Bernstein and Silver, was listed in the sixth edition of The Best Lawyers in America.

JEROME B. APFEL, a partner in the Tax and Estates Department of the Philadelphia law firm of Blank, Rome, Comisky & McCauley, was appointed Chair of the Pennsylvania Bar Association’s Legal Affairs of Older Persons Committee for the fifth time (Philadelphia Inquirer, 11/21/94). In March, he spoke to an audience of judges, physicians and representatives of agencies throughout the commonwealth of Pennsylvania, at a program in Hershey, Pennsylvania entitled “Elder Abuse: Whose Problem? Partners in Guardianship.” He addressed a variety of guardianship and power of attorney issues. In addition, Apfel presented a program, sponsored by the Pennsylvania Attorney General in association with AARP, entitled “Ethical Issues Involved in Representing the Older Consumer.”

William A. Whiteside, Jr. ’54

WILLIAM A. WHITESIDE, Jr., a partner in the Labor Department of the Philadelphia-based law firm of Fox, Rothschild, O’Brien & Frankel, was elected Chair of Rochester Institute of Technology’s Board of Trustees this November.

EDWIN KRAVITZ was appointed as one of four Commonwealth of Pennsylvania trustees to the Board of Trustees at the University of Pennsylvania.

SIDNEY WHITE RYNE served as the President of the Federal Communications Bar Association, a 2,200-member national association of lawyers in telecommunications practice, from July 1994 to July 1995.

HON. RALPH F. SCALERA, Chair of the Pittsburgh, Pennsylvania law firm of Thorp, Reed & Armstrong, was reelected Chairman of the Board of Directors of The Medical Center Foundation in Beaver, Pennsylvania. He also serves on the Board of Directors of
Consolidated Healthcare Services, Inc., the parent corporation of The Medical Center in Beaver, Pennsylvania.

57  George Graboys was appointed the new Chairman of the Board of Governors For Higher Education for the State of Rhode Island. As Chair, Graboys defines broad goals and objectives for higher education in Rhode Island.

58  Hon. J. Harold Flannery, a Superior Court judge, was nominated to fill an opening on the Massachusetts Appeals Court.

59  John J. Lombard, Jr., a partner in the Personal Law Section of the Philadelphia office of the law firm of Morgan, Lewis & Bockius, spoke at the Grand Rounds program for the medical and nursing staff at Cooper Medical Center in Camden, New Jersey. He discussed the legal and ethical aspects of treating terminally ill patients.

60  Deborah Nadler Rosen published an article on the legal pitfalls of art collecting. She also won first prize in the Illinois State Poetry Society Contest.

61  David A. Norcross was named a partner in the law firm of Blank, Rome, Comisky & McCauley and head of the firm's new Washington, DC office (The Legal Intelligencer, 8/10/94).

62  Alfred W. Cortese, Jr. was named partner in the Washington, DC office of the law firm of Pepper, Hamilton & Scheetz. He serves as the head of the firm's legislative practice group (Philadelphia Inquirer, 12/19/94). Cortese originally joined Pepper, Hamilton & Scheetz as an associate after graduation from Penn Law, becoming a partner in 1968. He left the firm in 1971 to become Assistant Executive Director of the Federal Trade Commission and has practiced in Washington, DC with other law firms since 1977.

63  Steven A. Arbittier joined the Philadelphia office of the law firm of Ballard Spahr Andrews & Ingersoll as a partner. He was named by Philadelphia Magazine as one of Philadelphia's top construction lawyers.

64  David H. Marion, Vice-Chair of the law firm of Montgomery, McCracken, Walker & Rhoads, was awarded The 1995 Fund for Religious Liberty Award by the American Jewish Congress. This award honors Marion's contributions to the law and the community through his successful defense of first amendment rights, as well as his personal qualities of honor, integrity and dedication. In addition, Marion represented Montgomery, McCracken in presenting an executive briefing for corporate counsel at the law firm's offices in Philadelphia. He, along with the other panelists, discussed litigation issues, strategies and recent court cases.

64  Richard M. Shusterman, a partner in the Philadelphia law firm of White and Williams, chaired a program entitled, "Insurance Coverage Litigation in the 1990s," at the Federation of Insurance and Corporate Counsel's (FICC) convention held in Naples, Florida in March. Shusterman, the chair of the FICC's Insurance Coverage Section, chaired a section meeting, at which insurance coverage for construction litigation claims in California was discussed.

John C. Wright, Jr., a partner in the Labor and Employment Department of the Philadelphia law firm of Montgomery, McCracken, Walker & Rhoads, was the featured speaker at a meeting of the Institute of Management Consultants, Inc., in Plymouth Meeting. He addressed key aspects of three major federal laws, including the Age Discrimination in Employment Act, the Workers' Adjustment, Retraining and Notification Act, and the National Labor Relations Act.
'65

Lita Indzel Cohen, a Pennsylvania State Representative of Montgomery County’s 148th District, was named to the House of Representative’s Appropriations and Judiciary Committees for the 1995-1996 legislative session. She was also reappointed as a Commissioner to the Pennsylvania Public Television Network.

Joseph J. Connolly, a founding member of the Philadelphia law firm of Connolly Epstein Chicco Foxman Engelmyer & Ewing, spoke at a seminar entitled, “Warranty Agreements in the Sale of a Business or Real Estate,” sponsored by the Philadelphia Bar Education Center.

Neil G. Epstein, a founding member of the Philadelphia law firm of Connolly Epstein Chicco Foxman Engelmyer & Ewing, was elected to serve on the firm’s Executive Committee.

William H. Ewing, a founding shareholder in the Philadelphia law firm of Connolly Epstein Chicco Foxman Engelmyer & Ewing, was elected to the Executive Committee of the Philadelphia Bar Association Real Property Section for 1995. In May he spoke on the topic, “Advancement in the Workplace: Pay, Promotion, Pregnancy and the Glass Ceiling” at the ABA Section of Labor and Employment Law Anniversary Celebration Conference in Washington, DC.

J. Joseph Frankel retired after serving 20 years as Mayor of Eatontown, New Jersey. He continues as Vice President & New Jersey Counsel for the Trenton, New Jersey office of Prudential Insurance Company of America, where he has worked for 26 years. He is responsible for all government relations for Prudential in its home state.

Paul C. Heintz, a partner in the Philadelphia law firm of Obermayer, Rebmann, Maxwell & Hippel, was elected to the Board of Directors of the National Constitution Center, a Philadelphia group chartered by Congress to build Constitution Hall (Philadelphia Inquirer, 10/31/94). In addition, Heintz was reelected to the Board of Trustees of the Franklin Institute, a science museum in Philadelphia.

Paulette Lemay Peters, after nine years as a Senior Attorney for the FDIC, opened an office for the practice of law in Larchmont, New York, concentrating in corporate law, commercial law, real estate law and contracts.

Stephanie W. Naidoff, Vice President and General Counsel of Thomas Jefferson University, was honored for her civic accomplishments by the League of Women Voters of Pennsylvania at the League’s Fifth Annual Tribute Dinner in Philadelphia this November. In addition, Naidoff joined the law firm of Morgan, Lewis & Bockius in the firm’s Business and Finance Section in Philadelphia, with a practice focus in health law.

Richard N. Weiner was appointed Executive Vice President of the Connector Set Toy Company. Weiner’s new position entails playing an active role in strategic corporate planning and overseeing operations, as well as acting as a consultant on company legal issues.

Thomas R. Bond, a shareholder of the Philadelphia office of the law firm of Marshall, Dennehey, Warner, Coleman & Goggin, was selected to serve on the Workers’ Compensation Advisory Council of the Pennsylvania Chamber of Business Industry.

Arthur Makadon was appointed as one of four Commonwealth of Pennsylvania trustees to the Board of Trustees at the University of Pennsylvania.

Harry D. Mercer, a partner in the Cleveland, Ohio law firm of Hahn Loeser & Parks, was named one of the Best Lawyers in America, in a nationwide survey of
attorneys conducted by Woodward/White, Inc., publishers of the biennial Best Lawyers in America Directory. This publication identifies the “best and brightest” in the legal profession and is based on an extensive, year-long poll of tens of thousands of lawyers across the country.

**STEPHEN SCHOEMAN**, PhD, was appointed a member of the Mental Commitments Subcommittee of the Civil Practice Committee of the New Jersey Supreme Court for the 1994-1996 term. In addition, he was elected to serve a second term as a Trustee of Temple Sholom of Plainfield, New Jersey.

**WILLIAM V. STRAUSS**, president of the Cincinnati, Ohio and Northern Kentucky law firm of Strauss & Troy, discussed opportunities in real estate ownership at a meeting of the University of Cincinnati Real Estate Roundtable in April. His talk offered a practical guide to tax-planning and liability protection for real estate transactions in a fast-changing legal environment.


**STEVEN GOTTLIEB** was honored with the John Minor Wisdom Public Service and Professionalism Award of the Litigation Section of the ABA in October at the annual meeting of the Litigation Section in Cleveland, Ohio. The award recognizes individuals who work in public interest law, or who serve traditionally underrepresented groups.

**RICHARD A. KRAEMER**, a shareholder of the Philadelphia office of the law firm of Marshall, Dennehey, Warner, Coleman & Goggin, was a faculty member at “2 New Products Liability Courses,” sponsored by the Pennsylvania Trial Lawyers Association. He spoke on the topic of “Defending the 402A Liability Case” and addressed such issues as employer negligence, cross examination of plaintiffs’ experts and the use of warning and instruction manuals.

**MARK A. ARONCHICK**, a founding shareholder and member of the Board of Directors of the Philadelphia law firm of Hangle Aronchick Segal & Pudlin, was elected President-Elect of the Philadelphia Bar Association. He will serve as President of the Bar Foundation in 1996. He chaired a panel at the Philadelphia Bar Association’s 1995 Board of Governors Retreat held in Princeton, New Jersey. The panel, entitled “The Philadelphia Lawyer: The Organized Bar and the City of Philadelphia,” focused on the role of the organized bar in City government and the School District of Philadelphia. Aronchick chaired a seminar at the Philadelphia Bar Association’s Bench Bar Conference on “Ethical Issues for the Government Lawyer.” In addition, he lectured to the combined classes of the Medical School of Thomas Jefferson University on medical/legal ethics. The lecture was entitled, “Medical Ethics of the Nazi Doctors: Ethical Lessons for Today’s Medical Profession.” Aronchick was invited for induction as a Fellow of the American College of Trial Lawyers at its meeting in Florida in April. The only merit-based trial lawyer membership organization in the United States, the College is a professional association of lawyers skilled in the trial of cases and dedicated to improving the standards of trial practice, the administration of justice and the ethics of the profession. Aronchick was named to his third year as co-chair of the Campaign for Qualified Judges, the Bar Association’s political action committee. He was appointed Co-Chair of the Admissions Committee of the Locust Club, a non-profit corporation dedicated to the development of community leadership and the promotion of good citizenship.

**DONALD R. AUTEN**, a partner in the law firm of Duane, Morris & Heckscher, was elected Chair of the Tax Section of the Philadelphia Bar Association.
FRANK G. COOPER was named Chair of the Estates and Asset Planning Group of the law firm of Duane, Morris & Heckscher. The Group provides a wide range of services to individuals and family-controlled businesses requiring sophisticated estate and tax planning assistance.

LLOYD R. ZIFF, a partner in the law firm of Harkins Cunningham, was the distinguished guest speaker at naturalization ceremonies commemorating Bill of Rights Day in Philadelphia this December (The Legal Intelligencer, 12/13/94).

1972

DAAN BRAVEMAN, Professor of Law at Syracuse University College of Law, was selected as Dean of the law school. Braveman has taught in such areas as constitutional law, civil procedure and civil rights, and he plans to continue teaching.

1973

KENNETH E. AARON, an attorney with the Philadelphia law firm of Buchanan Ingersoll, served as a member of the faculty for a National Business Institute seminar on “Fundamentals of Bankruptcy Law and Procedure in Pennsylvania.” Aaron addressed attorneys, bankers, paralegals and other professionals with little or no experience in bankruptcy procedures on stay litigation and bankruptcy case management.

1974

EDWARD S.G. DENNIS, JR., a partner in the Litigation Section of the Philadelphia office of the law firm of Morgan, Lewis & Bockius, led a panel discussion at The Philadelphia Art Museum, entitled "Corporate Investigations and Criminal Defense: Strategies and Responses." The Morgan, Lewis & Bockius-sponsored seminar covered the following topics: the early stages of a criminal investigation, including search warrants, employee interviews, Justice Department policy regarding communications with represented persons and representation/conflict issues; winning the declination, dealing with a spectrum of issues from conducting an internal investigation and protecting privileges to government policies regarding self-policing and self-reporting; and the development of corporate compliance strategies.

FRANKLIN J. HICKMAN received the John Minor Wisdom Award for Professionalism and Public Service from the ABA Litigation section. In addition, Hickman published an article on maintaining persons with mental illnesses in the community.

KENNETH S. KAMLET joined the firm of Linowes and Blocher as a partner in the firm's Environmental Practice Group.

R. BRUCE RICH, an attorney with Weil, Gotshal & Manges, appeared in New York magazine's article entitled "The Best Lawyers in New York." He was selected, by a survey of 200 lawyers, as one of New York City's best First Amendment lawyers (New York, 3/20/95).

RICHARD D. SPIEGELMAN, former General Counsel to Pennsylvania Governor Robert P. Casey, became Of Counsel to the law firm of Dilworth, Paxson, Kalish & Kauffman.

aida B. waserstein was honored at the 1995 Annual Award Dinner of the Delaware Region National Conference of Christians and Jews (NCCJ). The NCCJ works toward the improvement of relations among different racial, religious and ethnic groups.

PHYLLIS MAY FINEMAN holds the position of Vice President of the Bank of America — The Private Bank in California. Her five-year-old son, Joshua, keeps her busy during non-work hours.
BARRY GOTTLIEB, a member of Itkowitz & Gottlieb, a small general/commercial litigation firm, has co-authored articles on commercial landlord-tenant topics, published by the New York State Bar Association, Practicing Law Institute, and others.

HON. FREDDERICA A. MASSIAH-JACKSON was unanimously elected secretary to the Board of Judges by the judges of the Philadelphia Court of Common Pleas (The Legal Intelligencer, 2/17/95).

REBECCA RITCHIE, Assistant General Counsel for Health Care Plan, an HMO headquartered in Buffalo, New York, has written a one-act comedy play entitled, In the Beginning, which will be published this spring in Facing Forward, an anthology of one-acts and monologues by women. In the Beginning was first produced by the Alleyway Theatre in Buffalo, New York, where it won the Maxim Mazumdar New Play Competition. Two additional one-act plays, Shiva Queen and A Personal Exchange, were produced in off-off-Broadway venues since 1988. In addition, the Buffalo Ensemble Theatre produced Ritchie’s The Gratz Delusion, a drama about Philadelphia’s Rebecca Gratz, and has scheduled to produce An Unorthodox Arrangement, a comedy about inter-sec marriage, which won the national Dorothy Silver Playwriting Competition of the Cleveland JCC. Ritchie describes writing for theatre as “both a creative release and a necessary counterbalance to the law’s burden of confidentiality. Unlike an attorney, a playwright can say virtually anything — so long as the characters are composite and the craft is good.”

ALAN SINGER joined the Philadelphia office of the law firm of Morgan, Lewis & Bockius as a partner. His practice concentrates on the representation of investment banking firms in public offerings.

MARK A. KADZIELSKI joined the Los Angeles office of the law firm of Epstein Becker & Green as a partner. Kadzielski heads the firm’s West Coast health care operations (Los Angeles Business Journal, 9/19/94). He was selected, on the basis of peer evaluations, to be included in the Health Care Law Section of the 1995-1996 edition of The Best Lawyers in America.

GARY J. LESNESKI, of the law firm of Archer & Greiner in Haddonfield, New Jersey, was appointed Chair of the New Jersey State Bar Association Health and Hospital Law Section for 1994-1995. Through programs, conferences and publications, this section keeps attorneys updated on changes to laws and regulations which affect the providing of health care services.

MICHAEL P. MALLOY, Professor of Law at Fordham University School of Law in Manhattan, was appointed Chair of the Committee on Economic Sanctions of the International Law Association, American Branch. He was also appointed to the Advisory Committee of the Banking Law Anthology, published by the International Library. In addition, Malloy published a 1994 Cumulative Supplement to his treatise, Economic Sanctions and U.S. Trade, with Little, Brown & Company.

MARY A. McLoughlin, a litigation partner in the law firm of Dechert Price & Rhoads, was elected a member of The American Law Institute. Comprised of a select group of fewer than 3,300 lawyers, judges and academics, the Institute is an educational organization whose objective is to promote the clarification and simplification of the law and its better adaptation of social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work.

JOHN A. TERRILL II joined with four other colleagues to form the new law firm Heckscher, Teillon, Terrill & Sager, a five-lawyer trusts and estates firm located in West Conshohocken, Pennsylvania.

THOMAS J. GALLAGHER, a partner in the law firm of Wolf, Block, Schorr & Solis-Cohen, served on the faculty of the Graduate Program on Real Property Development at the University of Miami. He presented a series of lectures on tax issues involved in real property development, including the tax considerations of investing for tax-exempt entities, REITs and foreign investors.
NANCY K. BARON BAER, Managing Shareholder of the law firm of Connolly Epstein Chicco Foxman Engelmyer & Ewing, was elected to serve on the firm’s Executive Board.

MARC S. KLEIN, a partner in the Newark, New Jersey law firm of Sills Cummis Zuckerman Radin Tischman Epstein & Gross, PA, was appointed Chair of the New Jersey State Bar Association Product Liability and Toxic Tort Section for 1994-1995.

MICHAEL J. OSSIP, a partner in the Labor and Employment Law Section of the Philadelphia office of the law firm of Morgan, Lewis & Bockius, spoke at a seminar sponsored by the American Society of Appraisers in Philadelphia. He discussed employment practices in the workplace, including sexual harassment, wrongful termination and discrimination. Ossip also spoke at a seminar sponsored by the Philadelphia Bar Association at the Philadelphia Bar Education Center. He discussed the general tactics of a discrimination case trial.

ROBERT C. SCHNEIDER became a member of the Catholic Lawyers Guild.

WILLIAM J. THOMPSON, a member of the law firm of Archer and Greiner, PC in Haddonfield, New Jersey, was appointed Chair of the New Jersey Bar Association Family Law Section for 1994-1995.

The section concentrates its efforts on improving the practice of family law through interaction with family court personnel, and by evaluating and proposing legislation and regulations.

ELLEN L. SURLOFF was elected partner of the Pittsburgh office of the law firm of Kirkpatrick & Lockhart. She practices employment-related and general commercial litigation.

DEBORAH ZELL THOMPSON joined the Estate and Asset Planning Group of the law firm of Duane, Morris & Heckscher. The Group provides a wide range of services to individuals and family-controlled businesses requiring sophisticated estate and tax planning assistance.

JEREMY M. MILLER was appointed the Acting Dean of Chapman University School of Law in Orange, California. Chapman University made the announcement to launch its law school in September 1994, and its first session of classes is scheduled for the fall of 1995.
of the Plan Administrators of various Taft-Hartley Welfare and Pension Funds operating in the Delaware Valley.

Amy Charna Goldstein, a partner in the Haddonfield, New Jersey law firm of Tomar, Simonoff, Adourian and O'Brien, was granted a Fellowship in the Academy of Matrimonial Lawyers.

Peter W. Laberee joined the Philadelphia office of the law firm of Buchanan Ingersoll, PC as a shareholder. He practices in the firm’s Financial Institutions Group.

Joseph C. Reid was named partner in the Baltimore, Maryland office of the law firm of McGuire, Woods, Battle & Boothe, LLP. He focuses his practice in banking and commercial law.

Lisa Scottoline C’77, L’81 has skillfully combined her legal education and professional experience with a penchant for suspenseful writing to create best-selling legal mystery novels. Her first two books, Everywhere That Mary Went and Final Appeal, feature female protagonists who, like Scottoline, graduated from Penn Law and worked as an attorney in a large Philadelphia law firm and a clerk for a Philadelphia judge. These women, however, find themselves embroiled in solving mysterious murders.

Upon graduation from Penn Law, Scottoline clerked for the Hon. Edmund Spaeth of Pennsylvania Superior Court prior to becoming an associate in a large Philadelphia law firm. When her daughter was born, Scottoline took a leave of absence from the firm, intending to return to the job she enjoyed. After her divorce, however, Scottoline decided to devote more time to raising her child in a stable environment. She began working part-time as a clerk for the Hon. Dolores Sloviter ’56 of the Third Circuit, and her long-held desire to write fiction surfaced.

Drawing on the skills learned at Penn Law, particularly, organization of facts and use of persuasive language, Scottoline created two legal mystery novels that intrigue readers with their clever, suspenseful plots and accurate courtroom depictions. Final Appeal recently won the prestigious Mystery Writers of America’s Edgar Allen Poe Award for Best Original Paperback, an honor for which Everywhere That Mary Went had been previously nominated.

Currently, Scottoline continues to write mystery novels full-time from her home in suburban Philadelphia. Her upcoming book, Running From the Law, features a protagonist who graduated from Penn Law, works as an attorney in Philadelphia, and interacts with characters in a setting familiar to Scottoline, the Third Circuit. The character’s client, a federal judge accused of sexual harassment, is indicted for murder when the women accusing him of harassment turn up murdered. Running From the Law will be published in hardcover in October 1995.

— Sharon Menczel C’95

Michele L. Tuck ’83


Philip R. Recht was appointed Deputy Administrator of the National Highway Traffic Safety Administration (NHTSA) in April. He had been the NHTSA’s Chief Counsel since October 1994.

William A. Denman, a member of the law firm of Jacoby Donner & Jacoby, PC, spoke at a meeting of the Delaware Valley Administrators Council (DVAC) on the subjects of “Qualified Domestic Relations Orders and Qualified Medical Child Support Orders.” The DVAC is an organization consisting
Homes and Services for the aging (AAHSA) in Orlando, Florida. His talks covered the growth of managed care, elements of managed care, the managed care marketplace, goals for long-term care facilities, partner analysis, contract negotiation and the impact of managed care on long-term care.

Stephen D. Schutt was appointed Chief of Staff to the University of Pennsylvania’s President Judith Rodin.

Paul G. Shapiro was elected partner in the law firm of Cohen, Shapiro, Polisher, Shiekman and Cohen. He practices general civil, criminal and environmental litigation.

Michele L. Tuck, Of Counsel to the New Brunswick, New Jersey law firm of Rhindold Lamar Ponder, was elected Mayor of Princeton Township, New Jersey on January 1, 1995.

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Keith B. Braun was elected a partner in the law firm of Honigman Miller Schwartz and Cohn.

Debbie Rodman Sandler was named partner in the law firm of White and Williams. She is a member of the Labor and Employment Group within the Commercial Litigation Department, concentrating in the representation of employers in wrongful discharge and discrimination litigation, and in counseling employers in all aspects of labor and employment law.

Mary Gay Scanlon, a senior staff attorney at the Education Law Center of Pennsylvania, received the Philadelphia Bar Association’s Fidelity Award at the Association’s Annual Meeting Luncheon in December. The award honors Scanlon’s efforts in co-drafting a wide-ranging bar association plan intended to help Philadelphia youngsters through the cooperative efforts of Philadelphia’s legal community (The Legal Intelligencer, 12/1/94).

Larry Spector was named partner in the international law firm of Fulbright & Jaworski LLP. His practice focuses on corporate and securities matters, including public offerings and private placements, mergers and acquisitions and venture capital transactions.

Jane Taylor assumed the position of Senior Associate General Counsel of Barclays Bank PLC and Barclays Group, Inc., with principal responsibility for all merchant banking activities in the United States. In addition, Taylor is engaged to be married to Brett Summers. Their wedding will take place in Middlebury, Vermont in August 1995, and they will continue to reside in Manhattan.

Frank N. Tobolsky, a shareholder in the Philadelphia law firm of Frank N. Tobolsky, PC, spoke about “plain language” leases at the Pennsylvania Bar Institute’s “Representing Residential Landlords and Tenants” seminar. He discussed how the recent Pennsylvania Plain Language Consumer Contract Act affects residential leases. Tobolsky also described his experience with drafting a new set of “pro-landlord” residential form leases to comply with this act.

'86

Leon C. Boghossian III was elected partner in the law firm of Hinckley, Allen & Snyder, of Boston, Massachusetts and Providence, Rhode Island.

Sharon Eckstein, an associate with the law firm of Willig, Williams & Davidson, was elected to the Board of Directors of the Philadelphia Volunteers for the Indigent Program (VIP). The VIP program, a joint effort of the Philadelphia Bar Association, Community Legal Services and the Philadelphia Bar Foundation, is a non-profit organization that enables clients to receive pro bono representation by area attorneys. Eckstein was also approved for membership to the Pennsylvania Academy of Adoption Attorneys, a non-profit organization comprised of experienced adoption attorneys throughout the Commonwealth of Pennsylvania.
HENRY F. REICHERN was elected partner in the Philadelphia office of the law firm of Reed Smith Shaw & McClay.

JILL M. HYMAN was named partner in the environmental law firm of Manko, Gold & Katcher. She co-chaired a CLE seminar on "Operating Permits Under the Air Pollution Control Act," which focused on the significant implications of the new operating permit program for air emission sources to be implemented by the Pennsylvania Department of Environmental Resources. Hyman moderated a panel discussion on the federal and state regulatory developments associated with this program. The seminar was sponsored by the Pennsylvania Bar Association, Environmental, Mineral and Natural Resources Law Section, and took place in December in Philadelphia.

J.B.K. KABURISE accepted an election to the Professorship of Public Law in the University of Durban-Westville in the Republic of South Africa.

FERRIER R. STILLMAN was appointed by the new governor of Maryland to the position of Assistant Secretary for Business and Regulatory Services at the Maryland Department of Health and Mental Hygiene.

C. EDWARD GALFAND will begin six years of study at the Theological Seminary of America in August, 1995, which will culminate in his ordination as a rabbi. This program includes travel to Los Angeles, Jerusalem and Manhattan. He will be joined on his travels by his wife Kelly and daughter Hadrielle. On his decision to become a rabbi, Galfand commented, "Would 1988 visiting Professor Soloveitchik ever have guessed that his class on Talmudic Law would be a precursor to my change in careers?"

ABBE A. MILLER, a corporate bankruptcy and reorganization attorney, joined the firm of Hangley Aronchick Segal & Pudlin when the firm was formed in November 1994. She has practiced bankruptcy/reorganization law in the Philadelphia area for over five years and is a member of the American Bankruptcy Institute and the Eastern District of Pennsylvania Bankruptcy Conference.

ALAN J. OMINSKY, MD, was one of the featured speakers at a health care forum, entitled "A Post-Election Look at Congress's Unfinished Agenda," sponsored by the University of Pennsylvania Schools of Law and Medicine in November. Dr. Ominsky addressed the topic of "Medical Malpractice — Health Care Reform Does Not Require Tort Reform."

CHRISTINE CZARNECKI CIARROCCHI, a Litigation and Labor and Employment associate at the law firm of Reed Smith Shaw & McClay, was appointed to the Philadelphia Bar Education Center Board by the Chair of the Young Lawyers Division of the Philadelphia Bar Association.

IRA C. GOELKLANG left the law firm of Christensen, White, Miller, Fink and Jacobs to go in-house with North Communications, Inc., in Marina del Ray, California, as their Director of Legal Affairs. North, a Metromedia affiliate, is in the business of designing, developing and deploying interactive multimedia networks capable of dispensing information to and performing transactions with the general public. His internet e-mail address is igoldklang@infonorth.com.

PHILIP R. EAGER joined the Philadelphia office of the law firm of Morgan, Lewis & Bockius as an associate in the Business and Finance Section.

JANET HERNANDEZ joined the law firm of Reid & Priest as an associate in their Washington, DC office. As a member of the firm's Telecommunication Group, she works on a variety of international telecommunications matters, including regulatory matters in the United States and abroad, as well as privatization and satellite-related issues.
DoRita Massardo McGinnis and her husband, David, announce the birth of their son, Holden James, on March 28, 1995. She will be a Legal Writing Professor at Widener University School of Law beginning this fall.

Elzbieta E. Volkmer joined the Philadelphia office of the law firm of Morgan, Lewis & Bockius as an associate in the Business and Finance Section.

Nicole D. Galli and Charles Goodwin were married this November in Princeton, New Jersey (The New York Times, 11/6/94).

Kaetbe B. Schumacher joined the Philadelphia office of the law firm of Schnader Harrison Segal & Lewis as an associate in the Litigation Department.

Jeffrey A. Spector joined the Washington, DC law firm of David & Hagner, PC as an associate in April 1995. He practices labor and employment law.

Wendy Beetlestone joined the Philadelphia office of the law firm of Schnader, Harrison, Segal & Lewis as an associate in the Litigation Department. She joined the firm after completing a one-year federal clerkship with the Honorable Robert S. Gawthrop III of the Eastern District of Pennsylvania.

Patricia Sons Biswanger joined the law firm of Wolf, Block, Schorr & Solis-Cohen as an associate.
SUZANNE C. ABT joined the Philadelphia law firm of Montgomery, McCracken, Walker & Rhoads as an associate in the Litigation Department.

DAVID E. BRIER joined the law firm of Montgomery, McCracken, Walker & Rhoads as an associate in the Employment Law Department.


SCOTT L. FAST joined the Philadelphia office of the law firm of Schnader, Harrison, Segal & Lewis as an associate in the Litigation Department.

CHERYL D. HARDY joined the Philadelphia law firm of Montgomery, McCracken, Walker & Rhoads as an associate in the Litigation Department.

ALICE E. HARVEY joined the Philadelphia office of the law firm of Morgan, Lewis & Bockius as an associate in the Business and Finance Section.

LYNNE M. HELFAND joined the law firm of Wolf, Block, Schorr & Solis-Cohen as an associate.

JEFFREY S. HELLMAN joined the Miami office of the law firm of Jenner & Block as an associate.


GEORGE D. PEOSE joined the Philadelphia office of the law firm of Morgan, Lewis & Bockius as an associate in the Business and Finance Section.

JAYNE S. RESSLER joined the law firm of Wolf, Block, Schorr & Solis-Cohen as an associate.

JULIA M. SHAMROTH joined the Philadelphia office of the law firm of Fox, Rothschild, O'Brien & Frankel as a member of the firm's Real Estate Department.

STUART M. SKLAR joined the law firm of Fulbright & Jaworski, LLP as an associate in the Corporation, Banking and Business Department in the firm's New York office.

FRANK C. TESTA joined the Philadelphia office of the law firm of Morgan, Lewis & Bockius as an associate in the Litigation Section.

ROBERT S. TINTNER joined the Philadelphia office of the law firm of Fox, Rothschild, O'Brien & Frankel as a member of the firm's Litigation Department.

AARON FREIWALD '96

As a first year Penn Law student preparing for the strain and long hours of final exams, AARON FREIWALD '96 found himself unable to concentrate on his books due to the recent publication of his book, The Last Nazi. This book focuses on a Nazi war criminal, Josef Schwammberger, who succeeded in evading trial for war crimes committed in Poland fifty years ago.

As the generation of Holocaust survivors and perpetrators continued to pass away, Freiwald considered it crucial to confront the implications of the Holocaust. In an effort to delve beyond the all-too-common description of the Holocaust as "an unfathomable tragedy" and to represent a thorough history of Schwammberger's crimes and victims, Freiwald conducted research in Germany, Poland, Austria and Argentina, and drew on his background in political and legal writing.

After receiving his BA from Columbia University in 1985, Freiwald began his writing career as a journalist for such publications as the Legal Times, a Washington, DC weekly newspaper, and the American Lawyer magazine. His work for these two publications led to a position as Editorial Director for the fledgling Court TV network.

As Editorial Director, Freiwald worked with producers in the pre-launch period of the network, exploring the best ways to cover trials logistically and editorially. When he was granted a long-awaited book contract in August 1991, Freiwald left the network in order to pursue his writing.

Currently, Freiwald continues his legal education at Penn Law, intending to practice law upon graduation in 1996. He often gives talks on the Holocaust for various organizations, and he is involved with the American Jewish Committee, an organization concerned with inter-group relations and human rights. His future plans include more writing on a subject related to the Holocaust.

— Sharone Menzcel C'95
Save the date

Penn Law's Alumni Weekend '96

Are you a 1 or a 6—that is are you a member of a class whose year ends in 1 or 6?

If you are, please plan to join your classmates in Philadelphia for your reunion.

Saturday, May 18 and Sunday May 19.

Call your friends, make your plans, bring your kids or hire a sitter.

This is a weekend you don't want to miss.

For further information please call (215) 898-6303.

Reconnect with Penn Law School in a Special Way — Become Alumni/ae Public Service Partners

As alumni, your professional experience can be used to support and promote Penn's nationally recognized Public Service Program. All Penn Law students are required to perform 35 hours of approved public service law-related work in both the second and third years of attendance, for a total of 70 hours. First year students may participate on a limited basis. Eligible placements include:

- government
- non-profit organizations
- work with attorneys handling a pro bono case
- teaching law to youth-at-risk.

You are invited to support the Public Service Program by:

- speaking with recruiters from your firm who participate in on-campus recruiting, explaining the advantages of the Program
- working with the pro bono structure in your firm to match Penn Law students with supervising attorneys handling pro bono cases
- directly supervising a Penn Law student in a pro bono case/project.

For more information, contact
Judith Bernstein-Baker, Director
Public Service Program
University of Pennsylvania Law School
3400 Chestnut Street
Philadelphia, PA 19104-6204
(215) 898-0459

Errata

The Journal apologizes for the following errors that appeared in the February 1995 issue, Volume XXX, Number 1.

Abbe A. Miller '89 joined the firm of Hangeley Aronchick Segal & Pudlin, not Wolf, Block, Schorr & Solis-Cohen as previously reported.

State Senator Michael O’Pake '64, not Ernest Preate ’65 as reported, read a proclamation from the Commonwealth of Pennsylvania at the Law School’s memorial tribute to Dean Jefferson B. Fordham on October 25, 1994.
Members of the reunion classes were not the only ones who enjoyed this year's Alumni Weekend — their children did as well. While their parents caught up with old friends, the children made new ones and played together in the Law School courtyard. How many of these little ones will follow their parents' footsteps to Penn Law in the future?
IN MEMORIAM

'28  Edward S. Weyl  
    November 11, 1994

'29  Martin L. Steigler  
    October 22, 1994

'30  Alexander Perry  
    April 20, 1995

'31  Isadore J. Brodsky  
    November, 1994

Hon. A. A. Repetto  
    December 23, 1994

Philip A. Sheaff, Jr.  
    January 22, 1995

'Saul Finestone  
    March 20, 1995

Mary E. Groff  
    January 30, 1995

Joseph Marzzacco  
    April 4, 1995

'33  Joseph T. Turchi  
    February II, 1995

Gustave A. Vanlennep, Jr.  
    March 3, 1995

'34  Henry M. Koch  
    December 3, 1994

Edmund Z. Spiers  
    February, 1994

'35  Hon. Chauncey M. Delay  
    May 16, 1995

'37  W. Charles Hogg, Jr.  
    January 23, 1995

Andrew J. McCrudden II  
    December 18, 1994

'39  James C. Welsh  
    April 8, 1995

'40  F. R. Tworzydlo  
    March 29, 1995

'41  William T. Leith  
    January 15, 1995

Randolph C. Ryder  
    November 28, 1994

'42  Robert L. Miller  
    December 5, 1994

'43  Charles T. Bonos, Jr.  
    February 20, 1995

'46  Albert B. Sharp  
    January 19, 1995

'49  Douglas H. Kiesewetter  

'51  John D. Smyers  
    April 20, 1995

'52  Alvin J. Ivers  
    February 14, 1995

'55  Dr. Robert Stuckenrath, Jr.  
    October 30, 1994

'64  Donald M. Spillman  
    November 24, 1994

W. Charles Hogg, Jr.  
    January 23, 1995

Andrew J. McCrudden II  
    December 18, 1994

'39  James C. Welsh  
    April 8, 1995

F. R. Tworzydlo  
    March 29, 1995

William T. Leith  
    January 15, 1995

Randolph C. Ryder  
    November 28, 1994

Robert L. Miller  
    December 5, 1994

Charles T. Bonos, Jr.  
    February 20, 1995

Douglas H. Kiesewetter  

'79  Glenn E. Dechabert  
    December 28, 1994

Ronald D. Jackson  

Peter J. Vorzimmer  
    January 15, 1995

Holly Tubiash Riblet  
    September 1, 1994

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