## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Found Waltz</td>
<td>2</td>
</tr>
<tr>
<td>Laura Fargas</td>
<td></td>
</tr>
<tr>
<td>From the Dean</td>
<td>3</td>
</tr>
<tr>
<td>Colin S. Diver</td>
<td></td>
</tr>
<tr>
<td>Symposium</td>
<td>4</td>
</tr>
<tr>
<td>Calendar</td>
<td>9</td>
</tr>
<tr>
<td>Looking Ahead:</td>
<td>10</td>
</tr>
<tr>
<td>Alumni Weekend '93 and Dedication Plans</td>
<td></td>
</tr>
<tr>
<td>Faculty Excerpts</td>
<td>12</td>
</tr>
<tr>
<td>Michael Fitts</td>
<td></td>
</tr>
<tr>
<td>Lani Guinier</td>
<td></td>
</tr>
<tr>
<td>Seth Kreimer</td>
<td></td>
</tr>
<tr>
<td>Michael H. Schill</td>
<td></td>
</tr>
<tr>
<td>Docket</td>
<td>25</td>
</tr>
<tr>
<td>Center on Professionalism:</td>
<td></td>
</tr>
<tr>
<td>Setting a New Standard in Continuing Legal Education</td>
<td></td>
</tr>
<tr>
<td>Faculty Notes</td>
<td>28</td>
</tr>
<tr>
<td>Alumni Briefs</td>
<td>33</td>
</tr>
<tr>
<td>In Memoriam</td>
<td>48</td>
</tr>
</tbody>
</table>

Michael Schill, Lani Guinier, Michael Fitts, and Seth Kreimer (pictured clockwise from top left), all promoted to Professor of Law last summer, are featured at pages 12 - 24.
In this edition, we celebrate both Penn Law faculty and alumni of Penn Law who have made academia their careers. Faculty Excerpts (page 12) includes articles by four of the Law School’s faculty members, all promoted to full professor last year: Michael Fitts, Lani Guinier, Seth Kreimer, and Michael Schill. In Alumni Briefs (page 33), current students have interviewed and profiled six of the more than 100 Penn Law graduates who are members of law faculties at other institutions: Roger Goldman ’66, Wendy Gordon ’75, Beverly Moran ’8r, Reginald Robinson ’89, Bernard Wolfman ’49, and Mark Yudof ’68.

To start us off, we reprint with permission a poem by Laura Fargas ’77, reminiscing about a class with a much beloved former member of the Penn Law faculty, Jan Krasnowiecki. Fargas’ poetry has appeared in Poetry, The Georgia Review, the Atlantic, and most recently in the 1992 issue of The Paris Review.

**The Found Waltz**

“Perhaps this is a solipsistic universe,” said Kras, “and I’m here by myself.” That morning, no one wanted to answer his questions about the Statute Quia Emptores. Kras put his chalk down. He scratched his head. Then he began to whistle, and the tune he chose, Polish expatriate in a Pennsylvania schoolroom, was one we’d heard on the radio news, a Chopin waltz unfolded from a trunk of old clothes and played, fresh as champagne, yesterday, first time in a century. Kras closed his eyes; his hands became enchanted, rose and fell with the sheer lilt of it. We all slid into daydreams. Mine was of the composer packing — oh damn, left this out of the folio, it’ll have to travel with the shirts — from Paris, or to? Thin linen, silk, kid gloves for a pianist’s chilly fingers. Up and down went Jan Krasnowiecki’s hands, flawless conductors of flawless whistling. Their hypnotic concentration was like — whose? — the juggler’s, the barefoot man on Venice Beach whose specialty was lofting four snarling chainsaws at a time while telling jokes. “Why did the punk cross the road? Because he was stapled to a chicken.” Black and Decker, up and down, a doppler whine of submission as the chains bloodlessly made their rounds and the whirling handles found and

found their way to his hands. Today as memory waltzes through its attic, my dreamy teacher’s hands seem a perfect template for the busker’s, juggling death in 3/4 time. What if there is a fierce music scored in us, music by which we teach power tools to fly or students to love Roman law, that conducts our tongues to exactly the stupidest joke? Once we believed starry harmonies kept the worlds hovering, but what if the music is within us, and simply keeps us walking wherever we have to go? So many roads get in our way — to Paris for recitals, Philadelphia to teach — yes, of course, what else but music could move us along? And not necessarily tempestuous tempi — why not the civil graces of the waltz, a music that conceives us in one another’s arms, whirling in a hall of mirrors, the music that is always for two? Kras kissed his waltz through its last bar, opened his eyes, and gestured to cue the strings, smiling, saying firmly, “And now?”

— Laura Fargas ’77
CELEBRATING THE FACULTY

Dean Colin S. Diver

When alumni reminisce about their student days, the talk almost always turns to the faculty. Through the haze of memory and the fog of detail, the image that usually emerges most clearly is that of a teacher, firing volleys of withering questions from the dais, or surrounded by befuddled students after class, or seated reflectively behind a desk piled high with open books and half-finished manuscripts.

To its graduates, the Penn Law School conjures up a rich collage of images — the probing interrogation of Edwin Keedy, the twinkle in Leo Levin's eye, the courtliness of Jefferson Fordham, Tony Amsterdam's dazzling intellect, the gentle erudition of George Haskins, the enveloping curiosity of Clarence Morris.

The Keedys, Amsterdams, and Morrises may be gone, but their legacy survives in the current generation of Penn Law faculty who have taken their places at the podium and in the journals. In this issue, we celebrate the worthy successors of that earlier generation.

The faculty whom we profile in this issue — Michael Fitts, Lani Guinier, Seth Kreimer, and Michael Schill — exemplify the qualities of mind, personality, and character that made their predecessors so influential on generations of Penn Law graduates. They are familiar with the literature of economics, political science, philosophy, and social psychology that inform contemporary legal scholarship. Yet, they are at the same time first-rate lawyers, problem-solvers, analytical thinkers concerned with the application of theory to real human conflict and social policy.

The Penn Law faculty of 1993, like its counterparts of generations past, traverse the difficult boundary between academic law and practiced law. They serve on civic and professional commissions as well as faculty committees; they write for the editorial pages of newspapers as well as abstruse journals; they advise lawyers and judges as well as students. And most important, they teach, with the same energy and commitment, the same love of argument and learning, as did their predecessors.

Building and retaining an outstanding faculty is not easy. In fact, I suspect it has become more difficult over the years as competition for the best scholars and teachers has increased. The increasing emphasis on research has made it more difficult to maintain a balanced commitment to teaching, student advising, and professional service. The proliferation of specialties, methodologies, and ideologies threatens to pull law school faculties apart into isolated factions.

Building a strong faculty depends, of course, on the care with which candidates for appointment are screened and the care with which junior faculty are evaluated for promotion and tenure. But it also depends critically on creating an environment that promises to sustain the faculty's intellectual growth over a professional career. In the past decade the Law School has significantly increased faculty compensation, stipends for summer research, and research support.

These efforts have required substantial investments, many supported by Annual Giving and restricted endowment gifts. Beyond the need to support a continuing investment in the existing faculty, the most urgent need is to expand the faculty. To maintain adequate coverage of a rapidly expanding legal curriculum, to sustain a lively intellectual environment, and to staff the committees that do so much necessary administrative work, we need more full-time members of the faculty. As we near completion of funding for the new building, expansion of the faculty must become the Law School's highest programmatic and funding priority. If we meet that need, we can be assured that alumni of the Twenty-first Century will reminisce about their teachers with the same fondness and gratitude as do today's alumni.
Symposium

Events

Annual Benefactors Dinner

This year's Benefactors Dinner hailed more than 150 alumni, faculty, and friends at the Four Seasons in Philadelphia in celebration of yet another successful year of fundraising for the Law School. Myles Tanenbaum '57 and Dean Diver welcomed donors of more than $2500 and their guests, and members of the Law School's Light Opera Company entertained the group before dinner.

The Law Alumni Society presented the James Wilson Award for Service to the Legal Profession to The Honorable Phyllis Kravitch '44, Judge of the United States Court of Appeals for the Eleventh Circuit. Judge Kravitch — whose impressive credentials include an active trial practice at a time when no women served on Georgia's bench or juries, service as a leader of her city's bar association, and work as an advocate for and provider of care to abused women and their families — dedicated the Award to the memory of her father, Aaron Kravitch, a member of the Law School's class of 1917. An excerpt of Judge Kravitch's remarks, detailing her father's courageous career and the inspiration he provided her, is printed at right.

Judge Phyllis Kravitch '44 accepts the James Wilson Award for Service to the Profession from Dean Diver and Society Awards Committee Chair Jerome B. Apfel '54.

Entertained by a juggler and a magician, both of whom sideline as law students — here, Chad Eisenberger '94 performs for Elayne and Murray Eckel '59 — Law School alumni and friends who contributed $1000-$3999 celebrated at a reception at Philadelphia's Rittenhouse Hotel. Dean Diver and members of the faculty joined graduates, who viewed plans for the new building.
I want to express to the Committee and members of this Society my appreciation for having been chosen as a recipient of the James Wilson Award.

It is especially meaningful to me that I am being honored by this Law School, for whatever I may have accomplished in my legal career had its beginnings here, not in 1941 when I entered, but in 1914 when my late father, Aaron Kravitch, enrolled as a student. Any contributions to the profession I may have made are directly due to his guidance and support, to his vision of the obligations of lawyers to society, and to the example he set by his courage in defending the constitutional rights of others less fortunate. For these reasons I would like to take this opportunity to pay tribute to him.

During his high school days in Savannah, Georgia, he occasionally had visited the county courthouse and witnessed jury trials. His fascination with the drama of the courtroom led him toward a legal career, but it was not until he entered law school and studied constitutional law that he understood the foundations of our government and the impact of The Constitution, especially the Bill of Rights and Civil War Amendments, on the protection of individual rights.

He fell in love with the law and developed a passion for justice that remained with him throughout his life. In 1917, upon his graduation, he returned to Savannah. It was a beautiful city, but beneath the facade of magnolia trees and flowering squares was a society that rigidly adhered to the segregation of the deep south — not only in the social structure, schools, streetcars and the workplace, but, as he quickly learned, in the courtroom as well. This he could not reconcile with what he had learned in law school concerning constitutional rights of all citizens.

To him, the Sixth Amendment right to counsel meant just that, without regard to race or economic status. And even more, counsel meant effective counsel. At that time there were no public defenders, no compensation for appointed counsel, no Federal Habeas Corpus as we know it today, and no civil rights laws to protect minorities. The Klan and other hate groups made their presence known by sporadic cross burnings and an occasional lynching. Despite this atmosphere, unlike most members of the local bar, he never declined an appointment to represent an indigent accused of a crime, and as a result was usually the lawyer appointed, especially in a race-related controversial case.

The price he paid was high. Hostility from the city’s so-called establishment, disdain from the local bar, and threats, including frightening, anonymous obscene phone calls at all hours of the day and night. Years later, I especially appreciated the book *To Kill A Mockingbird* because I could identify with young Scout Finch. There were financial sacrifices as well from loss of more lucrative clients. This did not seem to bother him. He considered Law an honorable profession, not a business, and being admitted to practice law a privilege of the highest order. His idea of a successful lawyer was one who used his or her legal education to make a difference, not to make a fortune.

I like to think he made a difference, for I can assure you he did not make a fortune.

He had tremendous respect for the courts and treated everyone in the courtroom with equal respect. For this reason, he refused to conform to the then southern custom of addressing black witnesses by a first name rather than as Mr. or Mrs. I remember being reprimanded by the judges when, in one of my first court appearances, I followed his example.

With equal zeal, he represented his clients in civil cases, often undertaking representation for meager compensation or none at all, if a cause was just, even though unpopular — especially if it involved deprivation of a constitutional privilege. When I joined his practice in the ’40s, among our cases was a suit to allow Georgia teachers to exercise their First Amendment rights to form a Teacher’s Association, and a suit to prohibit South Carolina from discriminating against Georgia shrimpers. Another was a suit to allow black citizens to vote in the then all white Democratic primary. That case antagonized the reigning state political structure and evoked the anger of much of the community. Yet it extended the protective reach of The Constitution to previously unprotected citizens of Georgia. To him, that was all that mattered.

On the fiftieth anniversary of my father’s admission to practice, a Savannah lawyer lamented the fact that my father had never been adequately recognized for his many contributions to the profession and society, but explained this by noting that he had always been ahead of his time. My father’s reply was simple — “Ahead of my time? The Constitution, including the Bill of Rights, was written long before I was born.”

In 1966, the Alumni Journal of this Law School recognized him as “A lawyer whose able and courageous representation of a person in an unpopular case exemplifies notable and inspiring alumni accomplishment and the highest state of the conscience of the Bar.” This tribute resulted from his representation of an indigent defendant in a controversial death penalty case. The article quoted him as stating that he merely tried to live up to his professional responsibilities according to the oath he took upon admission to the bar.

Again, I am grateful for the honor which you bestowed upon me tonight, but it is another Penn Alumnus — Aaron Kravitch — who deserves much of the credit. It is my wish that his vision of constitutional justice and professional responsibility become the norm throughout our legal community and that the day may come when all lawyers are motivated by a commitment for justice. I am proud that this Law School has become a leader in teaching the obligation of members of the bar to represent the needy in our society. That same commitment from the entire legal community will insure that our Constitution remains the world’s greatest safeguard of democracy and liberty.

— Hon. Phyllis A. Kravitch ’44
Parents and Partners Day

The Law Alumni Society sponsored its annual day at the Law School for the families of the Class of '95 in October. Parents and partners joined students for a class and a panel discussion moderated by Dean Diver and featuring Todd McCoy '93, Wendy Ferber '93, and four alumni parents. Steven Arbittier '63 (father of Jennifer Arbittier '95), Carol Aronoff '66 (mother of Amanda Aronoff '95 - Carol and Amanda are, despite the Law School's more than 100 years of admitting women, the first mother/daughter alumni of the Law School), Joel Siegel '66 (father of Jane Siegel '95), and Gregory Weiss '69 (father of Melissa Weiss '95) shared their experiences in Law School and in their professional lives with a rapt audience.

Always a favorite event of all involved, Parents and Partners Day is a great way to introduce law students' families to the rigors of law school while introducing the Alumni Society to its newest prospective members.

Appointments

The news media carried the story on the front pages — Salomon Inc. announced the appointment of a new general counsel, Robert H. Mundheim, University Professor of Law and Finance and former Dean and Bernard G. Segal Professor of Law. Robert Denham, former general counsel and recently named chairman of the company, praised Mundheim, noting his “integrity, intelligence, judgement and experience.” Denham continued: “I have improved Salomon’s legal and compliance capabilities by getting Bob to be my replacement.”

Commenting on his new responsibilities, Mundheim notes: “The Salomon opportunity is unique in that it touches in a substantial way most of the issues with which I’ve been concerned during my professional life. Despite the new job, I continue to teach my year-long seminar and hope to continue to have a close relationship with the Law School.”

Biddle Law Library gained a new Reference Librarian last semester when Bill Draper joined the staff. Draper, who holds a B.A. in History and Economics with High Honors from Western Illinois University and his J.D. and M.L.S. from the University of Illinois, served as a staff attorney with Prairie State Legal Services and as Reference Librarian and Head of Information Services at the University of Missouri Law School Library. Author of a number of articles, Draper is currently at work on a guide to Missouri legal research.

Draper will supervise the Circulation and Stacking units of the Public Services Department; Reference Librarian Nancy Armstrong will now assume her new duties as Government Documents Librarian. These appointments continue to strengthen Biddle’s commitment to serving the Law School and legal communities.

Lectures

Irving R. Segal ’38 Lecture in Trial Advocacy — F. Lee Bailey

This fall’s Irving R. Segal Lecture in Trial Advocacy featured the renowned F. Lee Bailey, presenting “The Art of Cross Examination.” An overflow crowd of students, alumni, and friends listened intently as Mr. Bailey discussed his view that while the rules and principles of cross-examination can be taught, the best cross-examiners use their unique talents to establish their success.

Bailey instructed students bound for the courtroom to exercise their memories, to read and learn everything they can about a case, and to design questions that go after the one fact which can change the outcome of the case. He noted that the admonition not to ask a question to which you don’t know the answer may not be practical, and instead advised knowing the possible range of answers to all questions. “When you can ask a question and you don’t care what the answer is, you are a leg up on the witness.”

After the lecture, students, Mr. and Mrs. Segal, and guests enjoyed dinner with Mr. Bailey at the Faculty Club. The Segal Lecture series is endowed in honor of Irving Segal ’38, one of the Law School’s — and the nation’s — most esteemed trial and appellate attorneys.
A standing room only crowd of students, Institute for Law and Economics Board members, friends, and faculty attended the Institute’s Fall Seminar featuring The Honorable Douglas H. Ginsburg. Ginsburg, Judge of the United States Court of Appeals for the District of Columbia Circuit, presented a discussion of theories of non price competition. The Institute coupled the seminar with its Board meeting and a luncheon prior to the lecture.

Institute programs for the spring semester are in the planning stages; you are welcome to call Lee Kovacs at (215) 898-7719 to learn more about these events.

Visit from the Belarus Parliamentary Delegation

Members of the Belarus Parliamentary Delegation, touring the United States in cooperation with Lawyers Alliance for World Security, visited the Law School for a morning of consultation with faculty members last September. The group’s roundtable discussion included ideas on economic development and the establishment of a constitutional democracy in the fledgling Republic.

Dean Jan Klucka from Czechoslovakia Visits

The Central and East European Law Initiative sponsored more than 30 deans of European law schools in visits to American law schools during the past year. In October, Dean Jan Klucka of the University of P.J. Safarik in Kosice, a city in Eastern Czechoslovakia, spent a week at Penn Law. Dean Klucka sat in on classes, spent time with Law Review editors, enjoyed meals with faculty members, met with administrators, and even found time to visit Philadelphia courthouses and law firms.

Aba/Aals Reaccreditation

Penn Law School is accredited by the American Bar Association and is a member of the Association of American Law Schools. Every seven years these organizations conduct a review of each member school, for the twin purposes of determining its compliance with accreditation or membership standards and providing useful advice for the improvement of the school’s program.

The septennial review at Penn is taking place this academic year, and a site evaluation team, led by Dean John Kramer of Tulane University, visited the Law School in October. During their visit, members of the team attended classes, spoke informally with students, toured the Library, and visited with various administrative offices, including the Alumni and Development Offices. Additionally, the team met with several alumni at a reception hosted by Laurence Z. Shieckman ’71 at the Philadelphia office of Pepper, Hamilton & Schreit. Hon. Arlin M. Adams ’47, Jon A. Baughman ’67, Gilbert F. Casellas ’77, Sylvan M. Cohen ’58, Charles E. Dorkey III ’73, Charles Heimbold, Jr. ’60, Stephanie Weiss Naidoff ’66, Mansfield C. Neal, Jr. ’64, Hon. Thomas N. O’Neill, Jr. ’53, Helen P. Pudlin ’74, David Richman ’69 and Myles Tanenbaum ’57, presented graduates’ views of the Law School to team members.

The initial response from the team has been quite positive.

Alumni Activities

Our thanks to Richard Oughton LL.M. ’77 for this report on Dean Diver’s visit with alumni in England last summer:

“A dinner of the alumni and friends of the Law School took place on Friday, 19th June, at the Middle Temple, London. Dean and Mrs. Diver were the guests of honour. In addition to American Lawyers practising in London and British lawyers, a large number of Law School alumni travelled from the Continent especially for the dinner — indeed, eight countries of the E.E.C., together with Norway, Sweden, and Switzerland were represented. The loyal toast was proposed by Peter Roth LL.M. ’77, Visiting Professor ’86-’87. The toast to Benjamin Franklin was proposed by His Honour Judge John Colyer Q.C., Associate Professor ’59-’61, and Dean Diver replied. The highlight of the evening was a guided tour of Middle

The Sixth Annual Rugby Alumni Reunion Weekend will be held on Friday night and Saturday, April 16 and 17, 1993. Penn Law Rugby Football Club members will receive more details in a March mailing. For further info, please call Andy Margolis at (215) 722-8047.

Temple Hall, built in 1570, by Judge Colyer. Peter Roth and David Pullen, Legal Method Instructor ’63-64, were responsible for the very efficient organization of an excellent evening.

Alumni in Korea joined Clyde W. Summers, Jefferson B. Fordham Professor of Law Emeritus, in Seoul for a reception and some news about the Law School. Professor Summers, in Korea to present a paper on worker participation in the United States to the International Symposium on Collective Bargaining and Worker Participation, enjoyed his visit with the hospitable Korean graduates.

Somewhat closer to Philadelphia, alumni attending the annual meeting of the American Bar Association joined San Francisco area graduates for a reception in August. The ABA event gathers alumni from all over the country and gives them the chance to reconnect and hear from Dean Diver about the Law School.

A gathering of Penn Law alumni will be held during the ABA’s Mid-Year meeting in Boston in February. Please call the Alumni Office at (215) 898-6303 to learn more about this event.

In November, Philadelphia area BLSA alumni joined with law students at a reception sponsored jointly by the current BLSA membership and William H. Brown, III ’55. The group met over refreshments at Schnader, Harrison, Segal & Lewis to informally discuss practice and employment issues.

The positive response from both graduates and students encourages BLSA to plan additional events for the future. Watch for news of an informal night out at a Philadelphia club later this semester. If you are interested in assisting BLSA students with this or any other alumni events, please call the Alumni Office at (215) 898-6303.

Alumni in Delaware celebrated the careers of two of the Law School’s renowned alumni: Hon. Roxana Cannon Arsh ’39 and S. Samuel Arsh ’34. The Law Alumni Society bestowed an Alumni Award of Merit upon Judge Arsh in recognition of her years of service to the community as a family court judge in Delaware, supporter of public education, and sponsor of women at the bar. An Alumni Award of Merit was bestowed on Mr. Arsh in honor of his leadership of the Delaware corporate law movement and his dedicated service to clients and the profession.

More than forty people attended a luncheon hosted by A. Gilchrist Sparks, III ’73, a partner of Mr. Arsh. Dean Diver, Society Awards Committee Chair Jerry Apfel, and the many admirers of the Arshits found the event inspiring and heartwarming.

ANNUAL GIVING UPDATE:
The Early News is Good!

The December totals for Law Annual Giving 1992-93 have broken all participation records on the way to our $2 million goal. To date, $891,819 in unrestricted gifts have been received from 1962 alumni donors — a very encouraging total.

Charles E. Dorkey III ’73, National Chair of Law Annual Giving, explains that the dedication and effort of Law alumni and students during the fall semester contributed to these early results. Thirty current students participated in seven evenings of calling to alumni in October and November. These students raised more than $29,000 in unrestricted pledges from graduates. In addition, two nights of alumni calling were held in Philadelphia. The volunteers raised $63,000 in pledges from colleagues and friends.

Our gratitude to all who have made their contribution this fiscal year. If you have not yet made a contribution, please remember that every gift is important. All gifts made before June 30, 1993 will help us reach our impressive goal of $2 million in support for the Law School.
Calendar

WINTER 1993

JANUARY

Wednesday, January 27, 1993
Law Alumni Society Reception in conjunction with the Annual Meeting of the New York State Bar Association. Alumni Awards of Merit will be presented to Samuel F. Pryor, III '53 and Marvin Schwartz '49.
5:30 pm, The Marriott Marquis
New York City

Thursday, January 28, 1993
Annual Keedy Cup Competition
Hons. Jane Roth, Alex Kozinski, and Morris S. Arnold presiding.
4:00 pm, Annenberg Auditorium

Friday, January 29, 1993
University of Pennsylvania Law Review Symposium
The Paradox of Blackmail
Moderated by Professor Michael Moore and featuring federal jurists and faculty from national law schools, including Hon. Douglas Ginsburg, Professor Wendy Gordon '75 of Rutgers School of Law/Newark, Professor Leo Katz, and Hon. Richard Posner.
9:00 am, The Law School

FEBRUARY

Thursday, February 4, 1993
Law Alumni Society Breakfast in conjunction with the Annual Meeting of the American Bar Association in Boston.
Hosted by Paul F. Ware, Jr. '69
8:00 am, Goodwin, Procter & Hoar

MARCH

Tuesday and Wednesday, March 2 & 3, 1993
Annual Giving Phonathon
6:00 pm, Faculty Club

Friday, March 5, 1993
Annual Law Annual Giving Dinner and Basketball Game for all Volunteers
5:00 pm Dinner
7:30 pm Penn/Yale Game
Hutchinson Gym
33rd and Spruce Streets

Thursday, March 11, 1993
New York Phonathon
For information, call Eugenia Warnock
(215) 898-1513.

APRIL

Wednesday, April 7, 1993
Law Alumni Society Board of Managers Meeting
5:30 pm, The Law School

Wednesday, April 14, 1993
Law School Board of Overseers Meeting
9:00 am, Location to be announced.

MAY

Wednesday, May 5, 1993
Law Alumni Reception in conjunction with the Annual Meeting of the Pennsylvania Bar Association.
5:30 pm, Pittsburgh Vista
Pittsburgh, PA

Wednesday, May 12, 1993 (tentative)
Law Alumni Society Luncheon in conjunction with the Annual Meeting of the American Law Institute in D.C.
Noon, The Mayflower Hotel
Washington, D.C.

Saturday and Sunday, May 15 and 16, 1993
ALUMNI WEEKEND
All alumni, and particularly those in the Classes of '33, '38, '43, '48, '53, '58, '63, '68, '73, '78, '83, and '88, are invited to the Law School.

Monday, May 17, 1993
Commencement
2:00 pm, The Academy of Music
Philadelphia

Also to be scheduled:
The Annual Owen J. Roberts Memorial Lecture

For further information about these and other Law School events, please call the Alumni Office at (215) 898-6303.
Looking Ahead:
Alumni Weekend '93 and Dedication Plans

Plans are full steam ahead for Alumni Weekend '93. All are invited to come to the Law School on May 15 and 16, 1993 for events both social and informative. On Saturday morning, May 15, the Law School will host two Alumni/Faculty Exchanges. The Center on Professionalism will present a two and one-half hour session from its highly acclaimed interactive video series, Professional Responsibility for Lawyers: A Guided Course. (For more information on the Course, see page 24.) This session will feature "Counseling and Negotiation: The Settlement of Lancer v. American Steel Co. " and will be moderated by Judge Edmund B. Spaeth, Jr., Senior Fellow at the Law School. Pennsylvania lawyers can fulfill one-half of their mandatory CLE requirement in legal ethics by attendance. The Center’s fee will be discounted to Penn Law graduates for this and a session planned for the afternoon.

Also Saturday morning, Dean Diver will moderate an Exchange on the evolving standards on obscenity and decency in the media. The State of Penn Law Lunch will follow at noon, where the Law Alumni Society will present the Distinguished Service Award to Sylvan M. Cohen ’38 and will hold its annual elections. All are welcome to tour the Law School, see the new building, and meet with old friends on Saturday.

In the afternoon, the Center on Professionalism will present a second program, “Conflicts of Interest in Corporate Transactions: The Buyout of the Harris Chemical Company.” Attendance at this and the morning session complete a PA licensed attorney’s CLE requirements for one year.

During the weekend, many of the quinquennial classes — ’33, ’38, ’43, ’48, ’53, ’58, ’63, ’68, ’73, ’78, ’83, and ’88 — are planning individual celebrations. Call the Alumni Office at (215) 898-6303 to learn more about plans for your class.

All alumni are invited back to the Law School on Sunday for the All-Class brunch buffet at which the Society will congratulate and welcome its newest members, the Class of ’93.

For information about these and other events, hotel reservations, parking, child care arrangements, etc., please call the Alumni Office at (215) 898-6303.

And while you are arranging your calendar, plan to be in Philadelphia October 1993, for the Dedication of our new building. This once-in-a-lifetime opportunity to celebrate the Law School’s past, present, and future will feature a Dedication ceremony, academic events, and a gala dance party in the new building.

Watch your mail for more information about the Dedication events!
HELP US LOCATE YOUR REUNION CLASSMATES!

We do not have current addresses for 35 members of this year’s Reunion Classes. Please check your address book and let us know if you can help us be in touch with them before Alumni Weekend '93:

'33
Sidney H. Kanig
Benjamin J. Lipez
Herbert G. Marvin
Anthony J. Sweeney, Jr.

'38
Henry W. McCormick
Harvey L. Panetta

'48
Robert F. Conrad
Charles B. Selak, Jr.

'53
Edwin C. Bradford
James B. Craig, Jr.
R. R. Johnson, Jr.

'58
Irwin Albert
Harry Tractman
Howard H. Ward
Dr. Muhammad H. Elfarra, LL.M.
Yves Grappotte, LL.M.

'63
Robert C. Littman
Mahmood A. Farugui, LL.M.
Guido Fienga, LL.M.
Manuel S. Tiaogui, LL.M.

'68
Russell J. Eprecht
Jonathan S. Paulson

'73
Jeanne E. Gorrissen

'78
M. P. Debarros Neto, LL.M.
Meng Cheng Lee, LL.M.
Elizabeth K. Letlhaku, LL.M.
Paul A. O'Connor, LL.M.

'83
Tomas A. Carrillo-Romero, LL.M.
Evelyn Charmat, LL.M.
Jane O'Rourke, LL.M.
Tschan Wei Pan, LL.M.
Masatomo Suzuki, LL.M.

'88
Jan Allyson Buckner
John Edmund Sharples, LL.M.
Dianne R. Terblanche, LL.M.

Lipman Redman '41, attending a tour for Law School Overseers last October, peers into the Courtyard from the second floor of the new building. Come see the progress during Alumni Weekend '93, and plan to join in Dedication events October 14-16, 1993.
In his annual letter to alumni last October, Dean Diver described Penn Law’s faculty as “an ambitious investment in intellectual capital.” Our faculty completed four books, made progress on eight more, published 44 journal articles, five book chapters, and five book reviews. All while traveling the country to give lectures and presentations and serving in numerous and varied civil and professional capacities.

The 31 members of the standing faculty include 22 scholars who have come to Penn since 1980. These scholars bring depth and breadth of unprecedented proportions to our faculty. Last summer, four faculty members, all of whom began their academic careers at the Law School, were promoted to the rank of Professor. In announcing the promotions, Dean Diver noted: “just as their appointments in the 1980s had symbolized the potential of a new era, so their promotions in 1992 symbolize the realization of that potential.”

Here, we present excerpts from the recent work of these four scholars: Michael Fitts, Lani Guinier, Seth Kreimer, and Michael Schill.

**Whither Public Law**

*by Mike Fitts*

Mike Fitts joined the Penn Law faculty in 1985 after clerking with Hon. A. Leon Higginbotham, Jr. in the Third Circuit Court of Appeals and serving in the Office of Legal Counsel in the Department of Justice. As a legal scholar, he is interested in public law and, through his empirical and theoretical studies, forces us to reconsider the problems engendered by the growing decentralization of power in our democratic structure. His work in this area is enhanced by his interdisciplinary efforts with Wharton economist Robert Inman.

In this piece, written for the Journal, Professor Fitts considers the growing conflicts over institutional powers and details how his research, combining political science theory and legal tradition, might suggest remedies.

Over the past decade, the issues have surfaced repeatedly in the pages of *U.S. Reports*, as well as in the evening news, candidate debates, and weekend talk shows. What is the Senate’s appropriate role in the selection of judicial and executive appointments? Can the President withhold EPA documents from Congress? Can the President exercise a line item veto, or Congress a legislative veto? Can the special prosecutor indict or secure documents from the President? What are the President’s powers over the bureaucracy or over Congress? Are term limits constitutional? Can the President fire the members of the Civil Rights Commission? Can the President invade Nicaragua? The list goes on.

Conflicts over institutional powers have become increasingly open and acerbic. The number of cases challenging some aspect of government organization has increased logarithmically in recent years, with novel forms of government organization being tested or old forms being challenged under novel legal theories. As a corollary political debate over the form and control of political institutions has heightened, fueled by the increasing ideological identification of particular political institutions with different ideologies. The Supreme Court, lower federal courts, presidency, executive branch bureaucracies, the independent agencies, and Congress have each been tagged with a different political and ideological “bias”, raising the stakes for those concerned with the legal resolution of the allocation of institutional powers.

Not surprisingly, there also has been a strong sense that the performance of political institutions needs to be improved. A New Deal consensus about government performance has given way to pragmatic skepticism, on both the right and left, about traditional forms of government organization and agreement on the need for alternative approaches to public policy. The watchman state form of government has given way to a post New Deal administrative state which presents its own peculiar problems, from potential tyranny, inefficiency and "rent
seeking” to immobility and malaise.

In light of these new challenges to public law, scholars who might have hoped to spend their time focusing on common law doctrines of administrative autonomy have had to evolve and update their conceptual approaches. To the extent that legal issues in public law resolved only incremental problems created by marginal changes in a watchman state, the tools of the trade were fairly standard—a knowledge of history and an ability to parse divergent lines of cases.

As the issues up for grabs in public law have become more fundamental, however, so has the focus of public law scholars. Knowledge of political science has required more technical skills in so-called public choice, which involves the application of economics models and methodological to political problems, as well as increasingly sophisticated empirical tools. Similarly, organization theory and the study of bureaucratic forms of organization have been helpful in elucidating the intricacy of administrative operations, as have detailed case studies of the operations of individual agencies.

Finally, jurisprudential theories have illuminated how executive agencies, the President, Congress, and courts interact to achieve a shared view on the direction of the public policy. A new movement in favor of civic republican organization has attempted to give analytic rigor and historical legitimacy to a government promoting social dialogue. Just as law and economics has sought to show how organizations can maximize efficiency and utility, civic republicans have tried to show how government organization can be an important tool in the shaping of public values and the implementation of a public consensus.

Where has all this led in elucidating the important questions of our time—particularly the form of the modern administrative state and the respective powers of its branches? Although the complex goals served by this structure are almost never fully articulated, a prevention of tyranny and protection of private property are usually put forward as its chief attributes, along with the promotion of public dialogue. According to this perspective, the different branches of government should come together, “ambition counteracting with ambition,” to reach agreement.

I have frequently been a critic of the mainstream, calling for strengthened political parties. This perspective, which borrows from the British paradigm of a strong party tradition, has been the dominant view within political science, but ironically has never before had much support among lawyers or legal academics in the United States. The text of the Constitution with its separated powers stands as the most obvious question mark for those espousing this view, as does the traditional lawyer’s focus on formal powers and the formal resolution of issues; political parties and political science more generally look to how the formal exercise of power is affected by informal processes that frequently take place outside the purview of U. S. Reports or formal institutional design. Political parties and the nitty gritty of politics also have developed an air of seediness that is not often appreciated under a legal process perspective.

Despite this, strong political parties and strong chief executives have much to commend themselves. First, and perhaps most importantly, the new political economy has shown the tremendous organizational problems of individuals and groups in a society and a government of dispersed and divided powers. A dispersed government, both within branches and between branches, can create logical chaos, dominant special interest groups, or inaction. Political parties are especially designed to overcome many of these problems of government organization and hold political institutions politically and organizationally accountable. At the same time, the coherence of such organizations can help to organize public debate so as to maximize political participation and facilitate public deliberation over the most important issues. In this sense, the political party model, if effectively implemented, may have some advantages over our current system of divided powers. While certainly no one has suggested we make major changes in our current system of government, and understanding of the advantages of strong parties and presidents would support changes in the political process, particularly campaign regulation and some increased presidential powers.

Political parties are certainly not a panacea. Just as lawyers are blind to the informal interactions that affect public policy, so political scientists tend to underestimate the value of traditional legal norms and processed to political issues. Concepts such as the rule of law and due process are important limitations on the choices made by the political branches; legal structures force political choice into a more reflective analysis of problems then the normal give and take of the politics. Indeed, my current work is attempting to show how some of the old doctrines of law and the legal process school can be understood and justified in terms of the technical models of political choice that political scientists are so enamored with. In effect, I am critiquing political science from the lawyer’s perspective, having criticized law from the political scientist’s perspective. Both disciplines have much to learn from one another, especially as they converse on the future of public law.
Second Proms and Second Primaries: The Limits of Majority Rule

by Lani Guinier

Lani Guinier’s experience as a voting rights litigator informs her scholarship in both practical and theoretical ways. She continues to litigate challenges to repressive election schemes, and in the following excerpt from an article published in the Boston Review (September/October 1992), she describes her involvement in a challenge to a run-off election system employed in a rural Arkansas county. In developing her theory of this and other restrictive voting schemes, Professor Guinier posits a challenge to the principle of traditional majority rule.

Brother Rice High School held two senior proms last spring. It was not planned that way. The members of the prom committee at Brother Rice, a boy’s Catholic high school in Chicago, expected just one prom when they hired a disc jockey, picked a rock band, and selected music for the prom by consulting student preferences. Each senior was asked to list his three favorite songs, with the understanding that the band would play the songs that appeared most frequently on the lists.

Sounds attractively democratic. But Brother Rice is predominantly white, and last year’s senior prom committee was all white. That’s why they ended up with two proms. The black seniors at Brother Rice felt so shut out by the “democratic process” that they organized their own prom. As one black student put it: “For every vote we had, there were eight votes for what they wanted…[W]ith us being in the minority we’re always outvoted. It’s as if we don’t count.” Some embittered white seniors saw things differently. They complained that the black students should have gone along with the majority: “The majority makes a decision. That’s the way it works.”

In a way, both groups were right: with majority rule and a racially organized majority, “we don’t count” is the “way it works” for minorities. In a racially divided society majority rule is not a reliable instrument of democracy.

That’s a large claim, and one I don’t base solely on the actions of the prom committee in one Chicago high school. In a recent voting rights suit in Arkansas, I represented black plaintiffs in a case that turned less on legal technicalities than on the relationship between democracy and majority rule. The failure to challenge traditional assumptions about that relationship — to show that majority rule is sometimes unfair — sealed the plaintiffs’ defeat.

But if a group is unfairly treated when it forms a racial minority within a jurisdiction, and if we cannot combat the unfairness without persuading legal decision-makers to reconsider assumptions about majoritarianism, then what is to be done? The answer is that we need an alternative to majoritarianism: a “principle of proportionality” that transcends winner-take-all majority rule and better accommodates the values of self-government, fairness, deliberation, compromise, and consensus that lie at the heart of the democratic ideal.

The Case of the Majority Vote Run-off

Phillips County is a predominantly rural, economically depressed county in Arkansas. Majority black in population, it is majority white both in voting age population and in registered voters. According to the 1980 census, 53 percent of the 34,722 residents are black; but blacks constitute only 47 percent of the county voting age population. Despite this representation in the population, blacks in the county have never had
much political power. In fact, since Reconstruction, no black has ever been nominated or elected to any county-wide office in Phillips County.

According to Sam Whitfield and the other plaintiffs in the case of Whitfield, et al vs. State Democratic Party, the Arkansas law regulating primary elections bears a significant share of the responsibility for the lack of black political power. The law requires that a candidate receive a "majority of all the votes cast for candidates for the office" in order to win the party’s nomination. If no candidate wins a majority in the first round of primaries, then the two leading candidates face each other in a run-off election two weeks later. The plaintiffs alleged that the majority requirement deprived black voters in Phillips County of an equal opportunity to elect the candidates of their choice — a violation of Section 2 of the Voting Rights Act of 1965 (as amended in 1982).

The cornerstone of their argument was the historical pattern of racially polarized voting in Phillips County: white voters vote exclusively for white candidates and black voters for black candidates. So if more than one white candidate sought a nomination, the white vote would be divided and the black candidate might win the support of a plurality by winning all the votes cast by black voters. But there would be no chance for a black candidate to win a majority of the votes for nomination. The majority requirement would, then, force a run-off two weeks later. And in the run-off, the whites would close ranks and defeat the black candidate.

Blacks also suffer disproportionately from poverty, and that poverty works to impede their effective participation in the run-off primary. For example, 42 percent of blacks lack any vehicle, while only nine percent of the white population are similarly handicapped; and 30 percent of blacks — compared to 11 percent of whites — have no telephone. Isolated by this poverty, black voters are less able to maneuver around such obstacles as frequent, last minute changes in polling places. Getting people to the polls a second time within a two week period severely burdens the resources of black candidates, who have difficulty raising the additional money, paying for advertisements, notifying their supporters of the run-off election, and then convincing their supporters to go back to the polls once again. In fact, between the first and second primary, turn-out drops precipitously, so that the so-called majority winner in the run-off may receive fewer votes than the black plurality winner in the first primary.

The District Court that heard the 1988 challenge to the Arkansas law did not dispute the facts: That no black candidate had ever been elected to county-wide or state legislative office from Phillips County, and that "race has frequently dominated over qualifications and issues" in elections. Nevertheless, the court rejected the challenge to the majority requirement.

In the first place, the Court argued that the run-off requirement could not itself be blamed for the dilution of black voting strength. To be sure, bloc-voting by the white majority consistently prevented a relatively cohesive black population from nominating or electing their chosen representatives. But, the Court argued, that problem could not be solved by eliminating the run-off. On the contrary, if white candidates were stripped of the protection provided by the run-off, they would simply limit their numbers in the first round, self-selecting one white to run head-to-head against a black. So eliminating the run-off would "tend to perpetuate racial polarization and bloc-voting."

More fundamentally, however, the Court’s decision was based on its enthusiasm for the majority vote requirement rather than on its skepticism about the benefits of removing that requirement. Majority rule lies at "the very heart of our political system"; the requirement in the primaries was "not tenuous but, to the contrary, strong, laudable, reasonable, and fair to all." For a court to invalidate a majority vote requirement would undermine the operation of democratic systems of representation because "Americans have traditionally been schooled in the notion of majority rule... [A] majority vote gives validation and credibility and invites acceptance; a plurality vote tends to lead to a lack of acceptance and instability."

The central place of majoritarianism in the Court’s perception of the case can be highlighted with one more piece of background. Courts do, of course, sometimes invalidate voting schemes on the ground that those schemes deny a minority "an equal opportunity" to nominate or elect "candidates of their choice." In such cases, the Court aims to ensure for all groups an opportunity to have their interests represented in the governing body. For example, when an existing district has a black minority, the standard remedy is to establish a subdistrict with a black majority in which blacks can elect representatives of their choice. By creating pockets in which minorities are majorities, race-conscious districting provides a remedy for underrepresentation that respects the concerns of minorities while affirming the dominance of the majority principle.

But there was a problem with the standard remedy in Phillips County: the majority vote requirement applied to elections for seven county-wide positions. So each position represented the entire electorate. In such a circumstance, several courts have said that the Voting Rights Act does not apply. There can be no equal opportunity to elect because there is no "share" of a single-person office. Modifying an electoral structure to create alternative subdistrict majorities is not plausible where the majority vote rule applies to single-person offices.

With subdistricting ruled out, the only possible remedy, then, would have been for the Court to require the replacement of the majority requirement with a plurality system. And that is precisely what the plaintiffs asked the Court to do. But—and here we return to the main point—the Court would...
not require a plurality scheme because of its own conception of the central place of majoritarianism in democracy. While a plurality winner in many cases is quite conventional, to order it as a judicial remedy opened up possibilities of non-majoritarianism that the Court found quite threatening. With a plurality system unacceptable, and subdistricting unavailable, the Court had no remedy for the plaintiffs. Absent a remedy, the Court found no violation.

At bottom then, the case was about democracy and majority rule. The Court denied relief because it identified democracy with majority rule. In short, the Court's conclusions were supported less by the evidence in Phillips County than by the Court's own majoritarian conception of democracy. To win the case, the plaintiffs needed directly to challenge this premise about the intimate link between majority rule and democracy.

For example, they might have argued that majority rule is legitimate only when it is fair, and not simply because it is desirable or efficient to make decisions whose supporters outnumber their opponents. The conventional case for the fairness of majoritarian rule, however, is that it is not really the rule of a fixed group — The Majority on all issues. Instead it is the rule of shifting majorities: you cooperate when you lose in part because members of the current majority will cooperate when you win and they lose. The result will be a fair system of mutually beneficial cooperation.

But when a prejudiced majority excludes, refuses to inform itself about, or even seeks to thwart the preferences of the minority, then majority rule loses its link with the ideal of reciprocity, and so its moral authority. As the plaintiffs' evidence conclusively demonstrated, this was precisely the situation in Phillips County. The fairness of the majority requirement was destroyed by the extreme racial polarization, the absence of reciprocity, and the artificial majorities created in the run-offs.

Proportionality
Let's now consider a system of proportional representation that drops the majority requirement. There are many such systems, but here I will focus on a scheme used in corporate governance called "cumulative voting." Under cumulative voting, voters cast multiple votes up to the number fixed by the number of open seats. If there are seven seats on the county-wide governing body, then each voter gets to cast seven votes; if there are thirty songs at the senior prom, then each senior gets thirty votes. But they may choose to express the intensity of their preferences by concentrating all of their votes on a single candidate or a single song or by distributing their votes strategically to represent their most salient interests while also supporting lesser held views.

Let's examine this scheme of proportional representation according to three tests of political fairness from the perspective of minority interests: Does the system directly or only virtually represent voters' interests? Does it mobilize participation? Does it encourage genuine debate by promising real inclusion or only token representation? Here, we'll consider how cumulative voting fares in representing interests, mobilizing participation, and fostering inclusive debate.

Cumulative Voting and Direct Representation of Interests
If voting is polarized along racial lines, as voting rights litigation cases hypothesize, then a system of cumulative voting would likely operate to provide at least a minimal level of minority representation. Unlike race-conscious districting, however, cumulative voting allows minority groups members to identify their own allegiances and their preferences based on their strategic use of multiple voting possibilities. Instead of having the government authoritatively assign people to groups and districts, cumulative voting allows voluntary interest constituencies to form and regroup at each election; voters in effect "redistrict" themselves at every election.

By abandoning geographic districting, except perhaps to create regional multi-member districts, it also permits a fair representation of minority voters who do not enjoy the numerical strength to become a district electoral majority or who — as when Latinos live in dispersed barrios — are so geographically separated within a large metropolitan area that their strength cannot be maximized within one or more single-member districts.

In all of these ways, cumulative voting would likely encourage direct representation of minority voter interests.

Cumulative Voting and Participation
Cumulative voting also looks good as a way to encourage cross-racial participation rather than foster polarization. Cumulative voting lowers the barriers to entry for local political parties since supporters of such parties can concentrate all their votes on the candidates from their party. With those barriers reduced, minority political parties might reclaim, at a newly invigorated grassroots level, the traditional party role of mobilizing voter participation, expanding the space of organized alternatives, and so stretching the limits of political debate. Additionally, locally-based political parties might then organize around issues or issue-based coalitions. Since the potential support for the minority political party is not confined by a geographic or necessarily racial base, cross-racial coalitions are possible.

Cumulative Voting and Political Debate
Cumulative voting is more inclusive because it moves us closer to principles of proportionality and power-sharing. Cumulative voting begins with the proposition that a consensus model of power sharing is preferable to a majoritarian model of centralized,
winner-take-all accountability and popular sovereignty. It takes the idea of democracy by consensus and compromise and structures it in a deliberative, collective decision-making body in which the prejudiced white majority is “disaggregated.” The majority is disaggregated both because the threshold for participation and representation is lowered to something less than 51 percent and because minorities are not simply shunted into “their own districts.” These changes would encourage and reward efforts to build electoral alliances with minorities.

To get the full benefits of cumulative voting, however, it would also be necessary to change the process of governmental decision-making itself, away from a majoritarian model toward one of proportional power. In particular, efforts to centralize authority in a single executive would be discouraged in favor of power sharing alternatives that emphasize collective decision-making. Within the legislature, such devices for minority incorporation as rotation in legislative office could be introduced, and rules could be enacted that require supermajorities for the enactment of certain decisions. Minority groups would then have an effective veto, thus forcing the majority to bargain with them and include them in any winning coalition.

Other electoral and legislative decision-making alternatives are also available — for example, legislative cumulative voting — that are fair and legitimate, that preserve representational authenticity, and yet are more likely than current practices to promote just results.

The principle of proportionality is molded by the hope that a more cooperative political style of deliberation and ultimately a more equal basis for preference satisfaction is possible when authentic minority representatives are reinforced by structures to empower them at every stage of the political process. Ultimately however, representation and participation based on principles of proportionality are also an attempt to reconceptualize the ideal of political equality, and so the ideal of democracy itself.

The aim of that reconstruction should be to re-orient our political imagination away from the chimera of achieving a physically integrated legislature in a color-blind society and toward a clearer vision of a fair and just society. In the debate over competing claims to democratic legitimacy based on the value of minority group representation, I side with the advocates of an integrated, diverse legislature. A homogeneous legislature in a heterogeneous society is simply not legitimate.

But while black legislative visibility is an important measure of electoral fairness, taken by itself it represents an anemic approach to political fairness and justice if a white racial majority still monopolizes legislative decision-making under cover of majority rule. A vision of fairness and justice must begin to imagine a full and effective voice for disadvantaged minorities, a voice that is accountable to self-identified community interests, a voice that persuades, and a voice that is included in and resonates throughout the political process. That voice will not be achieved by majoritarian means which allow a racially organized majority to wield 100% of the power. For in the end democracy is not about rule by the powerful — even a powerful majority — nor is it about arbitrarily separating groups to create separate majorities in order to increase their share. Instead, the ideal of democracy promises a fair discussion among self-defined equals about how to achieve our common aspirations. To redeem that promise, we need to put the idea of proportionality at the center of our conception of representation.
Sunlight, Secrets and Scarlet Letters: The Tension Between Privacy and Disclosure in Constitutional Law

by Seth F. Kreimer

Seth Kreimer joined the Law School faculty in 1981, and began immediately to attract a following of students enthusiastic about the study of Constitutional Law. His scholarship in this field has forged his reputation as one of the nation's most inventive constitutional law theorists.

In this article, excerpted from a discussion published at 140 University of Pennsylvania Law Review 1 (1991), Professor Kreimer considers the competing claims of privacy and disclosure in a democratic society.

There is a tradition which regards exposure itself as a beneficial, purifying process. The willingness to "stand up and be counted", or to subject oneself to the rigors of debate on a difficult moral decision may be a guarantor of the seriousness of moral purpose. Thus, the early defenses of the investigations of the McCarthy era dismissed the claims of witnesses to constitutional protection. They called such claims "a fallacy essentially based on the idea that the Constitution protects timidity... there is no restriction resulting from the gathering of information by Congress... which does not flow wholly from the fact that the speaker is unwilling to advocate openly what he would like to urge under cover."1

The argument was far from an isolated aberration. It is an article of faith that the public character of votes by legislators and judges ensures their likely responsiveness to appropriate constraints. While there may be a federal privilege to inform the government of violations of law, anonymous accusations are distrusted because they are thought particularly prone to abuse. So, too, some now claim that the impact of disclosure on the difficult decision regarding abortion should be viewed as a legitimate means of ensuring morally serious choices.

One source of the impetus for responsibility associated with publicity is the concrete benefit of a good reputation. In the area of speech, when the identity of the speaker is known, future influence stands hostage for current good behavior. Not only will listeners who have been duped in the past be able to take measures to avoid being misled in the future, but the speaker knows that such measures will be taken. Thus, the prospect of disclosure provides an incentive to speak in a way that will not forfeit the respect of listeners whom one

1 U.S. v. Josephson, 165 F.2d 82, 92 (2d Cir., 1947) cert. denied, 333 U.S. 838 (1948). Cf. J. Wechsler, The Age of Suspicion, 279 (1953) ("I have no brief for anybody who refuses to testify before a congressional committee; no matter how foolish or fierce the committee, an American ought to be prepared to state his case in any public place at any time"); Wyzanski, Standards for Congressional Investigations, 3 NY Bar Asn. Rec., 93, 101-02 (1948) ("Congressional investigations are only one... example of our belief that exposure is the surest guard not only against official corruption... but against private malpractices, divisive movements and antisocial tendencies in the body politic"... the "democratic process is an open process in which we have deliberately chosen to sacrifice a large measure of privacy... in order to have, in Pericles' words, 'discussion and the knowledge that is gained from discussion'").
wishes to persuade or do business with in the future.

The constraints of publicity reach beyond calculations of concrete gain or loss, for citizens desire the regard of their fellows as a good in itself. As Bentham remarked in his plea for publicity of judicial proceedings, "Under the auspices of publicity, the original cause in the court of law and the appeal to the court of public opinion are going on at the same time. So many by-standers as an unrighteous judge (or rather a judge who would otherwise have been unrighteous) beholds attending in his court, so many witnesses he sees of his unrighteousness — so many ready executioners — so many industrious proclaimers of his sentence." 2

Nor is the effect limited to the prospect of ostracism or explicit social pressure by one's peers. The classic liberal argument for disclosure suggests that the prospect of observation alters the quality of judgment. The sense of being exposed to public view is a spur to engage in the actions of the person we would like to be. Exposure as the author of an action or statement links it to our identity; the broader the exposure, the more indissoluble the link and the harder it is to disavow the action. Long before the findings of modern social psychology regarding the norm-reinforcing effect of public observation 3, John Stuart Mill opposed secret ballots because "The best side of their character is that which people are anxious to show, even to those who are no better than themselves. People will give dishonest or mean votes from lucre, from malice, from pique, from personal rivalry, even from the interests or prejudices of class or sect, more readily in secret than in public. And cases exist... in which almost the only restraint upon a majority of knaves consists in their involuntary respect for the opinion of an honest minority." 4

Even when public opinion or prevailing norms are ultimately flouted, the impact of publicity can improve the nature of decisions. In Mill's words, again, "Nothing has so steadying an influence as working against pressure... Even the bare fact of having to give an account of their conduct is a powerful inducement to adhere to conduct of which at least some decent account can be given... publicity is inappreciable even when it does no more than compel deliberation and force everyone to determine before he acts, what he shall say if called to account for his actions." 5

Mill, though sensitive to the "tyranny of public opinion," pressed the argument for transparency one step beyond the state, arguing that the vote of an individual citizen should itself be responsive to the public. In his view, an electorate's "vote is not a thing in which he has an option... he is bound to give it according to his best and most conscientious opinion of the public good... it is a public trust; if the public are entitled to his vote, are they not entitled to know his vote?" 6

These arguments, however, carry with them their own limits. Granting the citizen's obligation to cast a ballot in accordance with judgment rather than from the bench... In legislation, in judicature, in every line of human action... giving reasons is, in relation to rectitude of conduct, a test, a standard, a security, a source of interpretation"); Kant, On Eternal Peace, reprinted in C. Friedrich, Inevitable Peace 277 (1948) ("It is possible to call the following statement the transcendental formula of public law: All actions which relate to the right of other men are contrary to right and law, the maxim of which does not permit publicity.")

When Kant agrees with Mill and Bentham on a proposition, one might think that proposition is tightly linked with modern liberalism.


3 See, e.g., Zetterberg, Compliant Actions, 2 Acta Sociologica 179 (1957) (where visibility is high, actions will quickly converge toward a norm); Zimbardo, Human Choice, Individuation, Reason and Order versus Deindividuation, Impulse and Chaos, in 17 Nebraska Symposium on Motivation (W. Arnold & D. Levine, eds., 1969) (anonymous and unidentifiable subjects tend to act more aggressively); A. Buss, Self Consciousness and Social Anxiety 93 (1980) (reviewing literature on norm-reinforcing effects of observation). Cf. id at 67-68 (norm-reinforcing effects of presence of mirrors).


5 Representative Government, infra note 5, at 162. Cf. Works of Bentham VI, supra note 2, at 357 ("Publicity therefore draws with it on the part of the judge... the habit of giving reasons..."
interest, there are often practical reasons to support the accepted wisdom that the secret ballot is a cornerstone of democracy. The memory of the McCarthy era should suggest that in the world of politics as we know it revelation carries with it the danger of boycott, the specter of browbeating, the lure of wealth and the threat of ostracism, as well as the promise of mutual persuasion. Mill conceded that where the probability of bribery or coercion was great, secret ballots were the lesser evil, but contended that "the power of coercing voters has declined and is declining... the greater source of evil is the selfishness of the voter himself." In circumstances where the empirical preconditions of independence are absent, a secret ballot will clearly emerge as a second best solution.

Objections to publicity go beyond the force of potentially coercive circumstances, however. The question of the appropriate standards of judgment in matters of public trust is itself contested. Although Mill champions a claim for judgments defensible in the public spotlight, the liberal heritage recognizes a conception of judgment which suggests deep moral decisions are best made in private confrontation with the actor's conscience. In this tradition, just as the citizen should not be tempted either by threat or bribe to be false to her conscience in the political process, she equally should not be traduced by a temptation to "go along" with the majority. Thus Justice Frankfurter, hardly a proponent of unbridled individualism, suggested "it is not even arguable that Congress could ask for a disclosure of how union officials cast their ballots in the last election" and was joined by Justice Harlan in writing that "inviolability of privacy belonging to a citizen's political liberties has [an] overwhelming importance to our kind of society." On this view, although discussion of public issues is a public act, the ultimate judgment of the citizen is a private one, reached between the citizen and her conscience.

Even abstracting from the possibility of coercion, therefore, as between the responsibility of public disclosure and the authenticity of private reflection, the balance on the question of the secret ballot is unclear on liberal premises. In some areas, however, the question is not close. For under liberal premises not all exercises of right are matters of public trust. The border between the public and the private has an irreducible importance in liberal thought, and the enterprises confided to the sphere of private choice can properly claim immunity to public observation. For Mill, the concern with preserving possibilities of experimenta-

---

7 E.g., A. Westin, Privacy and Freedom, 24 (1967); Universal Declaration of Human Rights, Article 21.3 (guarantee of secret ballot as basic human right).

8 As an historical matter, the secret ballot was introduced in the U.S. in the 1880s under the banner of reducing bribery and intimidation of voters (and arguably as a means of breaking the power of political machines). See L. Fredman, The Australian Ballot, Story of an American Reform (1968); J. Wigmore, The Australian Ballot System as Embodied in the Legislation of Various Countries (1886). In the South, it also constituted a means of disenfranchising often illiterate black voters who needed assistance denied by ballot secrecy.


tion from social tyranny would justify shielding these private realms from an unenlightened public opinion.\textsuperscript{12}

The objection to disclosure in these areas need not rest only on a fear of the benighted character of public opinion. If the realm of private identity should be judged and controlled by standards radically different from the standards appropriate to political action, the compulsory exposure of choices of intimate self-definition to public scrutiny will result not in their purification, but their corruption. The person who governs her love life or friendships by the standards applicable to her principled political judgments is likely to be not a moral exemplar but an oddity. So, too, if diversity of social fabric is an affirmative good — leading as it does to a wider array of options among which citizens can choose in establishing their lives — the conformity-inducing effects of disclosure are to be avoided in forming citizens’ identities. A society like ours, which is rich in a variety of social roles and overlapping communities, provides the forum for realization of an ideal allowing the citizen to choose the self she wishes to develop from among the plurality of identities offered. The availability of these possibilities provides a space for human agency and renewal as well as a bulwark against tyranny.

This ideal requires that the citizen have available more limited communities than the society as a whole in which to constitute herself. The self formed in private dialogue within a consciousness-raising group is likely to be different than the self formed in a nuclear family, an NAACP chapter, or a Catholic church, which will differ in turn from the self formed in confrontation with the national news media.

A community defines itself in part by sharing secrets and where disclosure is the rule, there are no secrets. In the absence of privacy, involvement in an unorthodox community finds no shelter from the threat of social and economic sanctions; the dialogue of the consciousness-raising group becomes no less a matter of public record than the proceedings on the floor of Congress.\textsuperscript{13}

The option of shaping the self in the exchange of confidences is no longer available. Such a result is inappropriate both as a matter of social structure and individual freedom; it is no more attractive to the sensible communitarian than to the liberal.\textsuperscript{14} Particularly where anonymity protects the formation of communities that can provide mutual support to fragile and unorthodox identities, compulsory disclosure is pernicious.

\textsuperscript{12} Even Bentham suggested that utility-maximization counseled limitations on disclosure where "the mischief produced is produced — not by the act itself, but by the disclosure of it. In this case are comprehended all those instances in which, for want of sufficient maturity in the public judgment or influence of some sinister interest, the sentiment of antipathy has in the breasts of the people considered as members of the Public Opinion Tribunal turned itself against this or that act the nature of which is not of a pernicious nature". He gives as examples religious intolerance or hostility to "eccentricity of any sensual appetites, the sexual for example, by which no pain in any assignable shape is produced." \textit{The Collected Works of Jeremy Bentham, First Principles Preparatory to a Constitutional Code}, 290 (Philip Schofield, 1989).

\textsuperscript{13} One reader of this manuscript asked whether anyone seriously contemplated requiring disclosure of the proceedings of consciousness-raising groups. In fact, during the Nixon presidency, the FBI and federal prosecutors pursuing two fugitives engaged in extensive grand jury inquiry into the lesbian and feminist communities in Lexington, Kentucky, Hartford, Connecticut, and New Haven, Connecticut. See Frank K. Donner, \textit{The Age of Surveillance} 384 (1981); R. Harris, \textit{Freedom Spent}, 318-49 (1975). During the McCarthy era, quite analogous disclosures were required regarding discussions in leftist organizations, see, e.g., \textit{Barenblatt v. United States}, 360 U.S. 109, 114 (1959) (discussions of the Haldane Club).

\textsuperscript{14} The importance of non-public sub-communities for the formation of identity has emerged explicitly as an element of constitutionally protected liberty in recent years. See \textit{Roberts v. United States Jaycees}, 104 S.Ct. 3244, 3250-51 (1984) (constitutional protection for “personal affiliations” “safeguards the ability independently to define one’s identity that is central to any concept of liberty”; hallmark of such affiliations is “seclusion from others”); Id. at 3259-60 (O’Connor, J., concurring) (Association is “expressive”, and thus constitutionally protected when it is “intended to develop good morals, reverence, patriotism, and a desire for self-improvement.”); \textit{Board of Directors of Rotary International v. Rotary Club of Duarte}, 107 S.Ct. 1940, 1946-7 (1987) (First Amendment protects relationships that involve “special community of thoughts, experience and beliefs, and distinctively personal aspects of one’s life.”; intimate or private relations warrant constitutional protection); \textit{New York State Club Assn. Inc. v. New York} (1988) (O’Connor, J. concurring) (large club which is “relatively intimate in nature” may assert constitutional right to control membership in sexually or racially exclusive fashion).
Mike Schill, a nationally renowned expert in housing law and policy, joined the faculty in 1987. His scholarship is a model of the increasing interdisciplinary focus of Penn’s legal academics; his work incorporates legal, economic, and policy analysis.

In this excerpt from his recently published article, “The Federal Role in Reducing Regulatory Barriers to Affordable Housing in the Suburbs”, 8 Journal of Law and Politics 703 (1992), Professor Schill analyzes a recent report of the Advisory Commission on Regulatory Barriers to Affordable Housing and makes suggestions for practical effectuation of the Commission’s recommendations.

On July 8, 1991, the Advisory Commission on Regulatory Barriers to Affordable Housing issued its final report entitled, “Not In My Back Yard: Removing Barriers to Affordable Housing.” The report concluded that suburbs have erected regulatory barriers to housing for low and moderate income households and recommended a series of actions to relax these restrictions. The Commission’s judgment is hardly surprising; since the late 1960s, a number of presidential commissions have decried the exclusionary practices engaged in by municipalities. What makes this report noteworthy is that it envisions a fundamental role for the federal government in eliminating these barriers. If the Commission’s recommendations are enacted into law, the federal government will, for the first time, deny certain forms of housing assistance to states that do not adopt barrier removal strategies.

The Advisory Commission on Regulatory Barriers to Affordable Housing was primarily concerned with housing affordability. For homeowners, affordability improved during the 1980s, after a previous decade of increasing real costs. According to the National Association of Realtors’ homeownership affordability index, the median household in 1990 had ten percent more than the minimum amount needed to qualify to buy a house valued at the national median. The index value for 1990 showed that housing was more affordable than it was in 1981 but less affordable than in 1976. The aggregate index value, however, masked substantial regional differences. The average household in the West and Northeast had less than ninety percent of the amount necessary to purchase a median-priced home. In addition, first time homebuyers had less than eighty percent of the required funds.

For renters, affordability problems were more grim. Unlike costs of homeownership, rents increased in real terms throughout the 1980s, rising nine percent for the nation as a whole. Again, aggregate statistics mask substantial regional variation; large metropolitan areas on the east and west coasts had real average rent increases in excess of twenty percent. The Commission found that among poor households, affordability problems were especially severe. In metropolitan areas on the west coast the proportion of poor households that paid in excess of thirty-five percent of their income for rent in the late 1980s exceeded eighty-five percent.

The Commission found a relationship between suburban, central city, state and federal regulations and increased housing costs. It identified five types of suburban land use regulations that serve to restrict the amount of low income housing built in the suburbs: growth controls, zoning, subdivision controls, exactions and excessive permitting requirements. Some communities enact...
growth control ordinances that place a ceiling on the number of building permits that may be issued annually. In addition, many suburbs seek to limit or eliminate growth by enacting excessive minimum lot zoning requirements or by placing large portions of the community’s land in agricultural zones. Municipal zoning ordinances also limit affordable housing by setting low maximum building heights and densities and by prohibiting multifamily housing. Local requirements for subdividing land can come under especially severe attack by the Commission. According to the report, some communities “gold-plate” their subdivision ordinances by requiring developers to contribute costly improvements such as wide roads and expensive schools. Other municipalities require developers to contribute money, sometimes called “exactions,” to the community to pay for infrastructure and off-site improvements, costs that may be passed along to eventual homebuyers. Finally, many municipalities mandate that developers meet complex standards before obtaining building permits. The cost of complying with these requirements and delays in obtaining approvals add significantly to the price of suburban housing.

The Commission sees a vital role for the federal government in “inspiring” state and local governments to reform their regulations. Not in My Back Yard foresees a dual-pronged federal effort using “carrots and sticks.” All states and localities receiving federal housing assistance are currently mandated by law to submit a housing strategy statement to HUD. The Comprehensive Housing Affordability Strategy (CHAS) must include a description of what the community is doing to remove or ameliorate the negative effects of regulatory barriers. At present, however, HUD may not disapprove a CHAS or limit housing assistance on the basis of a state or locality’s failure to reduce regulatory barriers. The Commission recommends that HUD be given such power to condition its assistance to state and local governments on satisfactory barrier removal strategies. A state’s failure to undertake adequate efforts to remove regulatory barriers would result in loss of its ability to issue tax-exempt bonds for housing and its authority to allocate federal income tax credits to developers of low and moderate income housing. In addition, the Commission recommends that HUD waive certain federal regulations and provide funds for states to use in planning and initiating their deregulation efforts.

The Advisory Commission on Regulatory Barriers to Affordable Housing charges that restrictive zoning regulations increase the cost of housing and are therefore undesirable. It does not fully explain, however, why higher housing prices are undesirable, and more importantly, why the federal government should step in to remedy the problem. At least in terms of economic efficiency, increased housing costs are not necessarily undesirable if the households who pay for the housing bear the full cost of the regulations and receive benefits in excess of the increased expense. However, if higher housing values are caused not by increased community desirability, but by artificial supply restraints, then the allocation of resources will be less than optimal. Empirical studies demonstrate that existing homeowners do use restrictive land use regulations as a means of obtaining monopoly profits.

In addition to the inefficiencies generated by artificial supply restraints, restrictive land use regulations may waste resources because of the alternative locations chosen or forced upon firms and households. Suburban employees who cannot afford housing in close proximity to their jobs must devote more time to commuting. Increased use of cars leads to more rapid automobile depreciation, greater highway congestion, and air pollution.

Restrictive suburban land use practices also have enormously negative effects on low income households in central cities that result in both adverse efficiency and distributive consequences for the nation. In recent years, the extent of concentrated ghetto poverty in large cities of the Northeast and Midwest has increased dramatically. One study indicates that from 1970 to 1980, the number of people with incomes below the poverty level living in census tracts where over 40% of the population were poor increased 29.5% from 1.9 million to 2.4 million. Additional research shows that the concentration of the urban poor accelerated in the 1980s. Concentrated ghetto poverty affects black households with much greater frequency than white households.

Restrictive suburban land use practices have contributed to the existence of concentrated inner-city poverty and, at present, impede efforts to alleviate its effects. Over the past three decades, central cities have lost a tremendous number of their low-skilled jobs to the suburbs, other regions of the United States, and foreign nations. Many of these jobs are inaccessible to the inner-city poor because they are unable to move to locations nearby due to the absence of affordable housing. Public transportation is insufficient to enable potential employees living in central cities to reach many suburban locations. In addition, households living at great distance from centers of job creation are less likely to learn about the existence of employment opportunities. Suburban zoning practices contribute to this spatial mismatch of jobs and residences by prohibiting multifamily housing and inflating the cost of existing and newly-constructed single family homes.

In addition to harming their prospects of finding employment, the absence of affordable housing in the suburbs has contributed to an array of problems confronting poor households in the inner city. As middle and working class households leave the ghetto, the poor, who are unable to move, have grown increasingly socially isolated. In his book, The Truly Disadvantaged, and in several recent articles, William Julius Wilson argues that concentrated ghetto poverty generates a wide array of social problems that are both different in magnitude and kind from the problems
poor people face in less concentrated surroundings. Children growing up in inner-city communities frequently develop weak attachments to the labor force as a result of an absence of both employed role-models and reasonable prospects of obtaining a job. Many youths drop out of school and have children while they are still teenagers. In addition, they often turn to deviant or illegal activities to earn income, thereby further distancing themselves from middle class norms. Other people in the community who share similar views reinforce these attitudes and behaviors. The "concentration effects" generated by living in ghetto poverty may intensify as communities become increasingly populated by unskilled residents who engage in deviant or illegal behaviors, and as employers relocate elsewhere to gain access to a more highly trained workforce and escape negative externalities. Recent empirical studies support Wilson's hypothesis that living in a poor inner-city community has an effect on residents that is independent from the effect of earning a low income.

The harmful external effects that suburban exclusionary land use practices have on the residents of central cities thus emerge as strong justifications for the Commission's recommendation that the federal government step in to fight restrictive land use regulations. Neither suburbs nor the states in which they are located bear the full costs of restrictive land use practices. In many metropolitan areas such as New York, Philadelphia and Washington, D.C., restrictive land use practices in the suburbs of one state have the effect of reducing the mobility of people who live in cities outside that state. The federal government is the only existing governmental entity with the authority to internalize this externality. Even in those instances where cities and suburbs are all within the same state, a substantial portion of the costs of exclusionary zoning is not borne by residents of that state because of the central role played by the federal government in redistributing income. Restrictive suburban zoning contributes to concentrated inner-city poverty which, in turn, contributes to the vicious cycle of inter-generational poverty in central cities. Since the federal government shoulders a major share of the financial responsibility for social welfare programs for these people, it also has a vital interest in eliminating impediments to their social and economic mobility, including suburban barriers to affordable housing.

Recent history, particularly New Jersey's experience with the *Mount Laurel* litigation, suggests that efforts to open the suburbs will generate enormous controversy. In the end, for the objective of affordable housing in the suburbs to become a reality, suburban opposition must be diminished. Suburban residents oppose low cost housing for myriad reasons ranging from a reluctance to welcome households that do not pay their share of the public services they consume to the fear of racial transition and declining property values. If the vision of racially and economically integrated suburbs implicit in the recommendations of the Advisory Commission on Regulatory Barriers to Affordable Housing is to become a reality, it is likely that government must first act to allay the fears of suburban residents and eliminate the sources of their opposition. Among the strategies the federal government can adopt is to take over an even greater share of the cost of public services that have a large redistributive component such as health care, housing, and special education. Through increased intergovernmental grant-in-aid programs, suburban reliance on locally derived sources of revenue such as the property tax can be diminished. Race- and class-conscious efforts to promote neighborhood stability and integration may also be necessary to gain the approval of suburban residents for increased affordable housing. Although these initiatives were well beyond the scope of the Commission, they may be a prerequisite to the successful implementation of its recommendations.
The room is darkened, and scores of attorneys are seated watching a video presentation. On the screen, a respected physician, who has been hired as an expert witness by the defense in a liability case, is giving the defense attorney his opinion that the plaintiff's injury is much more serious than indicated by plaintiff's own expert witnesses. The attorney hangs up the phone with a troubled look on his face. The screen goes blank, and the debate begins. What, and to whom, is the attorney responsible? Led by an experienced discussion leader, members of the audience — attorneys participating in the Center on Professionalism's Guided Course, Ethics and Professionalism for the Pennsylvania Lawyer — actively express their views, challenge each other, and introspectively place themselves in the dilemma faced by the disconcerted defense counsel.

The University of Pennsylvania Law School's Center on Professionalism's highly acclaimed program — Professional Responsibility for Lawyers: A Guided Course — is designed to meet the needs of the legal community for first-rate educational materials in professional responsibility, and to do so in an exciting and interactive way. Participants view a professionally acted and recorded videotape simulating realistic and practical problems raising ethical issues and, at points throughout the film, engage in interactive discussion of these issues. The program forces the participants to reevaluate their ethical standards. This introspection, combined with the benefit of hearing the other participants' viewpoints, gives those in attendance guidance in solving their own ethical dilemmas. As an added benefit, the Center's programs meet many states' mandatory requirements for continuing education on professional responsibility.

In Pennsylvania, active attorneys enroll, pursuant to a 1992 order of the state Supreme Court, in five hours of mandatory continuing legal education in legal ethics. The requirement follows the

Penn Law's Center on Professionalism plays a prominent leadership role in continuing legal education on ethical issues. This article describes the Center's acclaimed interactive video series.
lead of many other states, where continuing legal education includes training in professional responsibility.

This emphasis within the legal profession on better preparedness for the variety of ethical issues faced by the practicing lawyer has catapulted the University of Pennsylvania Law School's Center of Professionalism into national prominence. To service the needs of Pennsylvania lawyers, the Center has joined forces with the American Law Institute/American Bar Association (ALI-ABA) Committee on Continuing Professional Education to present Ethics and Professionalism for the Pennsylvania Lawyer. These two and one half hour courses, based on the Pennsylvania Rules of Professional Conduct, are taught throughout the Commonwealth and around the country. Additionally, the Center has developed a licensing program allowing CLE organizations to utilize the Penn materials with their own instructors; the Center helps these organizations tailor the material to the rules of their jurisdiction. These tailor-made programs are being used to fulfill the mandatory CLE professionalism requirements for many states including Oregon, North Carolina, and Georgia.

The first ALI/ABA sponsored Center program for Pennsylvania attorneys was held in October 1992 at the Law School. Janet Perry, Esquire, Center Program Director and case study author, led the group in a discussion of conflicts of interest using the Center's first video case study, "Conflicts of Interest in Corporate Transactions: The Buyout of the Harris Chemical Company." The program, well attended and received, has created sustained interest in the Center's Guided Course.

Now someone who has attended continuing legal education courses may ask — Why this enormous enthusiasm for another professional education course? The clearest answer comes from those who have participated in the Center's Guided Course presentations: the use of an interactive video dramatizing potential ethical problems combined with comprehensive study materials and experienced discussion leaders results in heated, lively debate and promotes active learning. The lively discussion focuses lawyers to deal with the thorny ethical issues rather than passively being lectured to about ethical standards by the "talking heads" too often used in CLE programs.

Stephen V. Armstrong, Director of Professional Development and Training at Shearman & Sterling in New York finds the Guided Course programs "very impressive... in a different class altogether than any other materials I've seen for this purpose." Likewise, Timothy P. Terrell, Professor of Law at Emory University Law School and Director of Professional Development at King and Spaulding in Atlanta found the videotaped series "effective in teaching important lessons in professional ethics, efficiently and memorably."

A presentation, which entitles a participant to two and one half hours of CLE credit, begins with a segment of one of the five videos currently available from the Center (see the box, at xxx, for a list of the Guided Course programs). Each video presents a different set of fact patterns. The tape is interrupted by the discussion leader for group discussion of the issues presented and the ethical implications of issues such as conflict of interest, perjury, and obligations to third parties and to the public, both obvious and subtle. To assist in the process, participants also receive a case study containing the story line and factual problem of the session and study materials with pertinent rules of professional conduct. The discussion leader utilizes a Guide also receives a guide explaining teaching methods and providing sources for resolution of the issues.

There are numerous ways to take advantage of the Guided Course programs. In cooperation with Commerce Clearing House, Inc. and ALI-ABA, the programs are being marketed individually and in a set for the use of law firms, CLE organizations, law schools, and corporate legal divisions. The Center's faculty also conducts in-house seminars and prepares trainers to conduct their own sessions. Sessions offered directly by the Center on Professionalism are led by the Center's founders and staff, including Hon. Edmund B. Spaeth, Jr., Director of the Center, Senior Fellow at the Law School, and former President Judge of the Superior Court of Pennsylvania; Janet G. Perry, Esq., Center Program Director and case study author; Eleanor Myers '75, Former Center Project Director and case study author; and additional members of the Law School faculty. It's also been known to happen that alumni, after participating in a session, become so enthusiastic about the Guided Course that they become discussion leaders for
future sessions.

The Center on Professionalism, founded in 1987, is a growing part of the Law School's commitment to innovative instructional methods and professional excellence. The Professional Responsibility for Lawyers: A Guided Course is one facet of the Center's mission; the Center is also involved with programs of primary legal education, scholarship, and professionalism in general. It is supported in its efforts by the commitment of more than a dozen national law firms and corporations. If you would like additional information about the program or you need additional information to determine if your state's requirements are met by the Center on Professionalism's program, please contact:

Caroline M. Simon, Esquire, Executive Director
Center on Professionalism
University of Pennsylvania Law School
(215) 898-9812
FAX (215) 573-2056

Andrew P. Deal '95 and Thomas W. Reader '95 found time to research and do a preliminary draft of this article in between Torts and Civil Procedure.

ATTEND THE CENTER'S PROGRAMS, FULFILL your CLE REQUIREMENT, and HAVE LUNCH with FRIENDS!

Two sessions from the series, providing a full year's worth of CLE credit for the Pennsylvania attorney, will be presented during Alumni Weekend '93. On Saturday, May 15, 1992, alumni can come to the Law School to participate in "Counseling and Negotiation: The Settlement of Lancer v. American Steel Co." at 9:00 a.m., to be moderated by Judge Spaeth, and in "Conflicts of Interest in Corporate Transactions: The Leveraged Buyout of the Harris Chemical Company" at 2:00 p.m. The fee for the special Alumni Weekend '93 program is $75 for one program (2.5 hours of credit), $150 for two (5 hours of credit). And attendees will be able to join colleagues and friends for the State of Penn Law Lunch at the Law School at noon (alumni enrolling in both Center programs enjoy lunch for free), rounding out the day. For information about this session, please call the Alumni Office at (215) 898-6503.

To learn more about how the Center can bring the Guided Course to your law firm, in-house legal department, government office, law school, etc., please call Caroline Simon, Executive Director, at (215) 898-9812.
Regina Austin '73, Professor of Law, completed an essay entitled “Step on a Crack, Break Your Mother’s Back': Moms, Myths, and Drug-Related Evictions from Public Housing,” to be published in the proceedings of the Charles Hamilton Houston Forum on Race, Law & Violence. She also worked on an article on economic nationalism and civil rights to be published in the Rutgers-Camden Law Review.

C. Edwin Baker, Nicholas F. Gallicchio Professor of Law, is completing an article on free speech to be published in Ethics. During a year-long sabbatical leave at the Kennedy School of Government, he is continuing his research on the impact of media control and ownership on a democratic free press.

Stephen B. Burbank, Robert G. Fuller, Jr. Professor of Law, presented a paper, “The Reluctant Partner: Making Procedural Law for International Civil Litigation,” at a conference at Duke University in October. He continues to be actively involved in planning and supervising research for the National Commission on Judicial Discipline and Removal.

Philadelphia Mayor Edward G. Rendell has appointed Professor Burbank a member of the American Flag House and Betsy Ross Memorial. A New York Times article by Stephen Labaton, “A Solution to Wasteful Lawsuits Becomes a Problem,” quoted Professor Burbank’s views on some of the dilemmas of Rule 11 in practice (June 14, 1992).

Colin S. Diver, Dean and Bernard G. Segal Professor of Law, has been appointed as a Trustee of the Lawyer’s Committee for Civil Rights Under the Law. He was also named as a member of the Supreme Court of Pennsylvania Historical Society, a member of the Nominating Committee of the Association of American Law Schools, and a member of the West Philadelphia Collaborative Program for Child Health Advisory Board.

Dean Diver was the featured speaker at the Annual Judge William Hastie Award Luncheon of the NAACP Legal Defense and Education Fund.

William Ewald, Assistant Professor of Law, completed book reviews of Kelley, The Human Measure, to be published in Law and History Review, and Rakowski, Equal Justice, to be published in the USC Law Review. He also completed work on his books on the philosophy of mathematics, to be published by Oxford University Press.

Michael A. Fitts, Professor of Law, appeared on panels at the American Political Science Association Convention in September and at a conference entitled “The Unitary Executive and Statutory Construction” at Cardozo Law School in November. His comments at the latter will be published in a symposium edition of the Cardozo Law Review.

Douglas N. Frenkel '72, Practice Professor and Clinical Director, spoke at a forum on the United States District Court for the Eastern District of Pennsylvania’s Early Mediation Program held in November in Philadelphia. He has completed work as editor of Pennsylvania Domestic Relations: Forms and Commentary (with co-authors David Hofstein and Judith Widman) and of Pennsylvania Estate Administration: Forms and Commentary (with author James Kosloff ’73), both to be published by West Publishing Company in early 1993.

Robert A. Gorman, Associate Dean and Kenneth W. Gemmill Professor of Law, delivered a talk in October at a conference co-sponsored by the U.S. Copyright Office on copyright protection for databases and other compilations. He will soon make a presentation on the federal Visual Artists Rights Act to lawyers undertaking pro bono activity for Philadelphia Volunteer Lawyers for the Arts. In March, he will be a speaker at an ALI-ABA program on museum administration, where he will discuss the copyright implications of using unpublished letters and journals in biographical works, and the application of the First Amendment to the visual arts.

At the January Annual Meeting of the Association of American Law Schools, Associate Dean Gorman concluded his term as Immediate Past President and member of the Executive Committee of the AALS. He has recently been elected to the Board of Directors of the Atwater Kent Museum, devoted to the history of the City of Philadelphia.

She also presented “Groups, Representation, and Race Conscious Districting: A Case of the Emperor’s Clothes,” at the American Political Science Association’s annual convention in Chicago and as the Orgain Lecture at the University of Texas Law School. She has been appointed to the Association of American Law Schools Committee on Academic Freedom and Tenure and to the Board of Directors of the Juvenile Law Center in Philadelphia. Professor Guinier’s views on minority representation were cited in articles in Time magazine and in a New York Times article last summer (July 17, 1992).


John Honnold, William A. Schnader Professor of Law Emeritus, continues — eight years after “retirement” — to give his year-long research and writing seminar on uniform law for international trade and remains active with implementation of uniform laws he helped prepare during his five years (1969-1974) in charge of this legal work at the U.N. Thirty-four countries, including the United States, have ratified a U.N. convention establishing uniform law for international sales, and in November the U.N. convention on carriage of goods by sea went into force among twenty countries, mostly small and developing. Professor Honnold is completing an article to convince other countries to ratify.

As a member of an American Arbitration Association committee, he is working on legislation for Congressional enactment of the U.N. Model Law on international commercial arbitration. An ASIL book on U.N. Law-Making, to which he contributed a chapter, is at press. His recent keynote address in the U.N. General Assembly Hall on future work on international unification is being published.

Apart from these hobbies, his principal activities are gardening and music.

Heidi M. Hurd, Assistant Professor of Law, recently published “Justifiably Punishing the Justified,” 90 Michigan Law Review 2203 (1992) (August symposium issue on natural law theory). In August, she gave a seminar on “The Sources of Judicial Values” for the members of the Ninth Circuit Bankruptcy Appellate Panel at their annual retreat in Carmel, California. Last semester, she completed and successfully defended her doctoral dissertation, entitled “Legal Perpectivalism,” and her Ph.D. in Philosophy was conferred by the University of Southern California in December.

She is currently working on a paper in tort theory, parts of which is scheduled to present during the spring semester at Cornell University Law School, George Washington University Law School, the University of Southern California Law Center, and the University of San Diego Law School. She is in the process of preparing a talk on judicial disobedience for the Conference on Natural Law Theory co-sponsored by the University of Texas Department of Government and Law School in February.
Leo Katz, Professor of Law, presented a workshop on the law of theft at Northwestern Law School. He also participated in a conference on “Liberty and Risk” hosted by the Liberty Fund in Williamsburg, Virginia.

Seth Kreimer, Professor of Law, completed an article, “The Law of Choice and Choice of Law: Abortion, the Right to Travel and Extraterritorial Regulation,” to be published in the NYU Law Review. In January, he presented a paper on extraterritorial criminal prosecutions in the abortion context at the Conflict of Laws Section of the Association of American Law Schools Annual Meeting.


Professor Kubler also presented “Economic Value of Preemptive Rights” at the Universities of Hamburg and Konstanz, and “One Share, One Vote,” at the Bi-Annual Conference of the Brazilian Stock Exchanges. In November, he served as chair of a Conference on “The Impact of European Law on Mass Media” in Mainz, Germany.

Jeffrey Lange, Assistant Professor of Law, worked on articles on “Randomized Insurance Policies Under Asymmetric Information” and “The Coase Theorem Under Conditions of Uncertainty.” Professor Lange is pursuing a Ph.D. in Insurance and Risk Management at the Wharton School while teaching full time at the Law School.


A. Leo Levin ‘42, Leon Meltzer Professor of Law Emeritus, spoke at a special session of the United States Court of Appeals for the Eighth Circuit sitting en banc in St. Paul, Minnesota to receive a portrait of former Chief Judge Donald Lay on the occasion of his completion of 25 years on the bench.

Professor Levin co-authored (with Russell R. Wheeler) an article entitled “Judge Rubin and Judicial Management of the Docket” published in an issue of the Louisiana Law Review dedicated to the memory of the late Judge Alvin B. Rubin. Professor Levin also published a tribute to former Chief Judge Charles Clark in Mississippi College Law Review and to former Chief Judge Lay in William Mitchell Law Review.

Bruce H. Mann, Professor of Law and History, served as chair and commentator for a panel on “The History of Bankruptcy and Imprisonment for Debt” at the annual meeting of the American Society for Legal History in New Haven in October. He presented a paper entitled “Tales from the Crypt: Prison, Legal Authority, and the Debtors’ Constitution in the Early Republic” at the Yale Law School Legal History Workshop in October and at the Harvard Law School Faculty Workshop in November. The paper will be published in the William and Mary Quarterly.


He also presented “Statutory Interpretation” to the Ninth Circuit Bankruptcy Appellate Panel in Carmel, California; “Retributivism and Proportionate Punishment,” to the Fulbright Colloquium of the Department of Philosophy at the University of Stirling in Scotland; and “Moral Realism,” at the annual meeting of the Society for Realism/Anti-realism in Washington, D.C. Professor Moore will moderate the University of Pennsylvania Law Review Symposium on “The Paradox of Blackmail” at the Law School on January 29, 1993.

Stephen J. Morse, Ferdinand Wakeman Hubbard Professor of Law, is co-editing a volume on criminal law with Professors Leo Katz and Michael Moore that will be part of the Oxford Interdisciplinary Reader in Law series. He continues as permanent member of the MacArthur Foundation Research Network on Mental Health and the Law.

Curtis R. Reitz '56, Algernon Sydney Biddle Professor of Law, expects the final proposal of the drafting committee, which he chairs, revising Article 8 of the Uniform Commercial Code on Investment Securities to be considered by the American Law Institute in May, 1993 and by the Conference on Uniform State Laws in August, 1993.

Professor Reitz and his son, Kevin R. Reitz '82, are the co-reporters for the chapter on Sentencing in the third edition of the ABA Criminal Justice Standards Project. The chapter was approved unanimously by the Council of the Criminal Justice Section in November and will be considered by the ABA House of Delegates in February, 1993.

Edward B. Rock '83, Assistant Professor of Law, recently published “Corporate Law Through an Antitrust Lens,” 92 Columbia Law Review 497 (1992). He is in the process of publishing a review essay in the Journal of Corporation Law and is completing an article on corporate and labor law succession doctrine with Professor Michael Wachter.

In addition to teaching Corporations and Antitrust, he is co-teaching a seminar on Corporate Governance with Chancellor William T. Allen of the Delaware Chancery Court and is co-teaching a class on the law and economics of Antitrust and Corporate Law with Professor Michael Wachter.


Professor Schill has been appointed to the Mayor’s Housing Partnership Council in Philadelphia.

Reed Shuldiner, Assistant Professor of Law, presented a paper entitled, "Are Symmetry and consistency Important Goals in Tax Policy?" at the Harvard Fund for Tax and Fiscal Research Seminar on Current Research in Taxation in August and at the University of Chicago Tax Conference in October. Professor Shuldiner's remarks at an NYU conference on integration of the corporate and individual income taxes will be published in the Tax Law Review.
Susan Sturm, Associate Professor of Law, devoted much of her sabbatical leave this past fall to completing her report to the Edna McConnell Clark Foundation on prison reform litigation. The two-year research project produced a major empirical study of the nature and impact of prison reform litigation around the nation, as well as recommendations for future directions.

Clyde W. Summers, Jefferson B. Fordham Professor of Law Emeritus, served as Visiting Professor at the University of Witwatersrand in South Africa during July and August, and during that time gave lectures at the Universities of Natal, Capetown, and Western Cape, and at Stellenbosch University.


In December, he testified before the Subcommittee on Productivity and Employment of the Senate Committee on Labor and Education on needs in labor legislation from a comparative perspective.


In October, she met with the National Bankruptcy Conference in Washington, D.C., where she debated Michael Bradley and Michael Rosenzweig on the costs of Chapter 11. Professor Warren moderated part of the Berger Conference on Complex Litigation at the Law School, and is currently working with Hon. Christopher Klein, bankruptcy judge for the Northern District of California, on editing an excerpt of that conference for publication in the American Bankruptcy Law Journal.

She testified before the House Banking Committee of the House of Representatives on consumer credit laws. Professor Warren also appeared on the Diana Rehm Show in Washington, D.C. and on 60 Minutes, and she has been quoted in The Nation, The Atlantic Monthly, The Philadelphia Inquirer, and a number of other newspapers.

Barbara Bennett Woodhouse, Assistant Professor of Law, published an op-ed piece, "It Isn't Hillary, It's the Children," placing the furor over children's rights in historical perspective. In September, she served as commentator at the Joint Colloquium on Individualism and Communitarianism of the International Association of Legal Science and the American Society of Comparative Law, where she examined the role played by children's rights in reshaping the traditional family.

In October, she was the guest of Marty Moss-Cowane on the National Public Radio program Radio Times, discussing law and the changing American family. She presented a paper titled "Hatching the Egg: A Child-Centered Perspective on Parents' Rights" to the University of Pennsylvania's Seminar on the Role of Gender in Politics, Society, and the Economy. Her essay, "Poor Mothers, Poor Babies: Law, Medicine & Crack" is forthcoming in Child, Parents and State: A Law and Policy Reader from Temple Press.
Alumni Briefs

37
Harold E. Kohn, president of the Philadelphia firm Kohn, Nast & Graf, P.C., has been appointed by the Pennsylvania Supreme Court to the Pennsylvania Continuing Legal Education Board. Kohn is a trustee of Temple University and of the University of the Arts, and a member of the Board of Consultants of Villanova University School of Law.

38
55th Reunion Plans are in the works! Watch your mail for details, and plan to attend the class dinner on Friday, May 14, as well as the State of Penn Law Lunch on May 15, 1993 at noon at the Law School, at which the Law Alumni Society will present Sylvan Cohen with the Law School's Distinguished Service Award.

Sylvan Cohen, chair of Cohen, Shapiro, Polisher, Shickman and Cohen and president of the National Association of Real Estate Investment Trusts, participated in the 1992 United States Shopping Center Law Conference in Orlando, Florida. Cohen chaired a featured session, "Shopping Center Law: Current Decisions, Trends and Developments." The Conference was sponsored by the International Council of Shopping Centers, which Cohen serves as a trustee.

Irving R. Segal, senior partner with Schnader, Harrison, Segal & Lewis, spoke at the Washington State Judicial Conference in Tacoma, Washington last August. Segal’s speech, "A Lifetime of Trial Experience Throughout the Country," included anecdotes about his half-century of trial experience. Approximately 150 judges, the Board of Directors of the State Bar Association and other prominent attorneys attended (The Legal Intelligencer, 8/28/92).

41
Marvin Comisky, chair emeritus of Blank, Rome, Comisky & McCauley, spoke at a Historical Society of the United States District Court for the Eastern District of Pennsylvania symposium on criminal defense lawyers. Comisky discussed the notable contributions of the late Lemuel B. Schofield to criminal practice in the District (The Legal Intelligencer, 10/13/92).

Michael C. Rainone, senior partner of Rainone & Rainone and president of the National Italian American Bar Association, was honored recently for his efforts to further the memory of Christopher Columbus. Rainone has convinced the United States Navy to name a submarine “Columbus.”

43
Elizabeth Hatton Landis, Joe Shanis, Mary Barb Johnson, and Bill Johnson are planning the 50th Reunion events and gift effort. Please call the Alumni Office for more information.

47
Hon. Arlin M. Adams, counsel to Schnader, Harrison, Segal & Lewis and former judge of the United States Court of Appeals for the Third Circuit, was appointed a trustee of the Oliver Wendell Holmes Deive by former President George Bush. He will serve as one of four trustees of Holmes’ estate for an eight year term. Adams also serves as independent counsel to investigate aspects of the Department of Housing and Urban Development under a former administration, and is chair of the Supreme Court Fellows, by appointment of the Chief Justice of the United States (The Legal Intelligencer, 8/12/92).

48
A 55th Reunion Celebration is planned for May 15, 1993. Details for Alumni Weekend ’93 will follow by mail.

Thomas F. Devine, counsel to Blank, Rome, Comisky & McCauley, garnered recognition in The Legal Intelligencer for his volunteer service with Villanova Law School. Devine is a member of the Villanova University Board of Trustees and has been a member of the Villanova University School of Law Board of Consultants (The Legal Intelligencer, Cathy Abelson Legal Search, 3/4/92).

Henry T. Reath, counsel to Duane, Morris & Heckscher, serves as Committee Coordinator for The Non-Partisan Campaign to Adopt a Statement of Fundamental Values for a Liveable

Penn Law Journal · February 1993 32 · 33
USA. The statement, which is endorsed by more than one hundred and fifty business and civic leaders, calls on the federal government to respond to the conditions facing Americans living below the poverty level and to provide all people access to a safe and healthy environment. Both George Bush and Bill Clinton supported the statement during their bids for the presidency.

49

Hon. Marvin R. Halbert, Judge of the Court of Common Pleas of Philadelphia, was featured in the cast of the musical comedy, “Of Thee I Sing.” Halbert has more than fifteen years experience acting in and producing shows for the theater wing of the Philadelphia Bar Association, as well as for other groups. Halbert, who once produced Gilbert and Sullivan’s “Trial By Jury” in his courtroom, praised “Of Thee I Sing” for its gorgeous music, talented cast, and political satire. Halbert’s principal passion now, “is to make people feel comfortable with City Hall as a performance stage.”

Robert I. Morris, of the Philadelphia firm Morris, Adelman, Dickman & Carp, was elected president of the Commercial Law League of America (CLLA) at its annual National Convention. The CLLA is an international organization of over 5,000 attorneys and other experts in the field of commercial law, bankruptcy and reorganization. The League publishes the award-winning Commercial Law Journal, as well as the Commercial Law Bulletin and the Bankruptcy Reform Act Manual. Morris serves as vice-chair of the Board of Associate Editors of these publications.

50

Hon. Melvin G. Levy, a Judge on the Court of Common Pleas of Delaware County for fifteen years, has resigned to join the Media office of Blank, Rome, Comisky & McCauley as counsel to the firm. In addition to his duties on the Court, Levy also served on the Pennsylvania Commission on Sentencing from 1985 to 1992 by appointment of the Chief Justice of Pennsylvania. He served as chair of the Commission from 1990 to 1992. Levy serves as a member of the adjunct faculties of the Widener University School of Law and School of Management as well as the Delaware County Campus of Penn State University.

51

Hon. Norma L. Shapiro, United States District Judge for the Eastern District of Pennsylvania, moderated the Women’s Rights Committee of the Philadelphia Bar Association’s panel discussion on “Gender Bias in the Courts: Getting Pennsylvania up to Speed” during the Association’s annual conference in Washington. Philadelphia Common Pleas Judge Carolyn Engel Temin, class of ’58, participated as a panelist (The Legal Intelligencer, 10/1/92).

It’s fitting that we begin our student-written profiles of Penn Law alumni in teaching with Bernard Wolfman, who, while at Penn, taught three — Goldman, Gordon, and Yudof — of the other graduates we interviewed.

Bernard Wolfman is nationally recognized as one of the foremost experts on tax law. In 1975, Wolfman resigned as Dean of Penn Law and soon after became Fessenden Professor of Law at Harvard. His affiliation with the University of Pennsylvania is deep-rooted: he received his A.B. from Penn in 1946, received his J.D. from Penn Law in 1948, joined the faculty as a full-time professor in 1965, became the Kenneth W. Gemmill Professor of Tax Law and Tax Policy in 1973, and Dean of the Law School in 1970. In addition, his wife Toni, L. ’75, and two of his children also have Penn degrees.

Today, Professor Wolfman continues teaching tax law at Harvard, consulting for several private firms, researching, and writing. He has published numerous articles in law reviews and specialized journals, and the books which he has authored or co-authored include Federal Income Taxation of Corporate Enterprise; Standards of Tax Practice; and Dissent Without Opinion: The Behavior of Justice William O. Douglas in Federal Tax Cases. Wolfman has also served as a tax consultant to the U.S. Treasury Department, and to Lawrence Walsh, the Iran/Contra independent counsel.

The professional achievement that is among the most satisfying to Wolfman is his amicus curiae pro se brief to the Supreme Court in the landmark case, Bob Jones University v. United States, 461 U.S. 574 (1982), ending tax benefit for private schools and universities that discriminated against blacks in the admissions process. Wolfman has been active in civil liberties and civil rights matters as well; he served on the Councils of the ABA Sections of Taxation and of Individual Rights and Responsibilities, was President of the Philadelphia Chapter of the ACLU, President of the National Order of the Coif, and is a member of the American Law Institute.

Professor Wolfman’s future plans are to continue to counsel, research, and teach at Harvard Law School. He continues to teach law by the Socratic method, but sees its use declining among some younger teachers. Although he has been on the Harvard law faculty for the past 16 years, Professor Wolfman’s support, affection and admiration for his legal alma mater are undiminished.

—Daniel Mena ’95
Edward W. Madeira Jr., co-chair of Pepper, Hamilton & Scheetz, announced the formation of a new practice group focusing on the independent states of the former Soviet Union. The Russian practice group is composed of the firm's Moscow, Vladivostok, London, and Washington offices, each of which offers a full range of services to both American and international clients with interests in Russia (The Legal Intelligencer, 9/25/92).

40th Reunion Plans are in the works! Save the date — May 15 & 16, 1993 — and plan to attend Alumni Weekend '93, with a class dinner planned for Saturday evening at an historic Philadelphia location. Details will follow by mail.

Paul C. Astor, chair and senior partner in Astor, Weiss & Newman, has been elected to the board of directors of Philadelphia Geriatric Center (PGC). Astor is actively involved with several other community organizations, including Ben Gurion University; Friends of Hebrew University; Ronald McDonald House; the Anti-Defamation League; and the Lupus Foundation.

Mervin M. Wilf has been elected president of the American Bar Retirement Association, a not-for-profit corporation which sponsors a variety of tax-qualified retirement programs for the legal community (The Legal Intelligencer, 9/10/92).

William H. Brown, III, partner at Schnader, Harrison, Segal & Lewis, serves as the Philadelphia Bar Association's delegate to the American Bar Association.

Robert S. Cohen, of Hepburn, Wilcox, Hamilton & Putnam, was featured in the cast of "Of Thee I Sing," a classical musical comedy. Cohen, who has done some acting over the years, played one of nine Supreme Court Judges. "It was," Cohen said, "a good show and a lot of fun."

Plan to join classmates in Philadelphia for the 35th Reunion during Alumni Weekend '93, May 15-16. A class celebration is being organized for Saturday evening. Save the date, and watch your mail for details.

John Harkins resigned as chair of Pepper, Hamilton & Scheetz to lead the newly established Harkins Cunningham. With principal offices in Philadelphia and Washington, D.C., Harkins Cunningham will focus on complex litigation and government regulation with a specialty in appellate litigation (The Legal Intelligencer, 9/18/92).

Hon. Carolyn Engel Temin, a judge on the Philadelphia Court of Common Pleas since 1984, became the first woman president of the Pennsylvania Conference of State Trial Judges on July 25, 1992. Judge Temin outlined an ambitious agenda for the trial judges including a Public Awareness program, improvement of judicial compensation, and attention to the problems of ensuring gender equality on the courts.
'59
Philip G. Auerbach, founder and senior partner of Auerbach & Cox, recently received the Trial Attorneys of New Jersey's Trial Bar Award. Auerbach was one of three recipients of the Trial Bar Award, given by peers to trial attorneys who have distinguished themselves in the cause of justice.

'60
Charles A. Heimbold, Jr., Chair of the Law School's Board of Overseers, has been elected president of Bristol-Myers Squibb Company. Heimbold's accomplishments during his twenty-nine-year tenure with the company include the acquisition of important growth opportunities and the integration and restructuring of the personal care and OTC businesses into a global Consumer Products Group (PR Newswire, 10/7/92).

Mark K. Kessler, senior partner at Wolf, Block, Schorr & Solis-Cohen, was recognized for his volunteer work, particularly with Big Brothers/Big Sisters of America, in The Legal Intelligencer. Kessler, whose involvement with Big Brothers/Big Sisters began in 1964, has served on the Board of Big Brothers of America since 1973. Kessler served as national president of the organization from 1984 to 1986 and remains active in planning and development for the future of Big Brothers/Big Sisters (The Legal Intelligencer, Cathy Abelson Legal Search, 7/8/92).

David Shrager, senior partner at Shrager, McDaid, Loftus, Flum & Spivey, serves as chair of the AIDS Litigation Group of American Trial Lawyers Association, of which he is the past national president. He has just completed his second term as a member of the Board of Overseers of the Institute of Civil Justice (Rand).

'61
David L. Steck has established himself as a chartered financial consultant specializing in estate and financial planning in West Chester, Pennsylvania.

James D. Crawford, a partner with Schnader, Harrison, Segal & Lewis, participated in a course sponsored by the Pennsylvania Bar Institute last July concerning the significant amendments to the Pennsylvania Rules of Appellate Procedure. These rules impose major changes in determining the appealability of orders in civil and criminal cases (The Legal Intelligencer, 7/22/92).

Gerald M. Levin, as CEO of Time Warner, Inc., continues to receive media coverage for the company's decision to back the release of rapper Ice-T's music. In October, Levin was listed in Newsweek's "List of the Top 100 Cultural Elite."

'62
A Philadelphia restaurant looks like the likely choice for the 50th Reunion celebration on May 15, 1993. Watch your mail for the details on Alumni Weekend '93!

'63
David C. Auten, managing partner at the Philadelphia office of Reed, Smith, Shaw & McClay, was the curriculum planner for a course entitled "Advanced Issues in Mortgage Foreclosures" offered by the Pennsylvania Bar Institute last July. Michael Temin, class of '61, also served as a lecturer in the course (The Legal Intelligencer, 7/22/92).

'64
H. Robert Fiebach, a senior litigation partner with Wolf, Block, Schorr & Solis-Cohen, chaired an ABA conference on professional liability issues in Seattle this past September. He has been reappointed to a three year term on the ABA's Standing Committee on professional liability issues (The Legal Intelligencer, 9/1/92).

Robert Gorman Fuller and Victoria Susan White Glynn announce their marriage on September 3, 1992. The couple's announcement was accompanied by a photo of the two taken at a high school prom some years ago!

'65
William H. Ewing, partner in Hangley Connolly Epstein Chicco Foxman & Ewing, received note in the Fall 1992 issue of The Philadelphia Lawyer. Ewing participates in Philadelphia Futures' Sponsor-A-Scholar program, donating $1,500 a year for four years and mentoring a student from ninth grade through first year of college in an attempt to help a young person attend college. Ewing sponsors fifteen year old Hakim Tucker, an aspiring robotics engineer.

Ernie Preate, Jr., has been re-elected Pennsylvania Attorney General. First elected to the position in 1988, Preate will serve a second four year term as the Commonwealth's chief legal and law enforcement officer.

Jeffrey B. Schwartz, formerly a partner in Wolf, Block, Schorr & Solis-Cohen, has joined Cohen, Shapiro, Polisher, Shiekman & Cohen as chair of the health care department. Schwartz represents and advises health care industry clients and health management companies in a wide variety of matters.
Hon. Anita Shapiro currently sits in the probate and law & motion department in Long Beach, California, and is a member of the California Judges Association Ethics Committee. Shapiro taught ethics courses for continuing education of the bar this past September in Irvine and Los Angeles. Her classes were taped and shown in numerous locations in California this fall.

Harvey N. Shapiro, administrative and senior partner in the tax and estates department of Moskowitz, Gelman, Jaffe, Cramer & Jamieson, has been installed as president of the Jewish Federation of Southern New Jersey (The Legal Intelligencer, 10/1/92).

'66

Fred Blume, of Blank, Rome, Comisky & McCauley, spearheaded the firm’s relief effort in the wake of Hurricane Andrew. Members of the firm admitted to practice in Florida spent five weeks in Florida providing free legal advice to disaster victims trying to piece their lives back together (The Legal Intelligencer, 10/14/92).

Charles B. Burr 2nd, counsel and senior trial attorney at the Philadelphia firm Goldfein & Joseph, participated in a Pennsylvania Bar Institute seminar entitled “Tough Problems in Medical Malpractice — A Roundtable Review of Nuts and Bolts Issues.” Burr addressed such topics as the informed consent doctrine, cross-examination for a causation defense, and potential ethical problems between attorney and client during the litigation process (The Legal Intelligencer, 8/21/92).

William Hangley, partner at Hangley Connolly Epstein Chicco Foxman & Ewing, enjoys representing Super Soaker inventor Lonnie Johnson. Hangley, who works to protect Johnson from imitators infringing on his patents, is “fond of startling unsuspecting secretaries with forty foot arcs of water” (The Legal Intelligencer, 7/1/92).

Edward F. Mannino, of Mannino, Walsh & Griffith, P.C., was a faculty member in a Pennsylvania Bar Institute course regarding the significant amendments to the Pennsylvania Rules of Appellate Procedure this past July. These alterations impose major changes in determining which orders are appealable in civil and criminal cases (The Legal Intelligencer, 7/28/92).

Richard D. Steel, of the Philadelphia firm Steel & Rudnick, has been elected chair of the Board of Nationalities Service Center which works with immigrant and ethnic communities. Steel concentrates his practice in immigration law. In addition, Steel’s book, Steel on Immigration Law 2d, has recently been published.

Roger Goldman has been a prominent member of Saint Louis University School of Law’s faculty for 21 years. His countless publications have distinguished him as a legal scholar of the highest order. Similarly, he has served in a number of prestigious posts, including Associate Dean at Saint Louis, Visiting Scholar at Columbia School of Law, and Scholar-in-residence at the United States District Court for the Southern and Eastern Districts of New York. Penn Law honored Professor Goldman as a Gowen Fellow; he has received two of St. Louis’s highest honors, the Thompson and Mitchell Writing Award for the best faculty publication and the Student Bar Association Teacher of the Year Award.

For the past several years, he has been writing about the need to decertify unfit police officers after they have been terminated from one police department for misconduct to prevent them from going to another department. He recently appeared on Dateline NBC, advocating the development of a data bank to track such officers who leave one state and seek employment in another.

Professor Goldman’s latest book, Thurgood Marshall: Justice for All, has received praise of another sort. The Los Angeles Times has hailed this work as “a hearty tribute” to the former Supreme Court Justice. Publishers Weekly called the book a “comprehensive study” and deemed it “essential reading.” A composite study containing fifteen of Marshall’s most influential opinions, the book offers Goldman’s insights on Marshall’s true legacy. The work underscores the complexities in Marshall’s constitutional interpretations, while giving historical perspective and meaning to Marshall in relation to the rest of the Court.

Written for an educated lay audience, the Marshall book is an example of Goldman’s interest in affording the public at large an understanding of our legal system. Another example is a grant from the Commission on the Bicentennial of the United States Constitution to write a book on teaching the Bill of Rights in secondary schools. This innovative curriculum uses the “Socratic method” to challenge young students to think critically about the Constitution in the hope that they not only learn what substantive rights are afforded under the Bill of Rights, but also why those rights are significant to a just society.

Professor Goldman actively demonstrates through all his endeavors that the dissemination of legal knowledge is an essential criterion for establishing a society where there may, one day, be justice for all.

—Jeremiah Garvey '95
Bernhardt Wruble, of the District of Columbia firm Verner, Liipfert, received note as one of three dozen lawyers "for whom a good case might be made on any list of top lawyers" in the September 1992 issue of Washingtonian magazine.

'67

Lawrence W. Bierlein, partner in the Washington D.C. firm Shaw, Pitman, Potts & Trowbridge, received The Association of Container Reconditioners’ 1992 Morris Hershson Award of Merit for his outstanding contributions to the reconditioning industry. Bierlein has served as general counsel to The Association of Container Reconditioners — NABADA for twelve years.

Stephen Cabot, head of the labor relations department of Harvey, Pennington, Herting & Renneisen, Ltd., spoke at a seminar this past summer regarding the new Americans With Disabilities Act. He advised business owners and personnel directors to familiarize themselves with the act, signed in July, in order to avoid lawsuits. Cabot encouraged employers and hirers to concentrate on applicants’ abilities, not their disabilities (The Legal Intelligencer, 7/22/92).

Dale Penneys Levy, partner in Blank, Rome, Comisky & Mc Caulley, addressed the PENJERDEL Council’s 17th Annual Regional Affairs Conference this past fall; Levy spoke on “Economic Incentives Local Governments Can Use to Attract Business.” Levy chairs the firm’s real estate department’s Governmental Development Assistance group and concentrates her practice in all aspects of real estate transactions.

John W. Nields, Jr., of Washington’s Howrey & Simon, received note in the September 1992 issue of Washingtonian, named as one of the fifty best lawyers in the District of Columbia. In addition to his high profile defense work (he has represented Republican senator Mark Hatfield and fellow lawyer Margery Waxman, among others), Nields works with the disadvantaged on a pro bono basis and has also introduced litigation to secure access to shelters for the homeless (Washingtonian, September, 1992).

'68

The 25th Reunion Celebration — a gala dinner dance — is planned for Saturday, May 15, 1993, at an elegant Philadelphia location. Plan to join classmates for all the events of Alumni Weekend ‘93!

Dennis Keating has been named Associate Dean of the Levin College of Urban Affairs, Cleveland State University. Professor Keating has been the Director of the Master’s Program in Urban Planning, Design and Development. He holds a joint appointment to the faculty of the Cleveland Marshall College of Law.

Dean Mark Yudof of the University of Texas Law School did not come to Penn Law thinking that he wanted to be a professor. Instead, Yudof followed the advice which he himself gives to law students today. “[There is] no way to anticipate your career. Take what interests you at the time and move around.” Yudof’s “moving around” has produced an impressive list of accomplishments which suggest that his advice is well-heeded.

After graduating from the Law School in 1968, Yudof clerked for Judge Ainsworth of the Fifth Circuit Court of Appeals. From 1969-71, Yudof served as a staff attorney at Harvard’s Center for Law and Education. While in that role, Mark lectured at Harvard’s Graduate School of Education. This experience helped convince Yudof that academia was a field worth pursuing. Since leaving Harvard, Dean Yudof has spent most of his career at Texas, ascending to his current position in 1984.

At Texas, Yudof has both academic and administrative roles. His award-winning academic work is perhaps most recognized in the field of educational law and policy. He has written extensively on the subject and has also been involved with several major cases in the field. Currently, Yudof sees educational law continuing in its evolution from the equity cases of the ’40s-’70s to the “socialization” litigation that first emerged during the 1980s. Socialization cases focus on topics including bennedictions at high school graduations and the content of textbooks being used in the classroom. Yudof feels that this evolution is an important one; it reflects the changing values in society as evidenced by the current debate over multiculturalism.

On the administrative front, Dean Yudof has seen his share of changes over the past eight years. Yudof now spends more of his time devoted to fundraising and less to teaching and other academic pursuits. This is a result of an increasing privatization of higher education due to tightening state budgets. However, he still manages to teach every so often and does so with the zeal and organization that propelled him to the top of the heap at Texas. Dean Yudof will, no doubt, have continued success as he prepares his school for the academic and financial challenges of the next century.

— William Bice ’95
MICHAEL J. KLINE, corporate and healthcare partner at Cohen, Shapiro, Polisher, Shiekman and Cohen, received note in The Legal Intelligencer for his volunteer work. Kline has served as general counsel to the Deborah Heart and Lung Center since 1980 and has used his legal expertise to handle Deborah's estate bequests on a pro bono basis. Kline also serves as president of the Board of Governors of the Jewish Geriatric Home in Cherry Hill, as a public member on the Advisory Graduate Medical Education Council of New Jersey (by appointment of Governor Jim Florio), on the Board of Trustees of Congregation Beth El in Cherry Hill, and on the board of the Jewish Federation of Southern New Jersey (The Legal Intelligencer, Cathy Abelson Legal Search, 10/7/92).

PAUL F. WARE, senior trial partner of the Boston firm Goodwin, Proctor & Hoar, was named lead prosecutor by independent counsel Lawrence Walsh in the federal case against former CIA official Duane R. Clarridge as part of Walsh’s Iran-Contra investigation. Ware’s practice has included substantial criminal defense as well as work as a federal prosecutor (The Washington Post, 10/23/92).

JANE LANG, of the Washington firm Sprenger & Lang, and her husband PAUL SPRENGER, were listed in the September, 1992 issue of Washingtonian as two of the best fifty lawyers in Washington. Considered the “best husband-and-wife legal team” in the city, they were noted particularly for their work with race, sex, and age discrimination cases (Washingtonian, September, 1992).

GUY I. F. LEIGH has recently been elected General Rapporteur of the International League for Competition Law/Ligue Internationale du Droit de la Concurrence (ILDC). Leigh is currently a partner in the London-based European law firm Theodore Goddard, and practices primarily EC and antitrust law.

STEVEN STONE, senior vice president, general counsel, and corporate secretary of ADVANTA Mortgage Corp., USA, has been elected to the executive committee of the Pennsylvania Financial Services Association. He has also been re-elected to its board of directors (The Legal Intelligencer, 9/23/92).

STEWART A. BLOCK, previously a partner in the Washington D.C. office of Sidley & Austin, has become a founding shareholder and a managing director in Ackerson & Bishop Chartered, a new firm in the District. Block will continue his litigation practice in complex civil litigation, including antitrust, lender liability, and administrative law.

WILLIAM C. BULLIT, a personal and fiduciary law partner at Drinker, Biddle & Reath, received praise for his volunteerism in The Legal Intelligencer. Bullit’s volunteer activities date back to his graduation from Penn Law. Currently he is Chancellor of the Diocese of Pennsylvania for the Episcopal Church, a member of the Executive Committee of the Board of Managers of Pennsylvania Hospital and chair of its Finance Committee, as well as legal adviser to Hospitality Philadelphia Style, chair of the Development Committee of The Philadelphia Foundation and a member of its Investment Committee, and president of the Seybert Foundation (The Legal Intelligencer, Cathy Abelson Legal Search, 7/29/92).

MICHAEL W. FREELAND, a partner in the tax department of the Philadelphia office of Pepper, Hamilton & Scheetz, was inducted as a fellow of the American College of Tax Counsel at its annual meeting this past summer. The College is a national association of 525 tax attorneys who have taught or practiced tax law for at least 15 years. Freeland has served on the council of the Section on Taxation of the Philadelphia Bar Association, chaired the Committee on S Corporations of the Section of Taxation of the American Bar Association, and lectured at the Temple University Law School LL.M. tax program.

DREW SALAMAN, a partner with the Philadelphia firm Salaman, Salaman & Cherwony, was a faculty member of a Pennsylvania Bar Institute course entitled "Collecting and Enforcing Judgments". The course, offered last July, was designed to teach those in attendance how to turn judgments into cash (The Legal Intelligencer, 7/24/92).

ROBERT C. HEIM, partner at Dechert Price & Rhoads and former Chancellor of the Philadelphia Bar Association, has been appointed vice-chair of the fifteen member Independent Charter Review Commission by Philadelphia City Council President John Street. The Commission proposes amendments to the Philadelphia Home Rule Charter for approval by city voters. At a City Hall press conference, Heim said that the Commission intends to complete its work in the spring, to allow enough time to frame an amended charter for voter consideration in next year’s election. Heim has also recently been appointed to the Nominating Committee of the Philadelphia Bar Association (The Legal Intelligencer, 7/6/92 and 7/24/92).

ROBERT A. MACDONNELL, a partner in the Philadelphia law firm Obermeyer, Rebmann, Maxwell & Hippel, has been elected chair of the board of directors of the Philadelphia Child Guidance Center.
MacDonell has been on the board since 1987, most recently as chair of its Professional Services Group (The Legal Intelligencer, 8/11/92).

DAVID L. POLLACK, partner in Rosenwald and Pollack, served as a panelist at the 1992 Annual Meeting of the ABA Section of Real Property, Probate and Trust Law. Pollack discussed enforcement of use clauses in bankruptcy. Additionally, Pollack participated in the International Council of Shopping Centers’ U.S. Law Conference as a workshop speaker and as a roundtable discussion leader.

RICHARD WALDEN is the founder and current president of Operation U.S.A., an international relief and development agency which has worked in 50 countries (including the United States), delivering over $85 million in aid. On a completely different note, Walden emceed for his wife, actress-comedienne Rosanne Katon, in the main showroom at the Dunes in Las Vegas last August.

KENNETH E. AARON, shareholder in the Philadelphia office of Buchanan Ingersoll, has authored a chapter about bankruptcy in the Environmental Law Practice Guide published by Matthew Bender & Co. The chapter serves as a guide for lawyers who face environmental problems in the bankruptcy arena and who "must steer a difficult course through largely uncharted waters."

LAURA ROSS BLUMENTHAL received a Special Achievement Award from the Criminal Division of the United States Department of Justice for an OSHA case she handled.


CAROL A. MAGER, former partner in the labor and litigation departments in the Philadelphia office of Ballard Spahr, Andrews & Ingersoll, has formed a partnership, Mager Liebenberg and White, with two other attorneys. Mager concentrates her practice in labor relations as well as employment, ERISA, securities, and commercial litigation. She is co-chair of the Employment and Labor Relations Law Committee for the Litigation Section of the American Bar Association and was also a former chair of the Philadelphia Bar Association Labor and Employment Committee (PR Newswire, 7/27/92).

JOSEPH E. MURPHY, senior attorney at Bell Atlantic and co-editor of the Corporate Quarterly, spoke on the self-evaluation privilege at a program of the ABA’s Business Law Section at the ABA annual meeting in San Francisco last August. In September, he gave an address on the same topic at a program on “Environmental Enforcement for the 1990s,” co-sponsored by the ABA Section of Litigation and Environmental Law, in Washington, D.C. In November, he presented “Practical Pointers on Effective Compliance Programs Under the Sentencing Guidelines,” in a program sponsored by Delvagga in Philadelphia.

GEORGE R. BURRELL, JR., partner at the Philadelphia firm Fox, Rothschild, O’Brien & Frankel and former member of Philadelphia City Council, has been appointed to the fifteen member Independent Charter Review Commission by Mayor Edward G. Rendell. The Commission will propose amendments to the Philadelphia Home Rule Charter for approval by city voters (The Legal Intelligencer, 7/6/92).

IAN M. COMISKY, partner in the litigation department of Blank, Rome, Comisky & McCauley, addressed the Ninth National Institute on Criminal Tax Fraud & Money Laundering presented by the Section of Taxation and Division for Professional Education of the ABA this past fall. Comisky, who concentrates his practice on white collar criminal defense of corporations and individuals, spoke on federal sentencing guidelines.

ARLENE FICKLER, chair of the Philadelphia Bar Association’s Federal Court’s Committee, served as program chair for “Self-Executing Discovery: To Disclose or Not to Disclose?” at Discover ’92, the Association’s Annual Conference and Exposition. Fickler led a panel of federal court practitioners in discussing their experiences with a pilot self-executing discovery program (The Legal Intelligencer, 9/15/92).

ANDREW GOWA, senior counsel at Schnader, Harrison, Segal & Lewis, has joined the Board of Governors of the Likoff Cardiovascular Institute of Hahnemann University. Gowa is also a member of the Board of Overseers of Tufts University.

H. RONALD KLASKO, chair of the immigration law group of Dechert Price & Rhoads, has been a featured speaker at several immigration law programs this past year. Klasko moderated panels at the Thirteenth Annual Federal Bar Association Immigration Law Conference.
Joseph Goldberg, partner at Margolis, Edelstein & Scherlis and chair of its civil rights/municipal liability department, was the featured speaker at two seminars sponsored by Philadelphia area businesses this fall.

Goldberg spoke on limiting liability at shopping centers (The Legal Intelligencer, 10/1/92).

Howard E. Mitchell, Jr. has been named assistant general counsel for the Harleysville Insurance Companies. His responsibilities include corporate, securities, mergers and acquisitions, and insurance regulatory matters for the companies. Mitchell has also served several non-profit legal and community organizations and was awarded the Legion of Honor of the Chapel of the Four Chaplains for community service. He resides in Blue Bell with wife Wendy (C'81) and daughter Molly; his father retired this summer as UPS Foundation Professor of Management at the Wharton School after forty years on the University faculty.

Manuel “Manny” Sanchez, a founder and partner of the Chicago firm Sanchez & Daniels, was elected a member of the Wheelabrator Technologies, Inc. Board, a majority owned company of Waste Management, Inc., for a term expiring in 1994. Sanchez is a member of the Law School’s Board of Overseers, as well as the Mexican-American Legal Defense and Education Fund. He is also a founding member of both the Mexican-American Lawyers Association and the Latin American Bar Association (PR Newswire, 8/10/92).

James A. Backstrom, former chief of the Dallas field office of the anti-trust division of the U.S. Department of Justice, has joined North & Vaira, P.C., a Phoenix-based law firm to open offices in Philadelphia. Backstrom is a principal in the firm, which combines antitrust and intellectual property practice with white collar defense and trade regulation practice.

Wendy J. Gordon ’75

Intense, in a word, describes Wendy J. Gordon. A 1975 graduate, Gordon has always been stimulated by theory and the challenge it provides. Upon arriving at Penn she noticed that she was always more oriented to mastering the legal skills that the study of law requires than she was with seeking to practice law. “I was not setting out to become a lawyer. I was setting out to become empowered with words.”

Her drive to understand jurisprudence commenced Gordon’s journey into the field of intellectual property. She found her niche once she taught Copyright and Unfair Trade & Trademark at the Law School of Western New England College where she started teaching. At that crossroad, her personality and skills encountered the avenue by which she could most effectively express her interests.

To Gordon, copyright had dual attractions. It let her specialize in an area of law relating to the arts, and its web of difficult factual conflicts posed challenges solvable only by the rigorous use of theoretical tools. The prospect of breaking ground in a field of knowledge that she perceived as having “been largely overlooked by the theoreticians” was enticing. “Instead of being one more laborer in a vineyard where there were hundreds of people, I was in an area where very few people had been doing theory work.”

Gordon is currently a Professor of Law at Rutgers University School of Law/Newark and has also taught at the University of Chicago, Georgetown, and Michigan. Her articles have been published in the University of Chicago, Stanford, and Columbia law reviews, and she has upcoming pieces in the Yale Law Journal and the University of Pennsylvania Law Review. She has received a Fuller Prize in Jurisprudence and a New Jersey Governor’s Fellowship in the Humanities, and will develop her theories — using economics, philosophy, and parallels among copyright, torts, and restitution to dispel the notion of copyright as an autonomous statutory area separate from common law doctrines — at Bellagio, Italy as the recipient of a Rockefeller Foundation residence there next summer.

Upon entering Law School, Gordon was excited because she felt that lawyering gave one the power to “remake the world with words.” She has remade the world of intellectual property through her legal scholarship and continues to do so by teaching legal scholars of the future.

— Dionne C. Lomax ’95
Anita L. DeFrantz served as one of four judges of the "Champions" photo contest sponsored by Parade and Eastman Kodak Company, in which amateur photographers sent in pictures of their friends and family sharing triumphant moments. DeFrantz won a medal in the 1976 Olympic games for rowing, and is now an attorney and a member of the International Olympic Committee. The other judges were Eddie Adams, the Pulitzer Prize-winning photographer, Dr. Joyce Brothers, and Bud Greenspan, author and producer of Olympic sport documentaries (Parade Magazine, 7/19/92).

Robert D. Lane, Jr., chair of the real estate group of Pepper Hamilton & Scheetz, serves as president of the Board of Directors of the Philadelphia Volunteer Lawyers for the Arts (PVLA), which provides pro bono work for artists, small art businesses and cultural organizations. PVLA recently expressed a desire to secure a basic benefits package for independent members of the arts community (The Legal Intelligencer, 9/8/92).

Daniel L. Magida has written a novel entitled The Rules of Seduction. The book, published by Houghton Mifflin Company, tells the story of Jack, and the secrets that threaten his engagement to one woman and his love for another. The novel has already been successfully released abroad.

Jacqueline V. Prior has been appointed executive director of the D.C. Preservation League. Prior is responsible for managing the daily programmatic and financial affairs of the League, a private, non-profit corporation which saves and protects landmark buildings.

Brian Shiffrin, assistant Monroe County, New York public defender, has been named recipient of the Charles F. Crimi Memorial Award. The Award is presented annually by the Monroe County Bar Association to an individual who provides outstanding legal service to the poor and epitomizes the ideal of service for which Crimi, a career defender, was known. Shiffrin is a contributing author of the New York Bar Association's Criminal Practice Handbook, a member of the Board of Trustees of the Monroe County Bar Association, and a member of the Board of Directors and Secretary of the Volunteer Legal Services Project of Monroe County, Inc. (The New York Intelligencer, 9/8/92).
Gerald A. McHugh, Jr., partner in the Philadelphia firm Litvin, Blumberg, Matsosow & Young, published “Techniques in Taking Depositions” in the summer 1992 issue of The Philadelphia Lawyer.

Kenneth I. Rosenberg, a real estate finance partner of Mesirow, Gelman, Jaffe, Cramer & Jamieson, was elected treasurer of the Jewish Exponent, Inc., the publisher of The Jewish Exponent, Jewish Times, and Inside Magazine. Rosenberg previously served as secretary of the corporation. Rosenberg was included in the 1988-89 edition of The Best Lawyers in America (The Legal Intelligencer, 8/17/92).


M. Kelly Tillery, senior partner in Leonard, Tillery & Davison, has been appointed to the Energy Coordinating Agency (ECA) of Philadelphia, Inc. by Mayor Ed Rendell. The ECA is a non-profit planning, advocacy, and service organization working to ensure the most effective application of available resources to provide energy to low income residents.

Marcia J. Wexberg, partner with the Cleveland, Ohio firm Calfee, Halter & Griswold, has joined the Benjamin Rose Institute Board of Trustees. The Institute is a non-profit agency providing services to the elderly and their families. Wexberg, who specializes in estate planning and trust administration, assists individuals and charitable organizations with charitable planning.

Kenneth S. Kail, of the New York office of Morrison & Foerester, has been elected to partnership. Kail’s area of practice is corporate and international tax law (Business Wire, 10/23/92).

Peter J. Lynch has joined Christie, Palbarue, Mortensen & Young P.C.

Lee S. Piatt, a partner in the law firm of Rosenn, Jenkins & Greenwald in Wilkes-Barre, Pennsylvania, recently returned from Bulgaria where he was a principal speaker in a seminar entitled “Rebuilding Law and Life on a Firm Foundation.” The two day seminar was held at The Palace of Culture in Sofia, Bulgaria’s capital, and was sponsored by the Christian Legal Society.

Beverly Moran proves that “you can do it all” with a law degree. A member of the class of 1981, Moran has moved from private practice to public service to teaching, and is now an associate professor at the University of Wisconsin Law School. She encourages students to take advantage of all the options a law degree offers: “The law provides people with many opportunities to do lots of different things.” Moran has used that flexibility to pursue her true interests.

Believing that she could better utilize her skills in taxation working for the City of New York, she left her first position as an associate with the New York firm Cullen and Dykman to serve as executive director for the New York City Business Relocation Assistance Corporation, where she administered over $40 million in economic development aid to local businesses. As a former legal writing instructor at Penn, however, Moran was drawn to teaching. Being as interested in teaching as she is in taxation law made for a perfect match, and she finds her current role as a tax law professor most satisfying.

In addition to her extensive work in the field of taxation, Professor Moran also strives to enhance the lives of minority members. As coordinator of the 1990 Minority Law Teachers’ Conference, she helped double the number of minority applicants in the law teaching pool. Currently, she is examining ways in which biases in the taxation system adversely affect African Americans and is developing proposals to correct these biases. On a personal level, Moran feels that many non-minority members are often “unthinkingly cruel” to minorities, engaging in oppressive behavior without any realization that they are doing so. Professor Moran attributes the phenomenon to power, and admits that as a law professor she too is sometimes unaware of the oppressive effects of her actions. Such is the subject of her article, “Quantum Leap: A Black Woman Uses Legal Education to Obtain Her Honorary White Pass,” 6 Berkeley Women’s Law Journal 118 (1991).

Moran’s analysis is indeed a crucial one, for defining the problem is the first step toward change. In her teaching and in her legal thinking, she will continue to address this issue and to challenge the next generation of legal scholars and practitioners to do the same.

—Michael Doar ’95
'81
Joan Channick serves as an assistant professor of Theater Management at the Yale School of Drama and as the marketing director of the Yale Repertory Theater.

H. Thomas Hunt, III, formerly associated with Blank, Rome, Comisky & McCauley, has announced the opening of his law offices in Haddonfield, New Jersey. Hunt concentrates his practice in commercial litigation and computer law.

'82
Stephanie Franklin-Suber, partner in the business department of Schnader, Harrison, Segal & Lewis, has been named president of the Barristers' Association of Philadelphia, Inc. An affiliate of the National Bar Association, the Barristers' Association represents nearly 1,000 African-American lawyers and judges in the Philadelphia region.

Jeffrey E. Myers has been admitted to partnership at the Philadelphia firm Blank, Rome, Comisky & McCauley. In his practice, Myers represents management in all aspects of labor and employment law, defending companies in unfair labor practice cases, discrimination cases, wage and hour cases, and unemployment compensation cases.

'83
Ten years later... how about getting together Saturday, May 15, 1993, in an off-beat Philly spot for food, drinks, and some recollecting? An early survey indicates that many unsuspecting (unsuspecting?) folks will be there. Watch the U.S. mail.

Robert S. Hawkins was elected to partnership at Pepper, Hamilton & Scheetz in January 1992. Hawkins, a member of the firm's labor department, concentrates on litigation, counseling, and negotiations on labor and employment matters, such as labor-management relations, public sector employment law, collective bargaining, equal employment opportunity, wrongful discharge, railway and airline labor law, and OSHA (The Legal Intelligencer, 8/13/92).

Robert M. Jarvis, former maritime law practitioner with Baker & McKenzie in New York City, has been granted tenure and promoted to Professor of Law at the Nova University Law Center in Fort Lauderdale, Florida. The author of numerous works on maritime law, Jarvis currently chairs the Admiralty Law Committee of the Florida Bar Association and is the incoming chair of the Maritime Law Section of the Association of American Law Schools.

Bruce W. McCullogh has been named a partner of Swartz, Campbell & Derweiler in Philadelphia. Additionally, McCullogh will head the firm's recently opened Delaware office.

Linda Wells has been named director of the U.S. Department of Commerce Commercial Law Development Program for Central and Eastern Europe, the federal government program assisting the governments of Central and Eastern Europe in developing commercial laws consistent with free market economies. Wells brings to the position nine years of experience as an attorney specializing in project finance and transnational investment, first in private practice and, more recently, with the Overseas Private Investment Corporation.

Amy E. Wilkinson, partner-elect in the administrative department of Duane, Morris & Heckscher, has received recognition for her commitment to numerous causes. Wilkinson chairs the Women's Law Project, a program of Women's Way, a feminist legal advocacy organization. In addition, Wilkinson participates in the PBA's Lawyers and Doctors in the Classroom Project, which warns students of the legal and medical ramifications of substance abuse; acts as a coach in "Collegeworks;" chairs the Personnel and Nominating Committees of the Family Planning Council of Southeastern Pennsylvania; serves as general board member for Philadelphia Volunteers for the Indigent Program (VIP); and is active in both the Bar Association and the Barristers' Association (The Legal Intelligencer, Cathy Abelson Legal Search, 10/21/92).

'84
Keith Braun and his wife, Svetlana (married in Moscow in 1984) became parents to a new baby girl, Naomi Dina Braun, on July 31, 1992.
Harriet Dichter, director of Maternal and Infant Health for the Philadelphia Department of Health, has been named a recipient of the Elizabeth Blackwell Award for her work as director of the Healthy Start Initiative. The Initiative, funded through a federal grant written by Dichter, aims to reduce infant mortality and to develop maternal and infant help programs in West and Southwest Philadelphia (Elizabeth Blackwell Newsletter, Fall 1992).

Gregg Vance Fallick, and his wife, Lisa Sellers Fallick, recently relocated to Albuquerque, New Mexico. Fallick joined the firm of Browning & Peifer, P.A., and will specialize in litigation and criminal defense matters.

Imogene E. Hughes was named a partner in the firm Kleinbard, Bell & Brecker. Hughes practices commercial litigation (The Legal Intelligencer, 9/9/92).

J. Philip Kirchner has joined the Marlton, New Jersey office of Flaster, Greenberg, Mann & Wallenstein, P.C.

Tsiwen M. Law, of Hwang & Nix P.C., has been appointed to the Membership Oversight Committee of the Association of Trial Lawyers of America and reappointed to the Publications Committee of the Pennsylvania Trial Lawyers Association. His article “Who Called Me an Oriental?” representing an Asian-American” was published in the Fall 1992 issue of The Barrister (The Legal Intelligencer, 10/14/92).

Ted S. Lodge announces his formation of a new law firm, Lodge & Berman, P.C., with colleague Kenneth Berman. The firm concentrates in business, real estate, and finance. The principals of Lodge & Berman are also the founders of Argosy Capital, Ltd., a private investment firm that structures, invests in, and manages investments in operating businesses and real estate projects.

J. Timothy Maxwell has been elected partner at Morgan, Lewis & Bockius. Maxwell, a member of the business and finance section at the firm’s Philadelphia office, specializes in U.S. and international business matters, including securities regulation, mergers and acquisitions, and equipment leasing transactions.

Jodi J. Schwartz was honored at the Proskauer Award dinner of the Lawyers Division of the UJA-Federation this past December. Schwartz received the first annual James H. Fogelson Award.

Reginald Robinson, ’89

Reginald Robinson believes that cultural diversity is vital to every institution. To advance this premise, he chose a career in the legal academy. At Whittier Law School, Robinson, the only African-American professor, provides a role model for all students, and especially those of color. No small task. Nevertheless, Robinson vigorously approaches this responsibility. Inspired by former and current Penn professors such as Bruce Mann, Drucilla Cornell, and Ralph Smith, he informs students of color about the array of job opportunities outside of the corporate arena and encourages them to consider the legal academy.

While Robinson has always had a passion for teaching, he began his career as an Assistant Staff Attorney for the City Council of Philadelphia. During this time, he gained experience in the legislative process, drafting city ordinances and working on an array of constitutional issues. Simultaneously, he began drafting his first article applying Hobbes and Hegel to Title VII, which, after recent completion, will be published by the Connecticut Law Review in March 1993. Robinson next served as an Assistant City Solicitor in Philadelphia, where he dealt with constitutional issues and gained valuable litigation experience.

At Whittier, Robinson teaches Property and Legal Philosophy, and thus he still tackles tough constitutional issues. He continues writing and has submitted a piece for a special edition of the Southern California Law Review on the LA riots. Robinson’s article focuses on the violent discourse between African Americans and Koreans. He contends that despite similarities in the socio-legal experiences of these two groups, they have become diametrically opposed due to socio-economic factors. To mend this violent discourse, Robinson proposes forming a communicative bridge between the two groups. Two remedies he explores are the use of zoning boards and community planning organizations as a means to empower the groups to use the legal process instead of private, violent means to resolve their disputes.

These accomplishments are only a hint of what Professor Robinson hopes to achieve in the future. He’s completing his Ph.D. in Political Science from the University of Chicago. And he plans to continue writing and to remain at Whittier, which has provided him a “ripe, rich environment” for the pursuit of his goals. These are no small goals for a recent Penn Law graduate.

—Tia Carter ’95
capital arena, serving on the Board of Directors of the Entrepreneurs’ Forum of Philadelphia, as well as publishing in the third edition of the Layman’s Guide to the Legal Aspects of Venture Capital.

BRIAN J. SIKSO has become a corporate and securities law partner in the Philadelphia firm Klehr, Harrison, Harvey, Branzburg & Ellers (The Legal Intelligencer, 7/31/92).

'B86

BRIAN T. KELLY, previously a federal prosecutor in the narcotics division of the San Diego U.S. Attorney’s office, recently joined the organized crime division of the Boston U.S. Attorney’s office.

CHRISTOPHER F. WRIGHT, of Pepper, Hamilton & Scheetz, has been elected secretary of the Application Development Center, a non­profit program of the University City Science Center which supports software development in the Delaware Valley. Wright concentrates his practice on computer and technology law (The Legal Intelligencer, 9/8/92).

'B87

MARC LANDIS has moved his real estate and commercial transactional practice from Stroock & Stroock & Lavan to the Great Neck, New York firm Peirez, Ackerman & Levine.

BARBARA A. SUBKOW, formerly of Liebert, Short & Hirshland, has joined Hoyle Morris & Kerr as an associate (The Legal Intelligencer, 10/21/92).

'B88

Can it be five years? Plan to return to your favorite spots May 15 and 16, 1993 for our first reunion! We’ll be in touch soon with details.

JONATHAN D. LEVITAN has joined the Philadelphia firm Kleinbard, Bell & Brecker as a labor attorney, working on the management side (The Legal Intelligencer, 9/4/92).

STELLA M. TSAI has become a member of the firm Christie, Falsarue, Mortensen & Young, P.C.

'B89

DAVID CRICHLOW is clerking for Judge Clifford Scott Green in the Eastern District of Pennsylvania. Crichlow is taking a one year leave of absence from the New York firm Winthrop, Stenson, Putnam & Roberts to serve as clerk to Judge Green.

J. DENNY SHUPE, of the litigation department of Schnader, Harrison, Segal & Lewis, has been elected to a three-year term on the USO of Philadelphia, Inc.'s Board of Directors. The USO of Philadelphia, Inc. is a voluntary civilian organization providing support for members of the armed services and their families assigned to the Greater Delaware Valley Area; Shupe is currently a major in the United States Air Force Reserve.

Alumni often ask — when will Penn have its own club in NYC? We are getting closer to the answer. Construction of The Penn Club of New York located at 30 West 44th Street between 5th and 6th Avenues, kicked off in April, 1992. Scheduled to open later this year, The Penn Club will offer all the amenities of a first class club, including overnight accommodations, dining and banquet facilities, conference rooms, and a health club. This great undertaking needs the support of all alumni, and we encourage you to consider how you might supplement your support of the Law School with a gift to assist in the renovation of our superb clubhouse. All gifts are tax-deductible, and will be part of The Campaign for Penn.

Please return this form with your gift or to request additional information and to be kept informed about membership opportunities.
IRA C. GOLDKLANG has enrolled in the Yale University School of Management as a member of the class of '94. Goldklang is working toward a Masters in Public and Private Management (MPPM) degree.

JAMES F. KURKOWSKI, formerly of the Washington, D.C. firm Howrey & Simon, has joined the San Francisco firm of Townsend and Townsend. Kurkowski focuses his practice in patent law.

The family of HAL WEINSTEIN '91, who was tragically killed in a car accident last summer, has established a memorial prize in his honor at the Law School. The prize will be awarded annually to the graduate student who demonstrates special promise in the area of criminal trial advocacy.

B. SCOTT BOLLS is in Germany working with a German government agency selling East German properties to foreign investors; most notably, he is attempting to sell the town of Amerika to American businesses (People, 10/5/92).

SARAH M. BRICKNELL is a litigation associate in the Harrisburg office of Buchanan Ingersoll.

LORI R. GREENBERG announces her marriage to Christian Kier, on September 12, 1992. Kier is studying for his Ph.D. in bioengineering and neuroscience at Penn.

Michael Lieberman, former law clerk to the Honorable John F. Gerry, Chief Judge of the United States District Court for the District of New Jersey, has joined Hangley Connolly Epstein Chicco Foxman & Ewing as an associate.

Michael D. Stovsky, an associate at the Cleveland firm of Kahn, Kleinman, Yanowitz & Aronso, recently authored “Product Liability Barriers to the Commercialization of Biotechnology: Improving the Competitiveness of the U.S. Biotechnology Industry.” The article has been published in the High Technology Law Journal (Vol.6, No.2) of the Boalt Hall School of Law of the University of California-Berkeley.

DAVID C. CAMP has joined the corporate department of the Boston office of Day, Berry & Howard.

M. TIMOTHY LEZAMA has become associated with Christie, Pabarue, Mortensen & Young, P.C.

PAUL SILVER serves as senior legislative aid for Chicago’s 2nd Congressional District’s newly elected congressman, Mel Reynolds. After graduating from the Law School, Silver worked as a volunteer in Reynolds’s election campaign.

EDWARD ZIMMERMAN has joined Lowenstein, Sandler, Kohl, Fisher & Boylan’s Roseland, New Jersey office as an associate in the corporate department (New Jersey Law Journal, 8/24/92).

Law students have formed a new journal, Hybrid: A Journal of Law and Social Change, dedicated to animating the law as an instrument in the continuing struggle for substantive justice. Editors intend to publish scholarship with traditional-minded writing which explores the law’s impact on people’s lives. The first issue is shaping up, and will include articles from Twiwen Law ’84 and Sharon Dietrich ’85.

For more information about Hybrid, how you can support students in their efforts to found the journal, or to learn about opportunities to publish your interdisciplinary and community-oriented work, please call (215) 222-8565.
IN MEMORIAM

17  M. Joseph Greenblatt
Vineland, NJ
August 30, 1992

24  William Brodsky
Philadelphia, PA
September 13, 1992

26  Henry W. Balka
Philadelphia, PA
August 21, 1992

28  David W. Niesenbaum
Southampton, PA
October 20, 1992

29  William L. Kendrick
West Chester, PA
September 21, 1992

30  Walter N. Moldawer
San Francisco, CA
October 23, 1992

33  Percy H. Clark, Jr.
Bryn Mawr, PA
October 19, 1992

34  Francis J. Gafford
Middletown, PA
October 15, 1992

35  John Milton Ranck
Strasburg, PA
September 5, 1992

36  Joseph T. Murphy
Philadelphia, PA
October 21, 1992

37  Dr. Augustus H. Able III
Bala Cynwyd, PA
July 6, 1992

37  Benjamin Weinstein
Scranton, PA
September 22, 1992

38  Springer Moore
Vero Beach, FL
December 3, 1992

39  William H. Beachy, Jr.
Somerset, PA
June 6, 1992

40  Kenneth D. Strickler
Jacksonville, FL
November 4, 1992

41  William L. Cremers, Jr.
Pottstown, PA
July 16, 1992

41  Robert C. Walker, Jr.
Tucson, AZ
October 21, 1992

47  William H. Mann
Lancaster, PA
November 12, 1992

48  John A. Ballard
Roxborough, PA
September 17, 1992

49  William H. Brachy, Jr.
Somerset, PA
June 6, 1992

50  Robert Wilinski
Haddon Heights, NJ
November 4, 1992

58  Paul Tully
Little Rock, AK
September 24, 1992

At the time of his death, Mr. Tully served as political director of the Democratic National Committee. In eulogy, then-candidate Bill Clinton issued a statement: "Paul had one of the nation's greatest political minds, and one of its biggest hearts."

82  Robert Anderson
Crooks
Portland, OR
December 5, 1992

Mr. Crooks is survived by his wife and six children, his father, Robert Crooks '37, his brother William Crooks '75, and other family members.
Dean
Colin S. Diver

Chair
Charles A. Heimbold, Jr. ’60
The Honorable Arlin M. Adams ’47
David Berger ’36
Sylvan M. Cohen ’38
Clive S. Cummis ’52
Richard M. Dicke ’40
Lawrence J. Fox ’68

Robert L. Friedman ’67
Howard Gittis ’58
Marcia D. Greenberger ’70
John G. Harkins, Jr. ’58
Leon C. Holt, Jr. ’51
William B. Johnson ’43
Jane Lang ’70
Stephanie W. Naidoff ’66
The Honorable Robert N. C. Nix, Jr. ’53
Samuel F. Pryor III ’53
Arthur G. Raynes, Esquire
Lipman Redman ’41

Michael J. Rotko ’63
Manuel Sanchez ’74
Marvin Schwartz ’49
Bernard G. Segal ’31
The Honorable Norma L. Shapiro ’51
A. Gilchrist Sparks III ’73
Myles H. Tenenbaum ’57
Glen A. Tobias ’66
Robert I. Toll ’66
Mark M. Weinstein ’68
S. Donald Wiley ’53

The Law School Board of Overseers 1992-1993

The Law Alumni Society Officers and Managers
1992-1993

Officers
President
John F. DePodesta ’69
First Vice-President
Jerome B. Apfel ’54
Second Vice-President
Helen Pomerantz Pudlin ’74
Secretary
Arthur W. Lefco ’71
Treasurer
Arlene Fielder ’74

Board of Managers
Fred Blume ’66
Timothy F. S. Cobb ’89
Leonard Colamarino ’76
Beryl Richman Dean ’64
George J. Edwards ’74
Amy Goldstein ’82
Murray Greenberg ’68
Nicholas J. Nastasi ’67
Mansfield C. Neal, Jr. ’64
David H. Nelson ’49
Steven Perskie ’69
Lawrence J. Rothenberg ’65
Sandra Shapiro ’69
Jerome G. Snider ’75
Vernon Stanton, Jr. ’60
Jeffrey M. Stopford ’69
Michele L. Tuck ’83
Murry J. Waldman ’52
Steven R. Waxman ’70

Ex-Officio
Dean
Colin S. Diver
National Chair of Law Annual Giving
Charles E. Dorkey III ’73
Representative to the General Alumni Society
Leonard Barkan ’53
Representative to the Board of Directors of the Organized Classes
The Honorable Stewart R. Dalzell ’69
Representative to the Association of Alumnae
Marion R. Hubing ’90
President of the Order of the Coif
Alfred W. Putnam, Jr. ’78

Past Presidents
Robert L. Trescher ’37
Thomas Raeburn White, Jr. ’36
Henry T. Reath ’48
Carroll R. Wetzel ’30
Harold Cramer ’51
The Honorable William F. Hyland ’49
Joseph P. Flanagan, Jr. ’52
The Honorable Thomas N. O’Neill ’53
Marshall A. Bernstein ’49
David H. Marion ’63
E. Barclay Cale, Jr. ’62
Clive S. Cummis ’52
Howard L. Sheeter ’68
Gilbert F. Casellas ’77