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Cover: Taughannock Falls
Introducing the New Allan R. Tessler Dean

Stewart J. Schwab, professor of law at Cornell Law School and a specialist in labor and employment law, tort and contract law, and law and economics, has been named the new Allan R. Tessler Dean of the Law School, Cornell President Jeffrey S. Lehman announced at the Law School on Dec. 5. The announcement was met with the full acclamation of the Law School community.

“Stewart Schwab is a nationally recognized scholar who has the respect and admiration of his colleagues on the Cornell faculty,” said President Lehman. “I am confident that, with his strong leadership, the Law School will make ever greater contributions to our understanding of the law and legal institutions and will continue to prepare our students for lives of accomplished service within a rapidly changing profession.”

Professor Schwab earned an M.A. in labor economics and industrial organization (1978), a J.D. (magna cum laude, 1980) and a Ph.D. in economics (1981) from the University of Michigan. He then clerked for Hon. J. Dickson Phillips of the U.S. Court of Appeals for the Fourth Circuit and for U.S. Supreme Court Associate Justice Sandra Day O’Connor before joining the Law School faculty in 1983.

Cornell Provost Carolyn A. (Biddy) Martin, who chaired the search committee, said: “Stewart brings to the position 20 years of teaching and scholarship in areas that have enormous significance and breadth. He is one of our most productive and distinguished legal scholars and is widely respected by his colleagues. I look forward to working with him.”

She added, “We were fortunate to have a superb set of candidates, including three from within Cornell among our five finalists, and making the final choice was challenging.”

“I am delighted but humbled at being chosen,” said Professor Schwab. “I look forward to working with my colleagues to make Cornell Law School and the larger university an even stronger place than it is today. Two facts about Cornell Law School stand out—first, it is already a superb community of scholars and students with many strengths; second, it can become an even finer institution. Cornell has the potential to become the best law school in the country at synthesizing the twin roles of inspiring students through a broad-minded program of instruction in a great

Two facts about Cornell Law School stand out—first, it is already a superb community of scholars and students with many strengths; second, it can become an even finer institution.
university, and of educating the world through research and scholarship on the functions of law in society. Our talented and imaginative alumni are a critical part of our community—essential in providing insight on the skills, traits, and vision needed for a successful lawyer. I look forward to working with our alumni to make our ambitions a reality.”

Professor Schwab has examined issues in labor and employment law through empirical analysis, as well as from comparative and law and economics perspectives. He is the co-author, with Samuel Estreicher, of Foundations of Labor and Employment Law (Foundation Press, 2000). Among his casebook publications are Employment Law: Cases and Materials (Matthew Bender & Company, 3rd ed., 2002), with Steven L. Willborn and John F. Burton Jr. He has written about employment discrimination, workplace accommodations to people with disabilities, sexual harassment in the workplace, constitutional tort litigation and labor law reform, and has contributed numerous chapters to books on employment law. He has published articles in scholarly law journals at Yale University, the University of Chicago, New York University, the College of William and Mary, University of Michigan, and Cornell and he is currently co-editor of the Journal of Empirical Legal Studies.

At Cornell he has taught courses on comparative labor law, contracts in a global society, corporations, empirical studies of the legal system, torts, employment and labor law, and law and economics. He was a distinguished visiting professor at the University of Nebraska Law School in spring 2003 and a Fulbright senior scholar at the Australian National University’s Centre for Law and Economics in January 1998. He has been a visiting fellow at Oxford University’s Centre for Socio-Legal Studies, the Chapman Tripp Visiting Lecturer at Victoria University Faculty of Law, New Zealand, an Olin visiting research professor of law and economics at the University of Virginia Law School and a visiting professor at law schools at Duke University and the University of Michigan.

A consultant for the World Bank on reform of labor and employment laws in parts of the former Yugoslavia and Soviet Union, Professor Schwab has consulted on ERISA, ESOP and Title VII litigation. Among the projects he currently is working on is “What Do CEOs Bargain For?: An Empirical Study of Key Legal Components of CEO Contracts” (with R. Thomas). Professor Schwab has served on the Law and Social Science Panel of the National Science Foundation and on the outside review committee of the American Bar Foundation. He has chaired the Cornell University Hearing Board, been a member of the Financial Policies Committee of the Faculty Senate, and served on the City of Ithaca Board of Zoning Appeals.

Professor Schwab grew up in Chapel Hill, North Carolina. He lives in Ithaca with his wife, Norma Schwab, and their eight children. His oldest child is a graduate of Cornell University, the second attends Cornell, and the third will be a freshman beginning next fall. Professor Schwab will officially become the Allan R. Tessler Dean in January.

Professor Schwab succeeds Lee Teitelbaum, who served as dean of the Law School from July 1999 to June 2003. In addition to the provost, search committee members were: Walter Cohen, vice provost; Stephen Crane, chair, Law School Advisory Council; and these Law School faculty members: Professors Kevin Clermont, Theodore Eisenberg, Stephen Garvey, Barbara Holden-Smith, Shari Lynn Johnson, Annelise Riles and Faust Rossi, and Carol Grumbach, senior lecturer and director, The Lawyering Program.

Our talented and imaginative alumni are a critical part of our community—essential in providing insight on the skills, traits, and vision needed for a successful lawyer.
In May of this year, a divided Supreme Court cast doubt on whether *Miranda* imposes an obligation on police when they question arrested suspects.

*Miranda to Dickerson: A Very Brief History*

The 1966 *Miranda* decision was a tour de force in constitutional interpretation. After having experimented with both the Due Process Clause and the Sixth Amendment right to counsel as means of controlling pernicious police interrogation practices, the Court, in *Miranda*, turned to the Fifth Amendment self-incrimination clause. The Court determined that custodial police interrogation, by its nature, forces arrested suspects to answer questions. It concluded that suspects' answers to such questioning are inherently "compelled" and thus inadmissible in criminal prosecutions by virtue of the Fifth Amendment privilege against compelled self-incrimination. But, the *Miranda* Court struck a compromise of sorts, giving police an opportunity to "dispel" the compulsion and thus obtain admissible responses to their questions. To do so, police had to give the now-famous warnings and obtain from suspects affirmative waivers of their "rights" to remain silent and consult with counsel. If suspects asserted rather than waived their rights, police were supposed to honor those invocations by terminating interrogation.

In order to understand why *Miranda*’s future looks so precarious, it is helpful to begin by briefly reviewing its past.

**Steven D. Clymer**

*Miranda v. Arizona*¹ has been a prominent fixture of the American criminal justice system, as well as police television shows and movies, for more than a third of a century. And when, amid considerable fanfare, the Supreme Court in June 2000 announced its decision in *Dickerson v. United States*,² it appeared that *Miranda* would retain that status for the foreseeable future. In *Dickerson*, a surprisingly large 7–2 majority settled a long-standing debate about the constitutional legitimacy of *Miranda*, holding that the *Miranda* rules are firmly grounded in the Fifth Amendment’s self-incrimination clause.

But now, a mere three years later, *Miranda*’s fortunes have shifted dramatically. In May of this year, a divided Supreme Court cast doubt on whether *Miranda* imposes an obligation on police when they question arrested suspects. And, in the coming Term, the Court will decide two cases that further will determine whether *Miranda* will continue to play a significant role in regulating police interrogation practices. There is a good chance that by this time next year, with tacit approval from the Court, many police departments will spend more time and energy devising methods of circumventing the *Miranda* rules than following them. In order to understand why *Miranda*’s future looks so precarious, it is helpful to begin by briefly reviewing its past.³
In the decades following *Miranda*, the Court refined the new doctrine. Many decisions addressed predictable issues: what constitutes “custody” and “interrogation” for purposes of triggering the warnings and waiver requirements; what sorts of responses are sufficient to qualify as waivers of rights; and whether police are foreclosed from making additional efforts to secure waivers once suspects invoke their right to counsel or to remain silent. But, two more fundamental interpretative issues soon arose, ones that would play a critical role in determining the meaning and operation of *Miranda*. One issue involved the constitutional legitimacy of *Miranda*; the other affected police compliance with the *Miranda* rules.

The first issue surfaced in a series of cases beginning in 1974 with *Michigan v. Tucker*, in which the Court began to describe *Miranda* as if it were something less than a constitutional requirement. In those cases, the Court explained that *Miranda* “sweeps more broadly” than the Constitution and requires suppression even when police do not use constitutionally-prohibited compulsion during questioning. The Court seemed to have concluded that the secrecy of the police interrogation process and the inevitable swearing contests at suppression hearings between police officers and suspects about what had occurred during questioning made it prohibitively difficult for courts to determine whether police actually had coerced a suspect into answering questions. As a result, *Miranda*’s bright line rule—suppression of statements absent affirmative proof of police compliance with the warning and waiver requirements—was a necessary prophylaxis.

Whatever the merits of that reasoning, the Court’s description of *Miranda* as extending beyond the boundaries of the Constitution presented a problem. If the *Miranda* doctrine sweeps more broadly than the Constitution, then some violations of *Miranda* are not violations of the Constitution. But, if a *Miranda* violation is not a constitutional violation, by what authority can the Supreme Court require the suppression in state court proceedings of a suspect’s statements taken in violation of only the prophylactic *Miranda* rules? And, even if the Court’s supervisory power permits it to require such a rule in federal courts, why can’t Congress overrule it, as it attempted to do when it enacted 18 U.S.C. § 3501, a statute permitting the introduction of voluntary confessions in federal courts even absent compliance with the *Miranda* rules? These questions about the constitutional legitimacy of *Miranda* triggered a decades-long debate, one that was not resolved until the *Dickerson* decision.

The second issue, police compliance, arose in a series of Supreme Court decisions that addressed the consequences of violations of the *Miranda* rules—situations in which police question an arrested suspect without first properly advising him of his rights (“failure-to-warn violations”) or continue to question an arrested suspect after his assertion of his right to silence or counsel (“failure-to-honor violations”). Although *Miranda* had held that the prosecution is forbidden from introducing statements resulting from such violations in its case-in-chief, the Court left open the question whether prosecutors can use such statements to impeach defendants who give inconsistent trial testimony. Likewise, *Miranda* did not determine whether prosecutors can admit evidentiary fruits of statements that police obtain by violating the *Miranda* rules, such as physical evidence or testimony from witnesses identified in suspects’ statements.

In two post-*Miranda* cases, the Court determined categorically that prosecutors are free to impeach testifying defendants with inconsistent statements made following either failure-to-warn...
or failure-to-honor *Miranda* violations. Although, to date, the Court has been less categorical on the fruits issue, it held in one case that the prosecution could call a witness whom police had identified only because of a statement that a suspect gave without having received proper *Miranda* warnings. Similarly, in another case, the Court held that when police first obtained a statement by questioning an arrested suspect without *Miranda* warnings, a later statement that the suspect made following *Miranda* warnings was not tainted by the first statement.

These impeachment and fruits decisions do more than determine what sort of evidence the prosecution can admit at trial. They create affirmative incentives for police to violate the *Miranda* rules. If an earlier un-warned statement does not taint a suspect’s later, post-*Miranda* statement, police have reason to question a suspect without advising him of his rights to silence and counsel. Such questioning may increase the chances of obtaining a statement which, although inadmissible in the prosecution’s case-in-chief, can serve as a “beachhead.” By later warning the suspect of his rights, police can “cure” the earlier violation and likely persuade the suspect, who already has “let the cat out of the bag,” to repeat the statement. Under the Court’s approach, the second statement is freely admissible.

In addition, police have little reason to stop questioning when a suspect invokes his right to silence or counsel. Honoring the assertion of rights forecloses the chance of obtaining any statement; dishonoring the assertion can lead to acquisition of a statement that, although inadmissible in the prosecution’s case-in-chief, can be used to impeach the suspect at trial (and perhaps deter the defendant from testifying at all) or aid in discovery of other evidence. Indeed, in recent years, a number of police officers and departments have chosen to deliberately violate the *Miranda* rules because of these evidentiary incentives. Supporters of *Miranda* have criticized both the Court for creating the incentives and the police for acting on them.

There seemed to be a connection between these two issues—the scope of the *Miranda* exclusionary rule and *Miranda*’s constitutional legitimacy. When the government compels a statement from a person outside the context of custodial interrogation, thereby triggering the protections of the self-incrimination clause, the prosecution is forbidden from making any use of the statement in a criminal prosecution of the person who made the statement. For example, in the context of grand jury investigations, witnesses sometime refuse to answer questions by asserting their Fifth Amendment privilege. The prosecution can overcome that assertion, and compel answers, by obtaining a grant of immunity. But, although an immunized witness has to answer questions or face contempt of court sanctions, the prosecution cannot use a statement compelled by an immunity grant in any way if it later prosecutes the witness. Thus, the prosecution cannot introduce the immunized statement in its case-in-chief against the witness-turned-defendant, and, in contrast to the rules that apply in the *Miranda* context, cannot use it to impeach inconsistent trial testimony or introduce any evidentiary fruits of the statement. There was reason to believe that the more limited exclusionary sanction in the *Miranda* context was an outgrowth of the Court’s characterization of *Miranda* as only a prophylactic rule. The Court seemed to have concluded that violations of the merely prophylactic *Miranda* rules required a less drastic response than the Fifth Amendment privilege itself required in other contexts. Thus, when the Supreme Court granted review in *Dickerson*—to consider whether Congress
had the authority to overrule *Miranda*—it appeared that the Court was poised to confront both the legitimacy issue and questions regarding the scope of the *Miranda* exclusionary rule.

**Dickerson v. United States: Affirmation or Only a Brief Reprieve?**

In 1968, two years after the Court decided *Miranda*, Congress attempted to overturn it. It did so by enacting 18 U.S.C. § 3501, a statute requiring federal courts to admit defendants’ post-arrest statements as long as they were voluntarily made. Under Section 3501, a failure to advise an arrested suspect of his rights was a factor to be considered in assessing voluntariness but, in contrast to the *Miranda* doctrine, did not require suppression. Although Section 3501 has been available since 1968, the Department of Justice rarely argued in court that it trumped *Miranda*. In *Dickerson*, the Fourth Circuit Court of Appeals *sua sponte* relied on Section 3501 to reverse a district court’s order suppressing a confession that an FBI agent obtained without *Miranda* warnings. The appellate court ruled that the confession, because it was voluntary, was admissible despite the failure to follow *Miranda*. When the Supreme Court chose to review the Fourth Circuit’s decision, it was obvious that it would resolve the long-standing debate about *Miranda’s* legitimacy.

At first blush, the result in *Dickerson* appeared to be a stunning victory for *Miranda*’s defenders. In an opinion written by Chief Justice Rehnquist, who long ago had touched off the legitimacy debate in his opinion in *Michigan v. Tucker*, seven members of the Court rejected the notion that Congress could overrule *Miranda*. Rather, the Court held that *Miranda* was a constitutionally-based rule, resting firmly on the Fifth Amendment privilege. The Court had resolved the debate in *Miranda’s* favor, making clear that it *Miranda’s* constitutional pedigree was pure.

But, upon closer inspection, the *Dickerson* opinion cast a shadow on *Miranda’s* future. First, no member of the Court expressed any real enthusiasm for *Miranda*. Rather than extolling the virtues of the *Miranda* doctrine or its importance in regulating police interrogation practices, the Court’s opinion simply noted that it had in the past described and treated *Miranda* as if it were a constitutionally-based decision and that the Court was reluctant, for purposes of *stare decisis*, to change course, “[w]hether or not we would agree with *Miranda’s* reasoning and its resulting rule, were we addressing the issue in the first instance.” Remarkably, the Court seemed unwilling to endorse even the most basic tenets of *Miranda*, ascribing them instead to the *Miranda* Court. For example, the *Dickerson* Court stated that the “*Miranda* Court” had concluded that the warning and waiver requirements were necessary to overcome the pressures of custodial interrogation, but never expressed agreement with either this or any other premise of the *Miranda* decision. Similarly, *Dickerson* was noticeably devoid of any concurring opinion extolling the importance of *Miranda* as a means of regulating police interrogation.

Second, contrary to the views of many commentators that the legitimacy question was linked to the scope of the *Miranda* exclusionary rule, the *Dickerson* Court appeared to see no inconsistency between a constitutionally-based *Miranda* doctrine and a watered-down exclusionary sanction. Although the *Dickerson* Court did not address the scope of the exclusionary sanction directly, it described with approval some of its decisions permitting impeachment with statements taken in violation of *Miranda* and the admission of fruits of such statements. Thus, while the Court made clear that *Miranda* has a constitutional foundation, it appeared to leave intact the incentives for police to violate the *Miranda* rules.

Third, and perhaps most significantly, the Court used language suggesting that even if *Miranda* has a constitutional foundation, the foundation is not as solid as *Miranda*’s supporters would like. In several places, the *Dickerson* Court described *Miranda* as a rule of admissibility, not a rule governing police conduct. Coupled with the
A violation only occurs if and when a compelled statement is admitted into evidence, not when it is compelled.
for a crime and thus his statements to Chavez were never admitted in a criminal case against him. As a result, under the Court’s interpretation of the privilege, he suffered no violation of his Fifth Amendment privilege.

Chavez has profound implications for the Miranda doctrine. If Miranda’s constitutional foundation—the Fifth Amendment privilege—cannot be violated without use of a compelled statement in a criminal case, it would seem that the same holds true for Miranda. If so, police commit no constitutional violation if they disregard the Miranda rules. Thus, by its decision in Chavez and the cases in which it has permitted impeachment use of statements taken in violation of the Miranda rules and at least some evidentiary fruits of such statements, the Court seems both to permit police to disregard Miranda and to provide incentives for them to do so.

The Future of Miranda: Next Term and Beyond

When the Court decides the two Miranda cases on its docket for next Term, it will make clear just how much or how little Miranda will continue to matter. One case, United States v. Patane,14 raises the fruits question: whether a firearm, which police found only as a result of a statement taken in violation of the Miranda rules, should be admissible. If the Court follows what appears to be the trend emerging from its earlier decisions, as well as language in a handful of both majority and concurring opinions, it likely will hold that even when Miranda requires suppression of a post-arrest statement, all evidentiary fruits are admissible.

The other case, Missouri v. Seibert,15 raises the question whether more stringent suppression rules should apply when police deliberately violate the Miranda rules in order to take advantage of the evidentiary benefits that the Court has created. In Seibert, the police, hoping to obtain a fully admissible Mirandaized confession, deliberately refrained from giving warnings when they started interrogating a murder suspect. Once the suspect gave a statement, the police then warned her of her rights and had her repeat the statement. Although, as explained above, the Supreme Court had previously permitted the introduction of a second, post-Miranda statement taken under similar circumstances, the lower court in Seibert held that the second statement should be suppressed if the initial violation is deliberate. The chances are good that the Court will reject that conclusion. First, if, as Chavez suggests, police have no constitutional duty to comply with the Miranda rules, then there seems to be no reason why a decision to deliberately violate the rules at the outset of the interrogation should matter. Second, in an analogous Fourth Amendment context, the Court has held that a police officer’s subjective motivation has no bearing on the legality of an arrest.16 Rather, as long as objective circumstances establish probable cause to support an arrest, the officer’s subjective motivation for making the arrest is irrelevant. A similar approach in the Miranda context would foreclose inquiry into whether a police officer’s violation of Miranda is deliberate. Third, as explained above, this Court seems unwilling to champion extensions of Miranda.

If the Court decides Patane and Seibert as predicted, Miranda will, by the end of next year’s Term, be reduced to a set of rules that police can ignore deliberately when it is advantageous for them to do so. Although Miranda still will require
suppression in the prosecution’s case-in-chief of any statement taken after a failure-to-warn or a failure-to-honor violation, police almost certainly will commit both sorts of violations with some regularity. They often will question suspects without warnings in hopes of minimizing the likelihood of an invocation of rights, and warn only after the suspects have given statements that they are likely to repeat even after receiving warnings. When faced with assertions of the rights to silence or counsel, assertions that normally would foreclose acquisition of any statement if the assertions were honored, police instead will continue to question in hopes of obtaining statements useful to impeach or as a source of leads to other evidence.

If all of this happens, it would be perverse and unfortunate. It would undercut the reason for having the Miranda rules—to combat the compulsion inherent in police interrogation. Although the constitutional provision upon which Miranda rests—the privilege—may be a rule of admissibility, the Miranda Court resorted to it in hopes of controlling what police did in the interrogation room. The Miranda Court was willing to impose the cost of suppression of probative evidence in order to minimize the risk that police would use the pressures of custodial interrogation to compel suspects to confess against their wills. But, if, as seems likely, the Court signals to police that they have no constitutional duty to follow the Miranda rules and that they can gain evidentiary benefits by violating those rules, Miranda will not serve its purpose. Police will refrain from giving the pressure-reducing warnings, at least at the outset of interrogation, and continue to exert pressure even after suspects ask to remain silent or to speak with counsel. As a result, the pressure that the Miranda Court sought to alleviate will play a role in suspects’ decisions to answer questions.

The Court could save Miranda from this fate by rethinking the decisions in which it created the incentives for police to violate Miranda. In Patane, the Court could reverse course and determine that fruits of statements taken in violation of the Miranda rules are not admissible. Similarly, the Court could rethink its decisions permitting impeachment use of such statements. If the costs of violating the Miranda rules outweigh the benefits, police will comply with the rules, even absent a constitutional obligation to do so. But, given the Court’s apparent lack of enthusiasm for Miranda, it is unlikely that it will adopt this approach or another that would revitalize Miranda. Instead, Miranda soon may matter more on television shows than it does in real-life police stations and courtrooms.

12. 530 U.S. at 443.
14. The lower court’s decision is United States v. Patane, 304 F.3d 1013 (10th Cir. 2002).
15. The lower court’s decision is State v. Seibert, 93 S.W.2d 700 (Mo. 2002).
Until the removal of the Taliban regime by coalition forces in 2001, Afghanistan had experienced 23 years of almost continuous conflict. Under the arrangements agreed upon at a conference held in Bonn in 2001, Afghanistan is now engaged in a peace process designed to establish a democratic government. The Bonn Agreement on Provisional Arrangements (Bonn Agreement) seeks to “establish a broad-based, gender-sensitive, multi-ethnic and fully representative government.” One major advantage for the peace process is that the people of Afghanistan are tired of the rule of the gun. They have welcomed international assistance, and would like to establish a political system that embraces the principles of democratic governance enshrined in the Bonn Agreement. However, as the United Nations has observed, the consequences of civil war are still apparent in Afghanistan. Strong factional interests have attempted to entrench themselves in the wake of the collapse of the Taliban, and the creation of an environment where the standards of freedom and fairness enunciated in the Bonn Agreement prevail is a major challenge.

In this article, I examine the prospects and challenges of establishing democracy in Afghanistan. I do this with the firm belief that a successful peace process in Afghanistan can make a significant contribution to the fight against terrorism, as well as the eradication of poverty and inequality in an important region of the world. This process needs to be encouraged.

**Background to the Afghanistan Situation**

Despite several attempts by Britain to bring the country under its influence in the nineteenth century, Afghanistan has, for the most part, been an independent state. For the last 23 years, however, Afghanistan has experienced almost uninterrupted war. The Soviet Union intervened in 1980 and installed Babrak Kamal as the ruler. This was followed by anti-regime resistance by various mujahedin groups. In 1985, the mujahedin formed an alliance against the Soviet Union in Pakistan. The alliance, comprised of the United States, Pakistan, China, Iran, and Saudi Arabia, supplied arms and financial assistance to the mujahedin. The conflict resulted in the displacement of approximately half the Afghan population, with many fleeing to neighboring Iran or Pakistan. In 1988, Afghanistan, the Soviet Union, the United States, and Pakistan signed a peace accord, and the Soviet-backed Najibullah government fell from power.

This, however, did not result in peace, as various rival militias fought each other for control of Kabul. The mujahedin factions agreed to form a government with the ethnic Tajik. Burhanuddin Rabbani was proclaimed president in 1993. Fractional contests continued, and the Pashtun-dominated Taliban emerged as a major challenge to the Rabbani government. In 1996, the Taliban seized control of Kabul. The group introduced a hard-line version of Islam which banned women.
from work, and introduced Islamic punishments that included stoning to death and amputations. Only Pakistan, Saudi Arabia, and the United Arab Emirates recognized the Taliban as the legitimate government of Afghanistan. At the height of their power, the Taliban controlled as much as two-thirds of the country. In 1999, the United States imposed an air embargo and financial sanctions on the country in order to force Afghanistan to hand over Osama bin Laden, who was wanted for trial in connection with the east African bombings of U.S. embassies. The United Nations imposed further sanctions in 2001 to force the Taliban to hand over bin Laden after the terrorist attacks of September 11. In October 2001, the United States and Britain launched air strikes against Afghanistan in retaliation for the Taliban’s refusal to hand over bin Laden, whom they held responsible for the attacks. In November 2001, the Northern Alliance, a group of anti-Taliban militias backed by the United States, seized Kabul and drove the Taliban out of power. On December 5, 2001, talks brokered by the United Nations led to the Bonn Agreement, intended to provide benchmarks for the peace process pending the re-establishment of permanent government institutions. Pashtun royalist Hamid Karzai was sworn in as head of an interim government and charged with the responsibility of implementing the Bonn Agreement. In December 2001, the United Nations Security Council authorized deployment of the International Security Assistance Force (ISAF) in Kabul and the surrounding areas.

Until recently, the mandate covered only Kabul. After much pressure from the interim government and from NGOs operating in Afghanistan, the United Nations agreed in October 2003 to extend deployment of the ISAF to areas outside of Kabul. This welcome news, as it was seen as the best way to fill the security gap in the provinces. In August 2003, NATO took control of security in Kabul. This was NATO’s first operational commitment outside of Europe. Allied forces led by the United States continue their military campaign to find remnants of al-Qaeda and Taliban forces in the southeast. In March 2002, the Security Council established the United Nations Assistance Mission to Afghanistan (UNAMA). UNAMA’s mandate is to assist the Interim Government of Afghanistan in implementing the Bonn Agreement.

Ethnic Groups and Regional Factors Affecting the Afghanistan Situation

Afghanistan is composed of several ethnic groups. The main ones are the Pashtuns, in the south of the country (38%); the Tajiks, in the north (25%); the Uzbeks, in the west (10%); and the Hazara, in the center (20%). Additional groups include the Turkmen, the Kuchis, the Baluchis and the Aimaks. Each of these ethnic communities is mobilized under the control of warlords. Each warlord has his contingent of fighters and sources of arms and funds, including revenues from smuggling, import duties, and drug trafficking. Warlords have replaced traditional authorities, and are now well entrenched in local communities. Alliances and hostilities between the varying factions are based on personal loyalties, ethnic identities, or political beliefs. Political groups often regard as enemies all members of a particular clan, or all residents of a locality affiliated with a rival political group. Their attacks target all members of such groups, whether or not they are combatants. There are linguistic and religious differences as well. While 75 percent of the people are Sunni Muslims, 20 percent are Shia Muslims. Others follow the Aga Khan. Linguistic or religious differences in themselves are not problematic; they are problematic only when they are politicized, as they are in Afghanistan.

Each warlord has his contingent of fighters and sources of arms and funds, including revenues from smuggling, import duties, and drug trafficking.
The warlords maintain control of their communities by a combination of intimidation and protection. Warlords have guarded their autonomy while demanding a fair share of central authority’s jobs and financial resources. The elimination of the Taliban and the weakness of central government have created a power vacuum that the warlords have filled. In failed states, where governments cannot exercise authority, warlords emerge to fill the power vacuum, and individuals tend to fall back on their own ethnic or religious communities for security. Another complication in Afghanistan is the influence of outsiders who have attempted to promote their own interests by manipulating vulnerable fellow ethnicities within the country. Pakistan, for example, tries to counter Pashtun nationalism by cultivating Islamic militancy among its Pashtun neighbors through ideological and military support for the Taliban movement. Pakistan assisted the Saudi regime in spreading the Wahhabi version of fundamentalist Islam. It financed and provided instructors for schools that trained the Taliban cadres. Iran is likewise committed to protecting Afghanistan’s Shia minorities, which is the reason for Iran’s hostilities toward the Taliban during their reign.

The Afghan economy has been shattered by war, further limiting the government’s ability to govern effectively. The Central Bank of Afghanistan forecasts the 2003 GDP at about $5 billion; with a population of 22 million, income per capita is a mere $225. The whole country in August 2003 had no commercial banks. War has devastated the infrastructure. An estimated 5 million people are displaced. Afghanistan also faces severe health issues. A UNICEF report found that one in four Afghan children dies before the age of five, most from hygiene-preventable waterborne illnesses like diarrhea, acute respiratory problems, malnutrition, and vaccine-preventable illnesses. Since the Afghan government lacks money, the international community will have to finance its reconstruction. Thus far, most of the financial pledges made to Afghanistan have not materialized. Compared to other post-conflict situations in Bosnia, Kosovo, East Timor, and Rwanda, Afghanistan receives much less in aid per capita. The warlords were involved in the Bonn negotiations and are signatories to the Bonn Agreement. Their involvement has had its own costs in the peace process, as it has tended to provide them with some legitimacy. Their hold on power, however, can be changed once communities have an alternative source of security.

The Bonn Agreement as the Foundation of the Peace Process

The Bonn Agreement established the Interim Government on December 22, 2001 through an Emergency Loya Jirga (a traditional Afghan traditional consultative assembly). The Government was to be a broad-based administration formed to lead Afghanistan until a fully representative government is elected through free and fair elections to be held in June 2004. The Interim Government is charged with drafting a new constitution and rebuilding the judicial system. The Interim Administration is to establish a judicial commission to rebuild the domestic justice system in accordance with Islamic principles, international standards, the rule of law and Afghanistan legal traditions; a Central Bank; an independent civil service commission; and an independent human rights commission. All of the talks are to be carried out with the assistance of the United Nations.

The Bonn Agreement provides that the judicial power of Afghanistan shall be independent and
shall be vested in a Supreme Court of Afghanistan, and other such courts as the Interim Government establishes. One of the weaknesses of the Bonn Agreement is that it focuses on building state institutions which are typically elite-based, and does not provide a parallel mechanism for settling local conflicts and political disputes in the peace process. Other peace processes have made the same mistake. The exception was South Africa, where, parallel to the development of national institutions, a process known as the peace accord was established.13 This involved setting up peace committees in every community in the country. In these committees, various communities met to resolve conflict at the community level, and to work together on development and reconstruction in their communities. This process sought to combine two of the most important aspects of conflict resolution. It secured parties’ endorsement of, and commitment to, important and relevant common values. These values provided a transcendent reference point for the settlement of future disputes, and comprised at least part of the foundation of a future national political culture in a democratic state. The culture and habit of democratic self-governance, regard for human rights and obligations, cooperative governance, and multicultural tolerance and harmony, all need to be developed in order to ensure enduring peace in a post-conflict state.

The Special Representative of the U.N. Secretary General noted, “The furthering of the political process, together with reconstruction programs, the improvement in the human rights situation, counter-narcotics programs, and other aspects of the Bonn process, all depend to a great extent on the security situation.”14 A key element of the Bonn Agreement is disarmament. The relevant provision states: “Upon the official transfer of power, all mujahedin, Afghan armed forces and armed groups in the country shall come under the command and control of the Interim Authority, and be reorganized according to the requirements of the new Afghan security and armed forces.”15 Afghans constantly identify disarmament, demobilization and reintegration of armed groups as the single greatest precondition for the establishment of durable peace. But little has been achieved in the disarmament process. In the provinces, commanders with little or no popular legitimacy remain the principle military partners of the coalition forces, and have used their power to consolidate control over regional administrations and economies. Collaboration with local commanders has drawn the coalition forces into their local factional and personal rivalries, compromising what is supposed to be the forces’ non-partisanship in disputes unrelated to the war on terrorism.16

The United Nations has repeatedly postponed the start of the demobilization program. In late October 2003, the United Nations initiated the Afghanistan New Beginnings Program, intended to remove the support structure beneath senior commanders by disengaging lower-level commanders and troops through individualized counseling, vocational training, jobs creation and placement. The New Beginnings Program requires combatants from different political factions to give up their weapons to the central government under the authority of the Ministry of Defense. The program, however, was negotiated in the absence of either an international or a non-factional Afghan force that can project its authority throughout the country.17 As a result, the Tajik commanders dominating the Ministry of Defense have emerged as key players in the demobilization process. Therefore there is a serious risk that powerful figures will misuse the program to strengthen patronage networks or to demobilize their opponents. It is unlikely that an armed group would trust its safety to a government institution it views as representing factional rather
than national interests. This leads to the conclusion that there is urgent need to reform the Ministry of Defense. Reform has an important economic prerequisite. The international community needs to support demobilization by creating sustainable employment opportunities for the demobilized troops.

The Bonn Agreement requests the United Nations to organize elections for June 2004, and to ensure that they are free and fair. The elections are seen not only as part of the democratic process, but also as a conflict resolution mechanism to resolve the question of who among various political parties will govern Afghanistan. Conducting national elections is a huge political undertaking. The June 2004 date allows for very little time to consider the specific cultural issues that affect Afghan society, and the political and security environment complicates the process. At present, too many areas are inaccessible for lack of security. Voter registration must include the nomads and returning refugees. In addition, a decision must be made about the large numbers of refugees still in Pakistan and Iran.

There is also the problem of well-funded religious parties competing with the new, poorly-funded democratic parties. The international community must find a way to fund the secular parties if they are to match the strength of the religious parties that foreign governments with religious agendas often fund. An important measure of the validity of an electoral process is the extent to which the community where the election is held accepts its legitimacy. Acceptance flows to a large extent from the transparency with which the process is pursued. Mechanisms for enhancing transparency include providing an appropriate role for the media, political parties, candidates, and other elements of civil society, and implementing an effective voter education program. The latter is especially important in a country where the literacy rate is low, respect for human rights is dismal, and the electorate has not been exposed to regular elections.

In a post-conflict election, such as the proposed June 2004 Afghanistan election, the electoral process must address both security and violence concerns, and the participation of marginalized groups. The election process should be administered in an environment free from violence, intimidation and retribution. The state must take all necessary steps to ensure that all adult citizens qualify to vote, register, and exercise the right to vote. Measures in Afghanistan need to be taken to improve the security situation, and to ensure that women are able to exercise their right to register and to vote.

The human rights situation in Afghanistan remains a matter of serious concern. Throughout the country, the absence of the rule of law facilitates the abuse of power, most often by local commanders and factional forces, and creates an environment where illegal taxation, extortion, forced displacement, kidnappings, rape, arbitrary detention, and other human rights violations are routine. The Afghan courts lack legitimacy, as people perceive the judicial system as unable to properly serve the interests of the people. In a country where the rule of the gun has been the dominant feature for well over two decades, the justice sector has probably suffered more damage than any other part of the state structure. Many of the judges lack the necessary qualifications. The courts—where they exist—are fragile and lack basic facilities. In several provinces, warlords have assumed judicial functions. In some other provinces, Islamic clergy or local Shuras (councils of elders) assume judicial functions. In many of these provinces, trials which fall far short of internationally accepted standards of fairness have reportedly resulted in sentences such as stoning to death and public lashings.

Without adequately resourced and professionally trained judicial and law enforcement
institutions, victims have no legal recourse, and perpetrators act with impunity. The establishment of the rule of law in Afghanistan is essential to the peace process. Without the reform of institutions of justice, the legal framework that underpins the peaceful resolution of disputes will not take root. Impunity for armed law-breakers will persist, and citizens will be deprived of justice. Legitimate economic activity is unprotected, and local and international investors worry about entering the market. In the context of Afghanistan’s fragile transition to peace, judicial reform is inseparable from security, and thus from commensurable reform of the military, police, and institutions of correction.

**Challenges to Implementing the Bonn Agreement**

Reestablishing the rule of law and an effective government are essential prerequisites for democracy and stability in Afghanistan. At the moment, the Karzai government remains weak and completely dependent on donor support for its financial resources. For example, in an effort to exert greater authority over the provinces, President Hamid Karzai summoned ten of the country’s provincial governors and two regional commanders to Kabul during May 2003, and demanded their compliance with a 13-point decision of the National Security Council. The decision banned recruitment of private military personnel, forbade unauthorized military action, reaffirmed the regulation that no individual can hold both a military and a civilian post, and dissolved extra-governmental bodies and titles along with all of their administrative and executive powers.

To date, the extent of compliance and the government’s capacity to enforce the decision remains to be seen. One area of weakness undermining the central government is its inability to collect provincial revenues. Collection of provincial revenues would enable the government to address financial shortfalls, provide critically needed finances for central institutions, and gradually increase the self-sufficiency and capacity of the central government.

The other challenge facing Afghanistan is the development of constitutional arrangements to set up viable institutions within which to conduct governance. These institutions must foster an environment where peace and development can flourish, and ensure the promotion and protection of human rights for all Afghans, irrespective of gender, race or tribe. The constitution-making process is being carried out under the auspices of a Constitutional Commission with technical support from UNAMA and the United Nations Development Program (UNDP). Adopting a new Afghan constitution raises debates on many issues: What will be the place of Islam in the country? What type of political system will be adopted? Will Afghanistan be a federal or national State? The place of Islam needs to be addressed and should not be left vague. The role of Islam in Afghan society and its relationship to the constitution will be the critical factor that determines the observance of human rights in Afghanistan. Attempts to fudge the issue are likely to be at the expense of the promotion and protection of human rights—especially women’s rights.

The legitimacy of the constitution which the Constitutional Commission is developing is a critical matter. Questions raised about the process relate to the openness of the process, a perception that the religious leaders are dominating the process, and a lack of civic education as to what the process is about. Civic education can empower citizens to curtail the role of the warlords. Constitutional drafting experience suggests that not only is the content of a constitution important, but also
how, by whom, and in what historical context the constitution is drafted and implemented. The new constitution should steer Afghanistan into a functioning and inclusive nationhood in which most people feel they are citizens regardless of their ethnicity or religion. It should be a liberating document that empowers all Afghans and enables them to participate in the economic development of the country. Only then will the people of Afghanistan collectively have a vested interest in normality and in improving the conditions of society.

One factor that may prove to be an obstacle to enduring peace in Afghanistan is the growing perception of many ethnic Pashtuns that they lack meaningful representation in the central government, particularly in its security institutions. Although a Pashtun, Hamid Karzai, heads the Interim Administration, a Tajik armed faction dominates the administration. For example, the Tajiks control the Foreign Affairs Department, the Defense Department, and the Department of the Interior.

President Karzai is widely seen as unable to limit either the power of the Tajiks within Kabul, or of the commanders—irrespective of their ethnicity—who wield power in other parts of the country. Pashtun alienation is compounded by the displacement of large numbers of Pashtuns in the North. These Pashtuns, following the collapse of the Taliban regime, became the targets of violent attacks by factions of the United Front, a group that helped the United States led coalition forces defeat the Taliban. Risks posed by the growing disaffection among Pashtuns in Afghanistan should be self-evident.

The Taliban came to power not only because of the military assistance provided by Pakistan, but also because local commanders had become notorious for the abuse of civilians and the extortion of money from traders. For the state to be effective, it is necessary for those over whom it claims authority to see it as legitimate and as deserving of their respect and obedience. In the Afghan context, the critical test for legitimacy is going to be whether or not the country’s component ethnic communities are equally represented in the main organs of state: the courts, the legislature, the military, and the executive.

**The Peace Process and Women’s Rights**

Woman’s rights are a major concern in Afghanistan. The lives of hundreds of thousands of women and children have been shattered in the human rights catastrophe that has devastated Afghanistan for the past 23 years. Armed groups have massacred defenseless women in their homes, or have brutally beaten and raped them. Alongside these appalling abuses, women have been prevented from exercising several of their fundamental rights, including the rights of association, freedom of expression and employment. The mujahedin groups perceive such activities to be un-Islamic for women. Many parts of the country have a strong emphasis on prosecuting women and girls for adultery, for running away from home, and for engaging in consensual sex before marriage. In some parts of the country, women are subjected to virginity tests, the failure of which leads to a presumption of violating the prohibition of sex outside of marriage. Women still wear the heavily veiled burqa, which the mullahs prescribe to follow the Qur’an’s injunction to dress moderately. Gross human rights violations against women have been committed with total impunity.

It is important to realize that while the violation of women’s rights in Afghanistan was worse under the Taliban, it did not begin with them. It is rooted in the deeply conservative traditions prevalent in Afghan society. For example, the Supreme Court of the Islamic State of Afghanistan was reported in 1994 to have issued an Ordinance on Women’s Veils, which ordained that women must wear a veil that covers the whole body. The Ordin-
nance forbade women from leaving their homes or from being looked at.

One of the most important challenges facing the Afghanistan peace process is how to ensure the participation of women in the political and economic system, given the historical treatment of women in the country. This will involve providing women with alternative means of survival to obviate the need to rely on men to function in Afghan society. This will also involve encouraging a more liberal interpretation of Islam. In Afghanistan, as in most Islamic countries, mullahs are highly respected community leaders with great power over social and political affairs. In Afghanistan, where the majority of the population is illiterate, and villages are isolated from the outside world, mullahs are often the only source of information.

The real challenge in the coming months is going to be registering women voters, especially in the south and west, where conservative views about taking pictures of women are still strong, and women face danger if they decide to participate in the political process. In order to make any meaningful progress in the protection of women’s rights, any future Afghan government needs to publicly commit itself to women’s rights; to abolish all legislation that treats women and men unequally, or condones human rights violations; to recognize that discrimination in law and practice against women and girl children is a key contributory factor to human rights abuses such as torture, including rape and other forms of sexual violence; and to initiate a plan of action against such discrimination.

The Role of the International Community in the Peace Process

The international effort should focus on building effective governance institutions and providing the necessary financial resources for this effort. Without a viable state apparatus, there can be no development or observance of human rights. At this stage of reconstruction in Afghanistan, it is critical that development activities measurably improve people’s lives and reinforce the central government’s legitimacy.

Funds for commissions and the national election mandated by the Bonn Agreement, as well as for mine clearance, security reform, disarmament, demobilization, and reintegartion, are budgetary items that must be fully supported if the political process is to move ahead. In particular, financial assistance for training the police and a national army are critical to establish security and to create a solid foundation for a democratic state.

The domination of the Afghanistan political landscape by armed groups and individual commanders is still the principal obstacle to the implementation of the Bonn Agreement. Without a credible process for disarming, demobilizing and reintegrating former commanders and fighters into society, it is inconceivable that Afghanistan can meaningfully implement any of the key elements of the peace process, including the adoption of a new constitution, judicial reform, or elections.

In any democracy, a key indicator of effective authority is the monopoly over security held by the armed forces, and the elimination of armed militias and private armies. This is sometimes achieved by incorporating personnel from private armies into the national militia. Warlords will change once the rules of the game change. Alfonso Dhakam, the leader of the Mozambican rebel group RENAMO, was known as one of the most brutal warlords in the world. Once the civil war ended in 1993 and successful disarmament was carried out, he became a member of Parliament in Mozambique and has since 1994 been playing parliamentary politics and engaging in business. When resistance is no longer feasible, most warlords will not fade away; they will apply their skills and contacts to meet the requirements of the new political system. The phenomenon of warlords should be seen as a political question intimately tied to security. Though warlords have a military character, they are essentially “politicians” attempting to perpetuate their own political power in the existing political system. Their resistance to disarmament is a political deci-
sion. They intend to prevent the establishment of an alternative political system, which they view as displacing their own power.

The peace process in Afghanistan will be long, and the international community must be prepared for a long-term commitment. There can be no quick fixes. The transition from authoritarianism or conflict to democratic rule requires determined long-term efforts. The enormity of the challenge should not be underestimated. But concerted efforts to overcome the obstacles could firmly place Afghanistan on the road to democracy and development. The war on terrorism is not going to be won through armed conflict alone. It will be more effectively won through economic development. People need a stake in the world to defend its values. Also, the huge military expenditures necessary for military operations can only be reduced by the development of civil institutions that when effective, make military operations unnecessary and redundant.

2. Id.
15. supra note 1.
19. Id.
20. Id.
21. Id.
Cornell Law School alumni who experienced or heard about the great blackout of 2003 may have thought the impact on our current students would be minimal. After all, Ithaca is a relatively pleasant place in which to be without power. Those left without power in August can find comfort all around them—pleasant summer weather, swimming holes, and so on. The University itself is even better situated than Ithaca; because of its hydroelectric plant, Cornell’s power can (and did!) stay on when the surrounding area is in darkness.

Ah, but those with such thoughts forget something. The August Job Fair takes place in Manhattan, and involves virtually the entire second-year class and a significant number of 3Ls as well. Joining this crowd in New York City every summer is Karen Comstock, Assistant Dean for Career Services, the Career Office staff, and the author. Yes, Cornell alumni—we were there!

This year’s August Job Fair ran from Wednesday, August 13th through Friday, August 15th. When the lights went out at 4:10 PM on Thursday afternoon, the second day of interviewing was largely (but not completely) over. It was Friday that posed the greatest challenge. With literally hundreds of interviews scheduled for Friday, and initial reports indicating that the entire Northeast, and possibly the entire country, was blacked out, who knew what the next 24–48 hours would bring?

I am happy to report that those hours brought many instances of calm heads, good humor, and the kind of congenial support among students and administrators that has long been a hallmark of Cornell Law School. Students displayed more concern for whether or not their colleagues had a safe place to stay for the night than for the fate of their own interviews. Index cards containing information about various employers were turned into playing cards to pass the time. In the midst of all the confusion, and even a little fear, shining moments stand out. Here, in no particular order, are some of our stories.

The Birthday

Lori Buchanan ’05 had cause to celebrate on Thursday the 14th—it was her birthday. Not one to let the blackout dampen her spirits, she made her way up 44 flights of stairs in her hotel with only the light from her cell phone to guide her. Her simple goal was to reach her room and celebrate her birthday with some well-earned rest (and the
leftovers from a basketball-sized sandwich from the Carnegie Deli). Once she reached her darkened room, a wonderful surprise awaited her. Knowing that she would be in New York on her birthday, her boyfriend had a gift waiting for her—something he had purchased the previous week. The gift? A large candle.

**The Best Giveaway**

Many interviewers arrive at our job fairs with items bearing their firm logo. I call them “giveaways.” Giveaways range from toy penguins to candy dispensers. Every year, you can hear students discussing which firm had the best giveaway.

This year, there was no contest. One prescient firm handed out keychains with a small penlight attached. When it came to finding the way back to our hotel rooms in dark staircases, finding our doors in dark hallways, or finding our way around in dark rooms, the penlights kept many of us from pure misery. I doubt anyone has left home without them since.

**The Longest Firm Visit**

Some firms invite Cornell students who have come to New York City during the week of the job fair to visit their offices. Felicia Taghizadeh was the recipient of such an invitation. Shortly after 4:00 PM on Thursday, having completed her visit, she stepped into the firm’s elevator. The few remaining passengers got off at one floor or another. When the power went out, Felicia found herself alone.

Fortunately, some working technology remained at her disposal. Her cell phone kept her in touch with her husband in Rochester, who briefed her on the blackout. The elevator’s intercom, powered by a backup generator, kept her in touch with building staff in the lobby. Contact with the staff was reassuring, although, at one point, they did express surprise that she was still in the elevator. Somewhere in the confusion, they had gotten the impression that Felicia had been rescued! Approximately four hours after getting stuck (she passed the time by singing to herself and doodling on a notepad), the elevator was manually lowered, and New York City firefighters helped her out. She has been invited to visit the firm again for further talks. She has accepted, but may use the stairs.

**The Hitchhikers**

With no trains running into or out of New York City, Matthew Faiella ’05, Francesca Miceli ’05 and Marie Py ’05 found themselves without any way to get home to Westchester on Thursday night. With no cabs to be found, perhaps some kind soul in a private car would help?

Marie found a piece of posterboard and made a sign—“Westchester, Please.” Passers-by were amused, but no one stopped. Marie then had a brainstorm—the FDR Drive ramp on First Avenue might be a better place to find a car bound for Westchester. The three walked across town with their sign. Upon arriving at the ramp, Marie stood in the middle of the roadway, holding her sign overhead. The second car, a minivan containing a crew from the Weather Channel, stopped, and our intrepid students were off to Westchester!

**What About the Interviews?**

As for the Job Fair itself, our location in the first part of the city to have power restored made it possible for roughly 50% of the interviews scheduled for Friday to take place as planned. Most of the firms which were not able to keep their appointments have since arranged visits to the Law School itself. In the end, the overall number of interviews conducted by employers whose appointments had been scheduled for Friday came very close to equaling the number scheduled “pre-Blackout.”

The largest power outage in U.S. history showed our recruiting efforts largely unscathed, and showed our students to be every bit the courteous, professional, and resourceful people we have always believed them to be. They truly glowed in the dark.

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**The largest power outage in U.S. history showed our students to be every bit the courteous, professional, & resourceful people we have always believed them to be.**

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**John R. DeRosa is Assistant Dean for Student Services at Cornell Law School.**
“Revolutionary Cornell, Beloved Cornell”
President Lehman’s Inauguration

Jeffrey S. Lehman was inaugurated as the 11th president of Cornell University on Thursday, October 16, 2003. The ceremony concluded a week-long tour that took place in multiple locations, including Doha, Qatar; New York City; and the Ithaca campus. President Lehman, who graduated in 1977 with an undergraduate degree in mathematics, is the first Cornell alumnus to serve as the University’s president. Though he has simultaneously joined the Law School faculty as a tenured professor, President Lehman indicated that presidential duties would occupy his first year. He hopes to teach in subsequent years.

Even though it was fall break for the Law School, a number of law students, about a dozen faculty members, and several academic and staff members marched in the law school contingent of the university-wide academic procession. The full procession, composed of about 1,200 people, circled the Arts Quad and entered Barton Hall, where, following remarks by Supreme Court Justice Ruth Bader Ginsburg, President Lehman delivered his inaugural address, “Revolutionary Cornell, Beloved Cornell.” In his speech, the new president presented the Cornell community with a series of questions about the kind of university Cornell should be. “Let us, together, engage the fundamental questions about our future,” he said at the conclusion of his speech. “Let us renew an institution where any person can find instruction in any study, where any person can engage, criticize and improve on the instruction that is offered, where intellectual values are respected and cherished, where any person can be challenged and enabled to make an enduring contribution to the betterment of our world, and where people around the world can find inspiration and hope for the future of humanity. Revolutionary Cornell, beloved Cornell.”

The celebrations concluded that evening with “Ezra’s and Andy’s Excellent Big Red Adventure,” a show which included a live conversation with NASA astronaut Edward Lu, an ’84 Cornell graduate “engaged in his own revolutions around our planet” on the International Space Station.

The inauguration coincided with the annual campus meeting of the Board of Trustees and University Council on October 17, during which President Lehman gave his first State of the University speech. Referring to his inaugural address, he discussed Cornell’s historic boldness in transforming higher education (“Revolutionary Cornell”) and the very special affection that Cornellians have always felt for the university (“Beloved Cornell”). “So how do I see the State of the University?” concluded President Lehman to the trustees and council members. “Wonderful. Exceptionally talented people, assembled here and working together. It is a perfect time for us to think carefully and deliberately about how the university should evolve in the years to come.”

The Lawyering Program Takes Root and Flourishes

In November, 1999, the Forum announced a new legal writing program for first-year law students called Legal Methods. Now called The Lawyering Program, more has changed in the program than just the name. “We have introduced a core curriculum that simulates real-life lawyering by teaching legal writing in a law office setting,” says program director Carol Grumbach. “We have developed simulations to accompany the writing assignments, such as client interviews and mock conferences with a supervising attorney or judge, that require the students to focus on facts, practice their oral skills, and learn to address a specific audience. The research instruction by the librarians is fully integrated in the curriculum so that the research assign-
ments and instruction are related to and in aid of the writing assignments."

The program faculty have also moved beyond the first-year curriculum, providing second-and third-year students with opportunities to hone their legal voices. For example, in the Lawyering Program Honors Fellows course, students who excelled in Lawyering sharpen their skills by serving as teaching assistants in the first-year course. The Lawyering faculty now offer numerous upper-level courses. Some of these courses are simulation-based seminars and live-client clinics in which students learn advanced persuasive writing skills.

The goal is to produce first-rate legal writers. Students and employers tell the Lawyering faculty they have succeeded. Students who return from their first-year summer internships invariably rush to thank the Lawyering faculty for their demanding teaching, and proudly repeat their employers’ accolades. Recently a student noted that although she was “just an average student” in Lawyering, a partner told her that her writing was “phenomenal,” and that she had written “the best legal memorandum he had ever received from a law student or first- or second-year associate.” The law school is proud of the accomplishments of the Lawyering faculty, and is confident that the program will continue to flourish.

New Members of the Law School Faculty
Cornell Law School was pleased to welcome four new faculty members during the opening of the 2003-04 academic year.

John H. Blume, a frequent visiting professor at the law school and co-founder of the Cornell Death Penalty Project, has been appointed Associate Professor of Law. He will continue as director of the Death Penalty Project.

Michael Heise, a visiting professor at the Law School for the Fall 2002 semester, returns to Ithaca from Case Western Re-
Professor Heise's research focuses on bridging empirical methodologies and legal theory. In his first year he will teach Torts and Education Law. Additional teaching areas include advanced torts, insurance, constitutional law, and empirical methods. Recent publications include “The Political Economy of School Choice” (Yale Law Journal); “Mercy by the Numbers: An Empirical Analysis of Clemency and Its Structure,” (Virginia Law Review); “The Courts, Educational Policy, and Unintended Consequences” (Cornell Journal of Law and Public Policy); and “The Past, Present, and Future of Empirical and Experimental Legal Scholarship: Judicial Decisionmaking as a Case Study” (University of Illinois Law Review). Professor Heise earned a Ph.D. from Northwestern University in 1990, a J.D. from the University of Chicago in 1987, and an A.B. from Stanford University in 1983.

“It is a great pleasure and true honor to join the Cornell Law School community,” said Professor Heise. “The Law School’s long-standing and well-earned tradition of excellence, focus on interdisciplinary research, and outright preeminence in empirical legal studies makes this an especially wonderful opportunity for me. During my visit last fall, my family and I were quickly impressed by my Law School colleagues’ commitment to both first-rate scholarship and teaching, as well as by the supportive atmosphere and goodwill that distinguishes the Law School community. I look forward to working with and learning from my colleagues, as well as the energy and enthusiasm of our talented students.”

Trevor W. Morrison joined the Law School faculty at Myron Taylor Hall directly from his position as law clerk to Associate Justice Ruth Bader Ginsburg of the U.S. Supreme Court. Before that prestigious clerkship, he was an associate at Wilmer, Cutler and Pickering in Washington, D.C., where he co-authored numerous briefs in cases before the Supreme Court and lower federal courts. Upon graduation from law school, Professor Morrison clerked for Judge Betty B. Fletcher of the U.S. Court of Appeals for the Ninth Circuit. He then spent two years at the U.S. Department of Justice, first as a Bristow Fellow in the Office of the Solicitor General, and then as an attorney-advisor in the Office of Legal Counsel.

Professor Morrison’s teaching and research interests are in constitutional law, immigration and nationality law, federal courts, statutory interpretation, criminal law, and administrative law. Two recent publications include “What Kind of Immunity? Federal Officers, State Criminal Law, and the Supremacy Clause,” (co-authored with Seth P. Waxman) in the Yale Law Journal, and “Fair Warning and the Retroactive Judicial Expansion of Federal Criminal Statutes” in the Southern California Law Review. Professor Morrison will teach Constitutional Law and Criminal Law in his first year. He earned a J.D. from the Columbia University School of Law in 1998 and a B.A. from the University of British Columbia in 1994. He was also a Richard Hofstadter Fellow in History at Columbia’s Graduate School of Arts and Sciences.

“I’m delighted to be at Cornell,” reported Professor Morrison. “The students are terrific, which makes teaching a real joy. And the faculty is full of ideal models for the young academic: distinguished, productive scholars whose work embraces both the theoretical and the practical dimensions of the law.”

Emily L. Sherwin is a familiar face in Myron Taylor Hall, having taught for several semesters as a visiting professor from
the University of San Diego School of Law, where she had been on the faculty since 1990. She has also been a visiting professor at the law schools of Boston University and University of Pennsylvania, and was a professor at University of Kentucky College of Law from 1985 to 1990. In private practice, she was an associate at Caplar and Bok in Boston specializing in bankruptcy and corporate law.

A prolific scholar, Professor Sherwin is the co-author of The Rule of Rules: Morality and the Dilemmas of Law (Duke University Press, 2001), and has written numerous book chapters, articles, and professional papers. In her first year on the permanent faculty she will teach Trusts and Estates and Property. Additional research and teaching interests include remedies, feminist jurisprudence, and legal history. She holds a 1977 B.A. in International Relations from Lake Forest College and a 1981 J.D. from Boston University School of Law.

“I have visited Cornell a number of times in the past, and am delighted to be joining the faculty on a permanent basis this fall,” said Professor Sherwin. “I am very impressed by the work of my colleagues, and grateful for the chance to teach such a friendly and intelligent group of students. In short, I feel very lucky to be here.”

Muna Ndulo Works toward Open, Free, and Fair Elections in Afghanistan

Professor Muna Ndulo spent most of August in Afghanistan, helping to lay the legislative framework for that country’s first elections since the defeat of the Taliban regime by coalition forces. (See Professor Ndulo’s article “Afghanistan: Prospects for Peace and Democratic Governance and the War on Terrorism” in this issue.) This fall his students in international law and human rights are getting a first-hand account of his experience, and, on September 11, he also shared his experiences with the Cornell community in G85 Myron Taylor Hall.

In Afghanistan, Professor Ndulo worked with the United Nations Assistance Mission to Afghanistan (UNAMA) and the Afghanistan provisional government’s Ministry of Justice to draft electoral law for the country. Among the issues they tackled were what type of electoral process to adopt, how to include refugees and nomadic tribes, and how to establish voter identity in a country with no readily available identification documents—where, in some regions, women may not be photographed even for identification purposes. Professor Ndulo, who also is director of the Institute for African Development at Cornell, is a seasoned United Nations veteran who has done similar work for the international organization in such hot spots as South Africa, East Timor, and Kosovo. While each country has its own set of complexities, he says, Afghanistan is uniquely challenging.

One major problem is the fact that conflicts are still going on. “The post-Taliban provisional government does not have much authority outside Kabul,” says Professor Ndulo. “The rest of the provinces are still very much ruled by warlords and their armies.” Efforts to persuade warlords to disarm have not always produced the desired result. He comments: “People with guns aren’t likely to give them up if others still have them. For disarmament to succeed there must be a perception that everyone is disarming, and such confidence-building measures as a new, effective authority—a national army and police force—to take the place of the warlords and provide security for the election process.”

Despite the enormous challenges, “there is reason for hope, if the international community plays its part,” says Professor Ndulo. His advice: to channel more funding through non-governmental organizations, which, he says, are doing a commendable job in providing much-needed basic services.

While there were dangers in Afghanistan, on most days Professor Ndulo was so busy working that he didn’t allow time to worry about his own safety. “It’s important to have people to do this kind of work,” he says. But when, during his stay, he learned that the U.N. headquarters in Iraq had been blown up by a terrorist bomb, it was a shock. He knew and had worked with some of the victims, among them Arthur Helton, a former colleague on the Human Rights Watch Advisory Committee on Africa, who had gone to Iraq for a few days on an assessment mission.

Professor Ndulo talking with students following his law school lecture on the anniversary of September 11
“It’s sad that people are now targeting the United Nations,” Professor Ndulo says. “Despite its shortcomings, it remains the only international organization with the legitimacy to deal with international conflicts and the only forum to which all nations belong. It is all we have.”

**New Wars, New Laws?**

On June 20 through 22, Prof. David Wippman, together with Prof. Matthew Evangelista, Director of Cornell University’s Peace Studies Program, organized and co-directed a conference entitled “New Wars, New Laws?” The conference was co-sponsored by the Clarke Center for International and Comparative Legal Studies, and the Cornell Peace Studies Program. Financial support was provided by the Clarke Fund for the Middle East, as well as by the Carnegie Corporation of New York, which awarded a $25,000 grant to the conference organizers.

The conference addressed factors that might contribute to a revision of international humanitarian law, formerly known as the laws of war. Legal scholars and political scientists presented papers addressing the implications for the laws of war of, for example: September 11 and the wars in Afghanistan and Iraq; new military technologies (including those that mimic the effects of weapons of mass destruction); new challenges posed by wars that combine secessionist demands and terrorism (as in Chechnya and Kashmir); and innovations in military strategies for urban combat and the use of “non-lethal” weapons.

**Paris Institute 2003**

The 2003 Summer Institute of International and Comparative Law in Paris enrolled 91 students (34 from Cornell, 28 from other U.S. law schools, and 29 students or lawyers from abroad). In addition to the United States, students came from Austria, Canada, China, Croatia, Denmark, England, France, Ghana, Germany, Italy, Japan, South Korea, Malaysia, The Netherlands, New Zealand, Nicaragua, Peru, the Philippines, Serbia, Singapore, Switzerland, and Taiwan. Cornell Law School faculty, together with guest lecturers, offered eight classes. In addition, Prof. Bernard Rudden (Emeritus, University of Oxford) presented a series of lectures, “Introduction to the Laws of Europe.” Prof. Xavier Blanc-Jouvan (Emeritus, Université Paris I) gave a two-hour lecture, “Introduction to French Legal Professions and Practice,” and Prof. Claire Germain led visits to France’s highest courts—the Cour de Cassation and the Conseil d’État. During the program, Stefan Herald, the On-Site Program Coordinator, led a tour of the French National Assembly and organized a reception at the French Senate.

A career panel featured recent Cornell alumni—Robert M. Flanigan ’94, of Shearman and Sterling in Paris; Jonathan N.T. Uphoff ’97, of Morgan Lewis and Bockius in Brussels; Cassandra M. Mariton LL.M. ’02, of Cleary Gottlieb Steen and Hamilton, Paris; and Eric Chang ’02, of Herbert Smith, Paris. The career panel was followed by a Fourth of July reception celebrating enduring Franco-American friendship and honoring Cornell alumni. Guests included members of the faculty, students, alumni in Paris, and faculty of the Tulane University Paris summer program, as well as officials of the French courts and the University of Paris. The program’s extracurricular activities included a number of private tours of the Louvre, Versailles, and other popular destinations.

**Twentieth Summer Celebration of the Feminism and Legal Theory Project**

Summer 2003 marked the beginning of the twentieth year of Prof. Martha Albertson Fineman’s Feminism and Legal Theory Project. In celebration, a two-and-a-half-day event was held at the University of Wisconsin—the place where the program began in the summer of 1984. Panels explored the history, significance, and development of feminist legal theory, its importance in the academy and in practice, transformations in theory and areas of inquiry, and many other exciting topics. Although it was a retrospective event, emerging areas of feminism theoretical interest such as masculinity and human rights were also explored.

A number of panels were convened, including one on “Theory and Practice” with Kristin Bumiller, Mary Anne Case, Lucinda Finley, Sybil Lipschultz, and Carlin Meyer. A panel on “Feminist Legal Theory’s Impact on Other Disciplines” included Eileen Boris, Eva Feder Kittay, Nancy Hirschmann, and Lynn Chancer. “Coming of Age in the 1990s” involved discussions by Roxanne Mykitiuk, Donna Young, Laura Kessler, and Martha M. Cuskey. K.T. Albiston, Victoria Nourse, Jane Schacter, and Jane Larson led a panel discussion entitled “Feminist Theories of Relation in the Shadow of the Law.” “Intimacy/Sexuality and the Problem of...

Report on U.S. Immigration Actions since September 11 Offers Controversial Recommendations

How have U.S. immigration actions changed since the September 11 terrorist attacks? What do the changes mean for Americans, and what should be done next? A new report by the Migration Policy Institute (MPI) has the answers, although a few of its recommendations may irk some on both sides of the political spectrum, says co-author Prof. Stephen Yale-Loehr ’81, who teaches immigration law at Cornell Law School.

The report, “America’s Challenge: Domestic Security, Civil Liberties and National Unity After September 11,” examines the U.S. government’s post-September 11 immigration measures from three distinct perspectives: their effectiveness in fighting terrorism; their impact on civil liberties; and their effect on America’s sense of community as a nation of immigrants. The report is summarized and can be ordered at the MPI Web site: <http://www.migrationpolicy.org>. MPI is an independent, nonpartisan, and nonprofit Washington, D.C., think tank. Since its appearance, Professor Yale-Loehr has appeared numerous times before the Senate Judiciary Committee.

The report finds that government successes in apprehending terrorists have come not from immigration actions but from international intelligence breakthroughs, information gleaned from arrests made abroad, law enforcement cooperation, and interagency information-sharing. It shows that intelligence and immigration policy must work together to combat terrorism effectively.

“We believe it is possible to use immigration measures more effectively to defend against terrorism, while also protecting the fundamental liberties at the core of American identity,” said co-author Doris M essner, a senior fellow at MPI and a former Immigration and Naturalization Services commissioner (the federal agency is now called U.S. Citizenship and Immigration Services.). The report advances an alternative policy framework that integrates immigration policy and counter-terrorism. The framework’s pillars are improved intelligence, information and information-sharing; smarter border protection; vigorous, intelligence-based law enforcement; and engagement with Arab- and Muslim-American communities.

“America’s Challenge” also goes well beyond the scope of the recent report by the U.S. Justice Department’s Inspector General regarding treatment of immigration detainees. In particular, the researchers managed to circumvent government efforts to shroud its actions in secrecy by withholding the identities of the 1,200 people detained since the terrorist attacks. The researchers succeeded in compiling information on more than 400 of the detainees, conducting interviews with lawyers and community leaders and surveying press reports, largely in local media.

The report’s appendix contains summaries of each of those individuals. The pattern that emerges, consistent with the Justice report, shows persistent violations of due process as well as harsh law enforcement measures directed solely at males from Arab and Muslim countries. The majority had significant ties to the United States and roots in U.S. communities. More than 46 percent of those for whom relevant information was available had been in the country at least six years. Almost half had spouses, children, or other family relationships in the United States.

There was one positive response: “The experience of Muslim and Arab communities post-September 11 is, in many ways, an impressive story of a community that first felt intimidated but has since started to assert its place in the American body politic,” said report co-author M uzaffar Chishti, a Cornell Law School LL.M. graduate who is now a senior policy analyst at MPI.

The report involved 18 months of research. Cornell law students and other contributors conducted extensive interviews with detainees and their lawyers, current and former senior government officials, and Arab- and Muslim-Americans. A blue-ribbon advisory panel included civil liberties, law enforcement and counter-terrorism experts, and leaders of affected immigrant communities. Other co-authors are J ay Peterzell, former national security reporter, Time magazine; and M ichael J. Wishnie, associate professor, N ew York University law school. Cornell Law School students who contributed to the report are Sarah P. Schuette ’02, Rachana R. T rivedi ’02, Cristina M. Velez ’02, Lauren Y. H arris ’04, Jonathan Rosenblatt ’05, and M ary M ulhearn ’05. The law firm of C leary, G ottlieb, Steen and Hamilton gave pro bono assistance. A detailed article about the report and its findings will appear in the Spring ’04 issue of the Cornell Law Forum.
Journal of Empirical Legal Studies to Debut in January 2004

With the January 2004 publication of the inaugural issue of the Journal of Empirical Legal Studies, Cornell Law School will become the publisher of the only legal journal dedicated exclusively to empirical legal scholarship. Co-edited by Cornell Law professors Theodore Eisenberg, Jeffrey J. Rachlinski, and Stewart J. Schwab, along with Martin Wells (chair of Cornell’s Biometrics Department), it is scheduled for publication three times annually. The inaugural issue will be published in January 2004 by Blackwell Publishers.

The United States editorial advisory board is comprised of eminent legal scholars from many universities, including Princeton, Northwestern, Stanford, Yale, University of Delaware, Harvard, Chicago, University of California at Berkeley, and Duke. International advisory board members are from the Stockholm School of Economics, University College London, Université de Cergy-Pontoise, Waseda University School of Law, York University, and Monash University.

Six articles have been accepted for the journal’s first issue, including a study of 40 years of civil jury verdicts in tort cases in San Francisco and Cook Counties (collected by the RAND Institute for Civil Justice), and an examination of the increase in caps on medical malpractice recoveries in Indiana and their effect on deterring malpractice. There is also a piece on empirical estimates of filtering failure in court-supervised reorganization of firms in Canada, by authors from Wilfrid Laurier University and Université de Cergy-Pontoise.

Latest Meeting of the Law School Advisory Council

The annual fall Law School Advisory Council meetings were held on campus October 2 through 4, with almost 30 members in attendance. Hon. Stephen G. Crane ’63, in his third and final year as chair, led the volunteer alumni body through a full day and a half of business meetings. The six-member visiting committee, charged with gathering information and making recommendations to the Dean and full Council, included Justice Crane, Charles A. Beach ’73, Marcia L. Goldstein ’75, Monica Anna Otte ’78, Joseph L. Serafini ’67, and Steven K. Weinberg ’71. Committee members arrived a day before the full Advisory Council for in-depth meetings with faculty, program staff members and student leaders.

Highlights of the meeting included President Jeffrey Lehman’s remarks on his first three months in office and the relationship between the University and Law School. Provost Carolyn A. (Biddy) Martin, chair of the Dean’s Search Committee, provided the alumni and members of the faculty with a status report on the search for the next Allan R. Tessler Dean. Interim Dean John A. Siliciano discussed the state of the school, the seven-year ABA accreditation review, and current priorities (including faculty recruitment and excellence, facilities, and program support). Jay W. Waks ’71, Council member and annual fund national chair, provided an update on fundraising. The full Advisory Council met with scholarship recipients for a luncheon, as many of the students benefit from scholarships endowed by members.

The Advisory Council also heard from George A. Hay, the Edward Cornell Professor of Law and chair of the Faculty Appointments Committee, regarding the challenge of faculty recruiting. Dean Siliciano and Associate Dean Harry Ash led a discussion regarding planning for a comprehensive University campaign that will include the Law School.

Anne Lukingbeal, Associate Dean and Dean of Students; Karen V. Comstock, Assistant Dean for Career Services; Kate Rainbolt, Public Interest Coordinator; and Amanda M.eador ’04, Public Interest Law Union Representative, reviewed public service initiatives at the Law School, including clinical opportunities, classroom courses and seminars, and externships. They also noted other programs in the Clarke Center for International and Comparative Legal Studies, particularly in Asian legal studies, Feminism and Legal Theory Program, and joint degree programs. Council members also learned of several sources of assistance to students and graduates who choose public interest practice, including the Public Interest Low Income Protection Plan (PILIPP) and Summer Public Interest Fellowships.

A highlight of the weekend’s events was the traditional reception and dinner for the Council, their guests, faculty, and students. During the dinner, a ceremony was held honoring outgoing chair of the Advisory Council, Justice Crane ’63, for his tireless leadership in support of the Law School. Justice Crane was joined at the dinner by his spouse, Professor Elaine Forman Crane; their daughter, Melissa Crane Klein ’91; son-in-law Richard Klein; and granddaughter, Liliana. Dean John
Siliciano noted highlights of Justice Crane’s career, including 22 years on the bench, teaching stints at the Cardozo School of Law and Baruch College, and volunteer involvement with a number of professional organizations. Mr. Waks summarized Justice Crane’s many Law School involvements, including past presidency of the Cornell Law Association, longstanding leadership in the Curia Society, and participation in Career Services’ Winter Break Alumni Shadow Program.

The fall meeting concluded on Saturday morning with introductions and remarks by the most recent additions to the Cornell Law faculty: Professors John H. Blume, Michael Heise, Trevor W. Morrison, and Emily L. Sherwin. The full report from the Visiting Committee was then discussed, including ongoing space needs, faculty recruitment, alternative sources of revenue, and future direction of the Legal Information Institute (LII).

**Esguerra ’73 Presents Canon Law Book to Law Library**

Juan Carlos Esguerra LL.M. ’73, former Colombian Ambassador to the United States, donated a copy of Jus Canonicum Universum to the Law Library during a formal ceremony held during Advisory Council weekend in October.

The historic volume is a compilation or codification of canon law (Jus Canonicum, the legal code of the Catholic church) as of 1755, the year in which the book was published. Its author is R.P.F. Anacleto Reffenstuel, a Franciscan priest who is considered one of the greatest canon jurists of all time. Published in Antwerp, Belgium, and brought to the Americas at some time during the eighteenth century, it was originally presented as a gift to Bogota’s Convento de San Francisco in 1790. The book, from the Esguerra family collection, was one of the most beloved possessions of M r. Esguerra’s uncle, Carlos Portocarrero, a well-known lawyer who for many years was a member and president of Colombia’s Council of State. According to family legend, M r. Portocarrero was a close friend of the Franciscans, giving them free advice and opinions that they valued highly. In return, since they knew he was a devoted bibliophile, the Franciscans decided to give this book to him as an expression of their gratitude and appreciation. “It is a book that I personally have known for as long as I can remember,” said M r. Esguerra, “since it was always displayed on a prominent shelf in his library of four thousand books.”

Following remarks by M r. Esguerra’s former advisor, Prof. John Barceló, Prof. Claire Germain, the Edward Cornell Law Librarian, accepted the book on behalf of the Law School. “M r. Esguerra’s gift greatly enriches our collection of canon law,” commented Professor Germain. “We know how much this book has meant to him and his family, and we truly appreciate his great generosity in sharing part of his family history with us. His emotional attachment to this book makes it even more meaningful to us, not only as an artifact, but as a connection to a distinguished and supportive alumnus.” The book is now stored in the Dawson Rare Book Room of the Law Library.

**Cornell Law Library Web Site: Bold New Look, Expanded Research**

The Law Library has made it easier than ever to use its information-packed web site, located at www.lawschool.cornell.edu/library. A bold new design and enhanced content showcases the Law Library’s services and resources to students, faculty, and the general public.

The dynamic new design, primarily the work of webmaster Sasha Skenderija, reference librarian Brandy Kreisler, and head of reference services Jean Callihan, implements the latest web design software (Flash/XM L/ASP). The design uses a grayscale image of the Gould Reading Room to brand the Law Library’s services, and takes advantage of the unique and beautiful architecture of Myron Taylor Hall. Random photos of the Law Library will appear each time the home page is visited.

The revised site continues to highlight the Law Library’s partners, such as the International Labor Organization, and sites sponsored by the Law Library, such as InSIT E, a current awareness service that reviews online resources. “How to Do Legal Research” is the first guide of many that will be produced for the web, rather than in the less-flexible textbound form. To
see the guide on the Library site, go to Resources, then Legal Research Tips.

Before embarking on this major project, the Law Library web team studied dozens of web sites, and solicited input from students to ensure that the site was designed from a student’s point of view. After months of hard work, the team produced pages with an intuitive interface and succinct explanatory annotations. The new Law Library web site showcases the law faculty’s scholarship as well as the law librarians’ information expertise, and provides students with the latest legal and multidisciplinary research tools.

The Law Library’s previous web design won one of the first awards for online publications presented by the American Association of Law Libraries in 1998. According to Prof. Claire Germain, Edward Cornell Law Librarian, the web team’s efforts have again put the Law Library in the vanguard of online information providers. “The new pages are both an excellent educational resource and a positive marketing image for the library and law school,” she said. The entire web site will be revamped as the web team continues its work during the year.

Cornell Law Faculty Electronic Scholarship Repository

Cornell Law Library has embarked on a new and exciting scholarly communication initiative designed to increase the profile of Cornell law faculty’s research. In partnership with NELLCO (New England Law Libraries Consortium), six law schools—Yale, University of Connecticut, Quinnipiac, Suffolk, Fordham, and Cornell—have created a digital repository of legal scholarship. The goal of this endeavor is to improve dissemination and visibility of a variety of scholarly materials throughout the academic and legal research communities.

The NELLCO Legal Scholarship Repository provides a free and persistent point of access for working papers, reports, lectures given by visiting scholars, workshop presentations, and other scholarship created by faculty at NELLCO member schools. It complements existing publication platforms such as law reviews, personal web pages, LEDA (Legal Electronic Document Archive) and SSRN (Social Sciences Research Network), and can house a wealth of non-traditional materials such as lectures, PowerPoint presentations, sound and video files, and data sets. The materials can be discovered via Internet search engines, and authors retain their copyright.

Cornell’s papers in the NELLCO repository logged 225 full-text downloads in only one week after the official launch on September 15. Interested readers are invited to visit the repository at www.lawschool.cornell.edu/library, and to contact Cornell’s NELLCO Project Manager, Jean Pajerek, at jmp8@cornell.edu, for further information.

The latest from the Clinic

The Cornell Legal Aid Clinic has undergone recent changes in its faculty, beginning with the departure of former Clinic Director Nancy Cook. Ms. Cook accepted a position with Roger Williams School of Law, starting in the fall of 2003. JoAnne Miner, who served as Clinic Director between 1993 and 1998, has been reappointed to that position.

Joining the clinic faculty as a visitor for the fall semester is Robert Sarachan, an Assistant City Prosecutor in Ithaca. Mr. Sarachan’s presence will provide opportunities for clinic students, under his supervision, to prosecute criminal violations in Ithaca City Court. While clinic students have represented defendants in criminal cases, this will be the first time that clinic students will be able to act in the role of prosecutor.

The clinic program continues to provide a variety of clinical courses to Cornell Law School students, including Public Interest Clinic, Women and the Law Clinic, and Government Benefits Clinic, in addition to the Full Term Externship, Law Guardian Externship, Judicial Externship and the Neighborhood Legal Services Externship.
Judicial Clerkships

Class of 2003

Kenneth L. Anderson  
Hon. Jerry E. Smith  
U.S. Court of Appeals for the Fifth Circuit

Shaunt T. Arevian  
Hon. Federico A. Moreno  
U.S. District Court for the Southern District of Florida

Sarah Bernett  
State of New York, Supreme Court, Appellate Division Fourth Judicial Department

Jennifer C. DaSilva  
Hon. Gladys Kessler  
U.S. District Court for the District of Columbia

Garfield M. Grimmett  
State of New York, Supreme Court, Appellate Division Fourth Judicial Department

Mauricio A. Gonzalez  
Hon. Kermit Bye  
U.S. Court of Appeals for the Eighth Circuit

Jeffrey M. Hanson  
Hon. Paul V. Niemeyer  
U.S. Court of Appeals for the Fourth Circuit

Christopher B. Harwood  
Chief Judge Joseph L. Tauro  
U.S. District Court for the District of Massachusetts

Christina Kim  
Hon. Thomas L. Ambro  
United States Court of Appeals for the Third Circuit

Robert G. Knaier  
Hon. Richard C. Wesley  
NYS Court of Appeals

Rudolf Koch  
Hon. Maryanne Trump Barry  
U.S. Court of Appeals for the Third Circuit

Kathie J. Lee  
Magistrate Judge Cheryl L. Pollak  
U.S. District Court for the District of New York

Jamie Leeser  
Hon. M. Blane Michael  
United States Court of Appeals for the Fourth Circuit

Joshua A. Mayes  
Hon. Karen Johnson Williams  
U.S. Court of Appeals for the Fourth Circuit

John R. Palmer  
Senior Judge Richard J. Cardamone  
U.S. Court of Appeals for the Second Circuit

Peter A. Riesen  
Senior Judge John P. Wiese  
U.S. Court of Federal Claims

William J. Rocha  
Hon. Raymond A. Jackson  
U.S. District Court for the Eastern District of Virginia

Jennifer Schultz  
Hon. A. Richard Caputo  
U.S. District Court for the Middle District of Pennsylvania

Maura E. Wilson  
Hon. Robert E. Gerber  
U.S. Bankruptcy Court for the Southern District of New York

Charline K. Wright  
Sr. Judge John C. Godbold  
U.S. Court of Appeals for the 11th Circuit

Sheila Yousefi  
State of New York, Supreme Court, Appellate Division Fourth Judicial Department

Class of 2002*

Steven E. Conigliaro  
Hon. Legrome D. Davis  
U.S. District Court for the Eastern District of Pennsylvania

Beverly Li  
Hon. Thomas Nelson  
U.S. Court of Appeals for the Ninth Circuit

Class of 2000*

Jennifer L. Weinfeld  
Justice Maureen O’Connor  
Supreme Court of Ohio

*additional clerkships for previous years' graduates
Tokyo Alumni Get Together
On Friday, July 11, Law School alumni in Tokyo organized an early summer get-together at the Roppongi Hills Club, located on the 51st floor of the Mori Tower, one of Tokyo's newest "hot spots." The get-together was to welcome Professors Kevin Clermont and Annelise Riles to Tokyo. About 30 alumni attended, and enjoyed a lovely candle-lit dinner. The views from the building were spectacular—diners could see the Tokyo Tower, the Rainbow Bridge and many other Tokyo landmarks.

The alumni in attendance ranged from young lawyers working at U.S. firms in Tokyo to more seasoned Japanese lawyers, judges, and professors. Alumni even flew in from Taiwan. But the Cornell experience bonded all of them, and it was a lively gathering.

Professor Riles explained enthusiastically (and in Japanese, to the audience's delight) about the new Clarke Program in East Asian Law and Culture. She talked about visits she has made to various universities here, and of upcoming programs and events scheduled at the Law School. It was wonderful to hear about the Clarke Program, and to learn that Cornell is looking to Asia.

The alumni in attendance believe that the move is quite timely.

Forum Reader Survey
Last spring, the Law School commissioned a survey about the Cornell Law Forum to elicit information and qualitative feedback from the publication's readership. The survey was subsequently designed and conducted online by a group of undergraduate students under the direction of Ronald E. Ostman, professor and chair of the Department of Communications in the College of Agriculture and Life Sciences. The collaborative project was intended to provide valuable field experience for students majoring in Communications, while gathering useful, updated information on the Law School's primary alumni publication. The Forum is mailed three times a year, free of charge, to the School's alumni and to other professional and educational organizations in the legal field.

The survey elicited information and opinions about the publication's frequency and format, the respondents themselves, their reading habits, and the relative popularity of major sections of the publication. A majority of respondents (59%) said they read each issue for 20 minutes or less, with an additional 27% reporting that they spend 21-40 minutes with an issue. Though most readers "lightly skim" the entire magazine, "Class Notes" was by far the most popular section. "The responses seem to indicate that the Forum is used for information about fellow alumni and faculty more than legal information," the student authors of the report noted. Several of the open-ended comments pointed out that readers enjoy the sense of nostalgia evoked by news of classmates and faculty, as well as images of Myron Taylor Hall and Ithaca. "Overall, there appears to be a high amount of satisfaction with the publication, with a number of alumni commenting that nothing should be changed," read the conclusion. "Some respondents noted that the Forum is their most important link to the Law School and its alumni."

Readers who would like to add their comments regarding the Forum are invited to e-mail the managing editor, Kathleen E. Rourke, at ker8@cornell.edu, or contact Seth Peacock, Director of Alumni Relations, at alumni@postoffice.law.cornell.edu.

The Newest Class of Law Students
In August the Law School welcomed the entering classes of J.D. and LL.M. students with orientation activities before the start of classes.

For the J.D. program, the law school received a record-breaking 4,705 applications. The prior record of 4,650 applications was set in 1990. The 194 members of the J.D. class hail from 38 states and six foreign countries. 46% are women, and 32% identify themselves as "under-represented minorities." They earned their undergraduate degrees from 106 colleges and universities, majoring in 45 different subjects. The most commonly represented undergraduate schools are Cornell, Columbia, University of California Berkeley, University of Pennsylvania, Princeton, Stanford, University of Chicago, and University of Rochester. A majority of the incoming class has had full-time job experience, and close to 10% have already earned a graduate degree.

The 64 new LL.M. students represent 31 countries, and have a wide range of backgrounds and experiences. Many have begun careers as lawyers, academics, or government officials in their home countries.

Renowned Cornell Constitutional Scholar is Remembered
Professor Emeritus Milton R. Konvitz, an authority on constitutional and labor law as well as civil and human rights, died September 5 at the age of 95. Professor Konvitz taught at Cornell Law School and at Cornell's School of Industrial and Labor Relations from 1946 until his retirement in 1973. He and his wife, Mary, lived in Ithaca from 1946 to 1992. He died at Monmouth Medical Center, near the couple's home in Oakhurst, N.J.

Professor Konvitz is perhaps best known for his American Ideals course, which he taught to more than 8,000 students over the course of his career, never giving the same lecture twice. "I saw the U.S. Constitution as it has been interpreted as a mag-
significant repository of our ideals, both individual and social,” he said. His course exposed students to the great intellectual thinkers and philosophers throughout history whose writings had shaped those ideals. One student he influenced was U.S. Supreme Court Justice Ruth Bader Ginsburg, who considers him a mentor. Another, Cornell Trustee Harold Tanner ’52, credited the two-semester course with “having a greater impact on my life than any course I took anywhere.”

At Cornell, Professor Konvitz was a founder of the university’s Department of Near Eastern Studies and Program of Jewish Studies. “I felt it was essential for a college interested in the humanities not to leave out Hebrew language and literature,” he said. “And the knowledge of Jewish history, which began 4,000 years ago and has contributed to civilization no less than Greek, Roman or English history, is important to today’s students—Jewish and non-Jewish.”

In addition, for nearly 30 years he directed the Liberian Codification Project, which drew up the official body of statutory laws that is still in force in the Republic of Liberia today, despite the current political upheaval there. Professor Konvitz also edited the opinions of Liberia’s Supreme Court, and received the Grand Band of the Order of the Star of Africa, the highest award given to foreigners, as well as an honorary degree from the University of Liberia, one of seven honorary degrees he received in his lifetime.

Active as a scholar and writer until his death, he wrote books and articles on American constitutional law that won him wide recognition, and were cited in U.S. Supreme Court opinions. Among his nine books is Fundamental Liberties of a Free People: Religion, Speech, Press, Assembly, republished earlier this year with an expanded introduction strongly critical of the Rehnquist Supreme Court. Other books include A Century of Civil Rights (1983), and Judaism and Human Rights (2nd ed. 2001). He also edited a dozen volumes, including two on American philosopher Ralph Waldo Emerson, whose thinking shaped his views. One Emersonian idea he absorbed was that readers give life to books, which Professor Konvitz recast as follows: “It is in their hearing that students bring life to the words, the thoughts, the teacher.”

Professor Konvitz was born in Safed, Palestine (now Israel), in 1908, the son of a rabbi. He immigrated to the United States in 1915, and became a naturalized citizen in 1926. He received a bachelor’s degree in 1929 and a law degree in 1930, both from New York University, and a Ph.D. in philosophy from Cornell in 1933. Before joining Cornell’s faculty, he was for three years one of three assistant general counsels to Thurgood Marshall at the NAACP Legal Defense Fund.

Career Office’s Winter Break Alumni Shadow Program

2003 marked the third year of the Career Office’s Winter Break Alumni Shadow Program. This program is designed to offer first year students the opportunity to learn about the day-to-day practice of law by “shadowing” alumni volunteers at their workplace for a few hours or an entire day during winter break. First year students learn a great deal about the life of practicing attorneys, which informs their classroom studies, while alumni get the opportunity to offer a mentoring experience, and to strengthen their ties to the law school.

On the next page is a list of this year’s alumni and student participants. Here is what some of them had to say about the Shadow Program:

H. Steven Holtzman ’76—“I gained a connection to the law school and an opportunity to spend time with an intelligent, personable law student. I would do it again.”

Laurie R. Pearlman ’83—“I found the experience enjoyable, caught up on news of Cornell Law School, and got a chance to introduce a student to the rewards and challenges of government practice. I would like to participate again.”

Hon. Stephen Crane ’63—“I hope Luke got as much out of the contact as did I. He was a delight. He asked really intelligent and insightful questions…about the cases, my job and my background.”

Dawningstar W. Sikorski ’05—“I was allowed to sit in on a conference call where case strategy and memo-crafting was discussed…that was probably the best part because I got to witness what lawyers do…I got the feeling for the collegiality that develops when people work together.”

Stuart A. Cherry ’05—“This was a nice way to adjust to thinking about the law right before coming back to school, and it is always valuable to see how lawyers interact with their clients, other lawyers, a judge.”

Jamie M. Flynn ’05—“David spent the better part of the morning just talking to me about what he does and his experiences at school and in the job market. He was able to give me a lot of good, practical advice which I found helpful since I know almost no young, practicing attorneys.”

Evan S. Rothfarb ’05—“I learned a tremendous amount about the scarcity of criminal lawyers in private practice. I got a good deal of feedback on how to begin a legal career and how I might go about reaching my professional goals.”

Jae Y. Kim ’05—“I had the opportunity to hear about the experiences of a female partner in a large law firm, who balanced a career and a family.”
### 2003 Alumni Shadow Program Participants

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation</th>
<th>Student:</th>
</tr>
</thead>
<tbody>
<tr>
<td>John M. Baumann '86</td>
<td>Steel Technologies, Inc., Louisville, KY</td>
<td>Casey L. Hinkle '05</td>
</tr>
<tr>
<td>Mary Kathryn Braza '81</td>
<td>Foley &amp; Lardner, Milwaukee, WI</td>
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<td>Hon. Stephen Crane '63</td>
<td>NYS Supreme Court, Appellate Division, Second Department, New York, NY</td>
<td>Luke Z. Fenchel '05</td>
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<td>California Attorney General's Office, Los Angeles, CA</td>
<td>Dawningstar W. Sikorski '05</td>
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<td>Siderius Lonergan &amp; Martin, LLP, Seattle, WA</td>
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<td>Hon. Peter M. Wendt '67</td>
<td>Housing Court Judge, NY City Civil Court, New York, NY</td>
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Alumni interested in participating in the 2004 Shadow Program are encouraged to contact Karen Comstock, Assistant Dean for Career Services, at kvc2@cornell.edu.
Editor’s Note: The following list highlights the publications produced by the Cornell Law School faculty during the 2002–2003 academic year.

**Joel Atlas**
Senior Lecturer, The Lawyering Program

**Article:**

**John J. Barceló III**
William Nelson Cromwell Professor of International and Comparative Law and Elizabeth and Arthur Reich Director, Leo and Arvilia Berger International Legal Studies Program

**Casebooks:**


**Article:**

**John H. Blume**
Associate Professor of Law and Director, Cornell Death Penalty Project

**Article:**

**Kevin M. Clermont**
James and Mark Flanagan Professor of Law

**Books:**


**Casebook:**

**Contribution to Book:**

**Articles:**


**Steven D. Clymer**
Professor of Law

**Article:**


**Roger C. Cramton**
Robert S. Stevens Professor of Law, Emeritus

**Online Publication:**


**Theodore Eisenberg**
Henry Allen Mark Professor of Law

**Casebook:**


**Articles:**


**Martha Albertson Fineman**
Dorothea S. Clarke Professor of Feminist Jurisprudence and Director of the Gender, Sexuality, and Family Program

**Books:**


**Richard D. Geiger**
Associate Dean of Admissions and Financial Aid

**Articles:**

Another Take on the LSAC ‘Plot’ to Undermine the Rankings, Volume XXIV, N. 4 NAPLA Notes (Summer 2003) (published by the National Association of Prelaw Advisors).


**Stephen P. Garvey**
Professor of Law

**Articles:**


**Claire M. Germain**
Edward Cornell Law Librarian and Professor of Law and Director, Joint Degree Programs in Paris and Berlin

**Book:**


**Contribution to Book:**


**Articles:**


"A Memorial Tribute to Professor Bitner (Cornell Law Librarian from 1965 to 1976)" with Gray Thoron and Faust F. Rossi (Cornell Faculty Memorial Statements Booklet, 2002).

**George A. Hay**
Edward Cornell Professor of Law and Professor of Economics

**Article:**

MICHAEL HEISE
Professor of Law

ARTICLES:

JAMES A. HENDERSON JR.
Frank B. Ingersoll Professor of Law

CASEBOOK:

ROBERT A. HILLMAN
Edwin H. Woodruff Professor of Law

ARTICLE:

BOOK:

SHERI LYNN JOHNSON
Professor of Law and Assistant Director, Cornell Death Penalty Project

ARTICLE:

DOUGLAS A. KYSAR
Assistant Professor of Law

ARTICLES:

JONATHAN R. MACEY
J. DuPratt White Professor of Law and Director, John M. Olin Program in Law and Economics

ARTICLES:

PETER W. MARTIN
Jane M. G. Foster Professor of Law

BOOK/ONLINE PUBLICATION:
“Basic Legal Citation,” (rev. 2002) at www.liii.info/citation/.

ARTICLES:
“From Seats of Learning to Globally Distributed Virtual Learning,” The Journal of Information Law and Technology at elj.warwick.ac.uk/jilt/02-2/martin.html.

TREVOR W. MORRISON
Assistant Professor of Law

ARTICLE:

MUNA B. NDULO
Professor of Law and Director, Institute for African Development

CONTRIBUTIONS TO BOOKS:
ARTICLES:


LARRY I. PALMER
Professor of Law, Emeritus

CONTRIBUTION TO BOOK:

ARTICLES:


JEFFREY J. RACHLINSKI
Professor of Law

ARTICLES:


ANNELISE RILES
Professor of Law, Professor of Anthropology, and Director, Clarke Program in East Asia Law and Culture

CONTRIBUTIONS TO BOOKS:


“Law as Object,” in Law and Empire in the Pacific: Fiji and Hawaii, Sally Merry and Don Brennels, eds. (Santa Fe, NM: School of American Research Press, 2003).

E. F. ROBERTS
Edwin H. Woodruff Professor of Law, Emeritus

BOOK:

STEWART J. SCHWAB
Professor of Law

ARTICLES:


EMILY L. SHERWIN
Professor of Law

CONTRIBUTION TO BOOK:
ARTICLES:

Book Review: Practical Rules When We Need Them and When We Don’t (Goldman), 113 Ethics 414 (2003).

STEVEN H. SHIFFRIN
Professor of Law

ARTICLE:

GARY J. SIMSON
Associate Dean for Academic Affairs and Professor of Law

ARTICLES:

KATHERINE VAN WEZEL STONE
Professor of Law and Anne Evans Estabrook Professor of Dispute Resolution

CASEBOOK:

ARTICLE:

ROBERT S. SUMMERS
William G. M d Roberts Research Professor in the Administration of the Law

TREATISE:

CONTRIBUTIONS TO BOOKS:
“Rudolf von Jhering, Ralf Dreier and Non-Positivism,” in Festschrift for Prof. Dr. Ralf Dreier of the University of Göttingen, (Tübıngen, Germany: M ohr-Siebeck, 2003).

ARTICLE:
“On Giving Form its Due,” 7 Associations—A Journal for Legal and Social Theory 201 (2003).

WINNIE F. TAYLOR
Professor of Law

ARTICLE:

DAVID WIPPMAN
Professor of Law

ARTICLES:


E. F. Roberts

E. F. Roberts, Edwin H. Woodruff Professor of Law, Emeritus, is not easy to find. His study is in an odd corner of Myron Taylor Hall, far from the other faculty offices, and the sign by the door has someone else's name on it. He's working on a book, and he prefers to work undisturbed.

Professor Roberts hasn't always been hidden from view. In the early years of his career, his colorful teaching style made him a well-known figure at the Law School. In fact, it was his classroom manner that brought him to Cornell in the first place. He began his teaching career at Villanova University, where he quickly rose through the ranks. But when former dean Gray Thorton visited Villanova on other business and happened to hear Professor Roberts lecture, he came back to Cornell and urged the administration to hire the young professor right away: "We've got to have this guy," he told them.

Professor Roberts started out teaching courses in property law. He had already edited a study about regulating title insurers while still at Villanova (although to mention the title now brings a sigh: "Did you see the article in the New York Times the other day about regulating closing costs? We're still fighting the good fight, forty years later... ").

In the late 1960's, first year courses were not sectioned and Professor Roberts regularly taught property on Saturday mornings. It was not uncommon to find a number of young ladies in those classes, the fiancées or girlfriends of the male students; they rarely escaped Professor Roberts's acerbic wit.

In 1970, his work in property law brought him to the attention of the organizers of the famous Airlie House conference, now regarded as the birth of the field of environmental law. Most law school courses in that field date from that time, and Professor Roberts taught some of the first such courses at Cornell.

When asked if he is a crusader, though, he snorts. "Crusaders don't get anything done," he says, with a dismissive wave of the hand. He growls at the suggestion that there might be a do-good dimension to his work. "I'm a cynic," he says. "I distrust organizations."

Yet an important article he wrote for Natural History in 1971 contained an idea worthy of a crusader: it argued that the right to clean air and water could be seen to be guaranteed by the ninth amendment. For, he wrote, "if we do not have the right to a decent environment, the rest of our rights will prove illusory. We cannot enjoy our other rights if we are all dead."

The article brought Natural History an avalanche of reprint requests.

That same year, Ithaca advocates asked Professor Roberts to draft a historic preservation ordinance for DeWitt Park, in the center of town. Tompkins County administrators were planning to buy and tear down the old Boardman house on the periphery of the park in order to build a capital for the county legislature. The structure had once been home to Judge Douglass Boardman, the first dean of the Law School. Professor Roberts remembers the plans for the county legislature building: "It was a porker of a project," he says. "A big Roman villa—it looked like they were all going to be walking around wearing togas."
Professor Roberts admitted to county officials that they would not be bound by a city historic preservation ordinance, this being the state of the law at the time, so that they could go ahead with their project even if the ordinance passed. Three years after the ordinance was enacted, though, a precedent-shattering case adjudicated in Maryland made it clear that counties were indeed bound by such ordinances. By the time officials formally declared their intention to tear down the house and begin building, the preservationists got an injunction against them, and the project was scuttled. "The county was ticked," says Professor Roberts. "There were Robespierre-like speeches in the Common Council: it was quite a cause célèbre. I am afraid that I was the principal agitator. The result was right, but I always worried that they thought I'd deliberately lied to them." He relates this tale and his role in it in the same amused, removed tone he uses for everything else; his sense of irony keeps listeners from thinking of him in heroic terms.

When Professor Roberts is asked why most of the legal work he's done has pertained to issues close to home, he says simply, "I hate to work in places I've never been." As a member of the New York Law Revision Commission for three one-year terms, he worked on problems like farmland preservation. "It all has to do with what you mean when you say 'preserve farmland,'" he says, falling naturally into lecture mode. "Do you want to preserve the land for farming, or do you want to preserve it so that city people can go for a drive on Sunday and see a moo-cow? It's hard to get a real feel for that. You can make agricultural districts which farmers can join. You bar improvements like sewer and water from those districts, since those are the features that attract Mr. Meany, the developer."

He describes the process by which buyers flush with cash from outside markets offer higher prices for rural land, driving up assessments on farm acreage. Assessors are now directed by new legislation to compute "farm income" rather than basing assessments on the market value of the land. "Those formulas are very complex," he says. "It's hard slogging, about the details. There isn't too much glamour in that kind of work."

This, in Professor Roberts' view, is what constitutes the real work of environmental law—hard slogging. And that seems to be why the term "crusader" irks him so much. Slogging is by definition a slow process, and the changes are not always obvious to those who weren't around before the slogging began. "The kids don't see the improvement," he says, remembering the decades before the Second World War. "I grew up by a coal yard. I got a job down the street at the gas company, unloading coal cars and installing gas mains with a pneumatic drill and a shovel, no backhoes. The river by the coal yards ran black, and kids swam in it. If you lost a body in there, you'd never find it. You had to scrub out the tub in the morning, because it would be filled with coal dust. You don't see that anymore."

By 1963, things had started to change. When Professor Roberts took his family to Nottingham, England for a sabbatical year, his young son found a lump of coal, and didn't know what it was. The little boy thought it was licorice, and he tried to eat it. No ill effects, but the mistake made an impression on his father. No one from his own generation would have failed to identify a lump of coal.

He says he wants to write about that change, and others like it. He's writing the first draft on a yellow legal pad. He uses the computer only with a sense of resignation. "It's the death of individuality," he says, waving toward the humming machine on his desk. "There's no room for eccentricity anymore."

But there's a little—one room's worth, anyway, in an obscure corner of Myron Taylor Hall.

~Antonia Saxon

ALUMNI

Mitsuru Claire Chino '91

Mitsuru Claire Chino is used to living between two cultures. Her parents are Japanese, but she was born in Europe, and did not return to Tokyo until she was four years old. "I remember the crowded trains in Tokyo," she says. "That was my first experience with culture shock." When she was in eighth grade, her family moved again, this time to Los Angeles. At that point, Japanese automobile manufacturers were being blamed for the downfall of the auto industry in the United States. Ms. Chino's father was a high-profile Honda executive. The friction between the two countries led Ms. Chino to make a decision about her career. "I wanted to serve as a bridge to help smooth transactions between Japanese companies and U.S. companies," she says.
She attended high school in Los Angeles, then entered Smith College. She had been taking voice lessons, and seriously considered pursuing a career in music. “But my teachers told me, ‘You should only become a singer if you can think of nothing but music. If you have any other interests, you should pursue those.’”

Ms. Chino opted instead to return to the idea of serving as a negotiator between Japanese and U.S. companies. She applied to law school; the letter of acceptance from Cornell arrived first. A visit to campus convinced her that Cornell shared the intimate atmosphere and rural setting she had loved at Smith, and she accepted immediately.

At Cornell, work she did with the Legal Aid Clinic steered her towards litigation; Glenn Galbreath, senior lecturer and staff attorney with the Clinic, was a crucial mentor. “I represented a client who had a claim against a social service agency, a case involving back pay,” Ms. Chino says. “I wrote the appellate brief and argued the case in front of five judges. Glenn made me rewrite the brief countless times. The night before the oral argument we drove to Albany. I went over my argument while he drove, and he coached me the whole way. I was leaning toward litigation by that time,” she adds. “I wanted to be able to represent clients—particularly Japanese clients.”

She spent the second summer of law school at Graham and James (now Squire Sanders and Dempsey), a practice with a longstanding presence in Asia. She thought she might someday have the opportunity to be posted to the firm’s Tokyo office. She joined the firm after graduating in 1991, and spent her first year at their office in Newport Beach, where she handled several cases entirely on her own. “I was young,” she says, “and I looked even younger. I looked like a teenager.” She won her first trial, but didn’t tell her client she’d never handled a case by herself until after it was over.

In 1993, Graham and James sent her to Hong Kong. There she worked directly with Japanese clients for the first time. “Hong Kong was flooded with counterfeits,” she explains. “Japanese companies wanted to sue Hong Kong companies. I worked with Japanese clients and prepared them for what they would expect to see in court. They were always terrified. It wasn’t that they would have to speak another language; there were simultaneous translators. Still, to testify in a foreign court was intimidating.”

In Hong Kong, she met the head of the legal department for Itochu, one of Japan’s biggest trading companies. Graham and James had a longstanding relationship with Itochu; they sent an associate to its legal department every year. Itochu’s legal specialists had learned of Ms. Chino’s work, and they asked if she would be interested in spending a year with them. Itochu had never expressed interest in a Japanese attorney with a foreign qualification before; until then, they had always been most interested in the native English language skills of U.S. citizens.

The fifteen-month term at Itochu meant a switch to purely transactional work. “A legal department is pretty different from a law firm. Before that I had let the clients tell me the numbers, and I dealt with the law. Now I had to look at everything.” Itochu was involved in infrastructure projects all over Asia, and Ms. Chino spent much of that year traveling to Indonesia and Malaysia.

Oddly enough, the office space at Itochu was the hardest thing to get used to. “There was a big room with thirty desks, and the phones rang constantly. You’re expected to get the other people’s phones if they’re not there, too. All phone conversations are public. I remember sitting there, trying to read a very complex three-hundred page document, and wondering how anybody ever got anything done.”

Although she went back to Graham and James, and eventually made partner at the firm, Ms. Chino elected to return to Itochu after Graham and James entered merger talks. Itochu had been asking her, “half-joking and half-seriously,” when she was coming back. She left private practice in 2000, and accepted a post at Itochu as Corporate Counsel.

“I was the first practicing lawyer in Itochu’s legal department. In Japan, as you probably know, legal training is different. There are no law schools. Legal departments in corporations are staffed by people who have studied law at the university level. The in-house counsel notion is still very new in Japan.”

At Itochu, Ms. Chino found her capacity to serve as a bridge between cultures was greatly enhanced. As a woman, a U.S.-educated lawyer, and an employee of a grey-suited Japanese corporation, she became a high-profile figure. She was designated one of 100 Global Leaders for Tomorrow at the 2003 World Economic Forum in Davos, Switzerland, and there she was asked why she believed she was selected. “I believe I was chosen because I can contribute to women’s leadership within Japanese companies,” she answered. Since then, she has met with Itochu’s president to discuss how to promote women within the company. At her initiative, Itochu now has an official committee, of which she is a member, to hire and promote more women, and to diversity the workforce in general. “I owe it to other women— to other people— to do something in this area. Thankfully, I have the recognition, and I hope to use it to promote women’s initiative within my company and the society at large.”

~Antonia Saxon
J. Jay Rakow ’77

Jay Rakow ’77, senior executive vice president and general counsel for Metro-Goldwyn-Mayer Inc., doesn’t watch many movies. “Only the ones I have to,” he says. It’s hard to achieve the suspension of disbelief necessary to enjoy fictional drama onscreen when one is distracted by professional concerns: “I always think about the legal problems that may have happened, how much the actors and producers made, how much the project cost, whether the film will get an Oscar nomination,” says Mr. Rakow. Handling the contracts and copyrights for one of the premiere movie studios in the U.S. may not be the ideal job for a film buff, but it keeps an attorney busy. “There is a large volume of contract negotiation between individual performers and the studios,” says Mr. Rakow. “Entertainment is a business in which some people sue each other a lot. It’s very competitive. Litigation is part of the arsenal of negotiating techniques that some people freely employ.”

Mr. Rakow grew up in Forest Hills, Queens, and attended Stuyvesant High School, which had a science-oriented curriculum. Because he was interested in attending medical school or going into the pharmaceutical business, he went on to get a degree in chemistry from New York University. It wasn’t until the end of his undergraduate career that he realized “I didn’t like chemistry. And I wasn’t very good at it.”

His decision to attend law school was very spontaneous, he says. “I grew up watching ‘Perry Mason’ and ‘The Defenders,’ and I’d always had a fascination with law. I took the LSAT one day.” During a subsequent visit to Cornell he “just fell in love with Ithaca. I thought it was the most beautiful place I’d ever seen.” Having lived at home during his undergraduate years, the young M r. Rakow was eager to leave New York City. The small law school in the scenic setting was just what he’d been looking for.

Once on campus, Mr. Rakow says he had a “wonderful time” at the Law School, both academically and socially. He credits his successes as a litigator to his early training with skilled professors, including Professor Irving Younger. “The way he taught Evidence was incredibly effective. You could go into the courtroom for the first time ever and be able to make objections as though you had been a trial lawyer for years,” says Mr. Rakow. Professor William Hogan taught Contracts, and “we used to call him The Riddler because he was great with the Socratic method. It can be a phenomenal learning tool in the hands of someone who knows how to do it, and Hogan knew how to use it well.” Like generations of students before him, Mr. Rakow recalls with special admiration the classroom manner of Professor Rudolf Schlesinger, who taught Civil Procedure and Conflicts.

Mr. Rakow served as president of the Cornell Law Student Association (CLSA) in his third year. He got his foot in the door, he says, by serving as the organization’s social chair in his second year. It is hard to envision the soft-spoken and mild-mannered Mr. Rakow as a college party animal, but he was a very popular guy. “I threw particularly good parties,” he explains. “I was elected almost by proclamation.”

Mr. Rakow headed back to New York City after graduation, becoming an associate with Dewey, Ballantine, Bushby, Palmer and Wood. While Mr. Rakow was working on pharmaceutical patent cases, a number of his colleagues were working on the AT&T antitrust case. The AT&T team was working closely with the Los Angeles firm of Wyman, Bautzer, Christensen, Kuchel and Silbert. “They kept telling me how great the weather was,” he says, “and eventually I followed them out there. Basically I wrote a letter to the Wyman, Bautzer firm expressing my interest in relocating.” The climate-inspired move proved to be a wise career decision. “At the time only two or three firms of more than 100 lawyers had offices out west. Being there enabled me to attract clients more easily, and to rise quickly in the legal profession. In New York it was much harder for young lawyers to break into the top tier.” He laughs as he recalls the California culture shock that never materialized: “There were so many other people out there from New York!”

After four years he became a partner at Wyman, Bautzer, a firm best known for its representation of many entertainment companies. Mr. Rakow got his first taste of entertainment law practice while simultaneously handling cases related to the
corporate takeover boom of the ’80s and the savings and loan scandals. During that time he had maintained contact with a classmate, Earl H. Doppelt ’77, who was deputy general counsel at Gulf & Western Industries. When M r. Rakow learned that M r. Doppelt was looking for a general counsel at Gulf & Western’s Paramount Pictures subsidiary, he contacted M r. Rakow and landed the job. M r. Rakow took a leave of absence from his firm to fill the vacancy at Paramount. The company was then taken over by Viacom. “I stayed after the takeover for the full three-year contract, then helped to transition the job to another Cornellian, Rebecca L. Prentice ’82, whom I’d known in her role as a private practitioner, and who is still at Paramount today. We always like to keep that job in the hands of Cornellians,” he jokes.

Today, the social butterfly of his Law School class maintains his social ties in a number of ways. He has attended every milestone Reunion for the Class of ’77, chairing four Reunion campaigns. M r. Rakow has also hosted receptions in Los Angeles, participated in symposia on campus, and served as an admissions ambassador. “The school has played a very large role in my career—and not just getting the job at Paramount! We don’t have a huge number of Cornell grads in L.A., but I know exactly who and where they are. We may not be as large a school as NYU or Harvard, but we have a great alumni network.”

~Robinne Gray

STUDENTS

Abigail K. Marshall ’04

A traditional success story features a small-town boy who leaves home, confronts the world, and triumphs in a way that makes everyone take notice. Update the story to celebrate a heroine, and the young life and nascent career of Abigail Marshall fit the plot in every detail.

Born and reared in Falmouth, Maine (population: 7000), Abigail Marshall graduated from high school with people who had been her kindergarten classmates. It was small-town life, and people valued the continuity of familiar things, but M s. Marshall had a different idea about her own life: “I knew I wanted to be a lawyer by the time I was ten,” she says. “Maybe it’s in the genes; we have several lawyers on my mother’s side. Also, I liked the smart, confident trial lawyers I saw in movies and on television.” When she left Falmouth for Georgetown University, M s. Marshall adapted quickly: “I took the subway for the first time in D.C.,” she says, amused by the recollection. “I first rode in a taxi there, too.” Four years later, she graduated from Georgetown magna cum laude with a B.S.L.A. in French (minors in Spanish and philosophy), a member of Phi Beta Kappa, and a Faculty of Languages and Linguistics Merit Scholar.

M s. Marshall’s Law School career has been similarly dazzling: Cornell Alumni Academic Merit Scholar, Dean’s List, Cuccia Cup semi-finalist, winner of a National Institute of Trial Advocacy Award for Trial and Appellate Advocacy, and CALI awards for products liability, civil procedure, and trial advocacy. Given these achievements, one might expect M s. Marshall to relax as a 3L. Not possible: she is editor in chief of Cornell Law Review. Having assumed office last March, M s. Marshall quickly found the Law Review a strict taskmaster: “I’m jack of all trades and master of none. I deal with authors and do some glamorous jobs, but I’m also responsible for everyday details and keeping tabs on the process. I have to be present from a few hours to all day.” M s. Marshall describes herself as “something like a captain of a very talented team. The board of editors and associate-level editors are very smart people for whom I have the utmost respect. I see myself as a facilitator, to implement ideas they bring to the table.”

Modesty is not learned, and a down-to-earth demeanor cannot be faked. Asked if these qualities are incongruous with a trial lawyer’s “tough guy” persona, M s. Marshall explains, “I can be nice and easy-going in ordinary conversation, over a meal or a cup of tea, but, believe me, I can do what needs to be done in any adversarial context. I can turn on that overwhelming confidence that trial lawyers use to create the aura of authority and control.” Not surprisingly, she richly enjoyed Moot Court—“It’s exciting to see and hear yourself as a lawyer”—and proved her mettle in trial advocacy, where she cross-examined a Law School professor playing the “expert witness.” “I had nowhere near his knowledge of the subject,” M s.
Marshall allows, “so it could have been an intimidating situation. But I was able to put that aside and do the cross without doubting myself, to the point that I could control the process despite being at a disadvantage.”

Besides the energy of the courtroom, Ms. Marshall is drawn to the intellectual work entailed in the study of law. Her undergraduate minor in philosophy has helped her apply abstract thought to practical problems. “One of the most satisfying things is being able to interpret ideas in straightforward language. It’s an ability I value.” Accordingly, Ms. Marshall has been impressed by the legal pedagogy of her professors, particularly Professor Barbara J. Holden-Smith. “In civil procedure, Professor Holden-Smith used the Socratic method and sometimes played ‘hide the ball,’ so you wouldn’t know where she was going with her questions. Then the pieces would start to fall into place, and by the end of the semester you realized she had made it possible for you to put the material together yourself. It was overwhelming, to understand how she’d used the process.”

In the middle of a busy 3L year, Ms. Marshall has little leisure to ponder graduation. “It feels a bit distant right now,” she says, “but I’m definitely ready to stop being a student. I’m ready for real life to begin.” That life will begin with a clerkship for Hon. Maryanne Trump Barry, Court of Appeals for the Third Circuit, and then, a year later, starting work with Kirkland and Ellis in New York City. Even as she contemplates her future, Ms. Marshall says, “It goes by very fast. As a 1L it’s like learning to swim by being tossed into the pool. Just when you think you’ve figured out one thing, the law hands you another problem. It’s difficult and challenging, and it can be scary. But I’ve learned that you have to trust yourself. The kind of student that got you to law school is the kind of student that will get you through law school.”

Having achieved that end, Ms. Marshall anticipates another new beginning: her marriage next fall to Law School classmate Arístides Díaz-Pedrosa. Having met at Georgetown, Ms. Marshall and Mr. Díaz-Pedrosa came to Cornell together and, in May, will graduate together before starting their new life.

Sequoyah Simermeyer ’04

Of the qualities Sequoyah Simermeyer values most in his classmates, diversity—of experiences, of interests—is the one he mentions first. This admiration is not facile, for the diversity of his Native American background has shaped his life. On his father’s side, he belongs to the Coharie people of North Carolina, on his mother’s, to the Navajo Nation. As a child, he lived first on the Navajo Reservation, a rural community of predominately Navajo people situated in the Four Corners region of Arizona, Utah, Colorado, and New Mexico, then in the intertribal Native community of urban Baltimore. Currently in his final year at the Law School and president of the National Native American Law Students Association (NNALSA), Mr. Simermeyer has been (among other things) an environmental analyst in Colorado, an environmental marketing assistant for Native Coffees, Inc., in New York, and a teaching assistant at the American Indian Pre-Law Summer Institute in Albuquerque. With such antecedents, he may fairly boast of having already enjoyed a variegated career.

Mr. Simermeyer, however, is not given to boasting. He is a soft-spoken, thoughtful young man. He expresses “deep appreciation” to his family, who, he says, guided him spiritually and culturally, and who emphasized the importance of education to him. His desire to be a “servant leader” comes out of that experience. “I came to law school with the idea of leading and serving Native peoples,” he says, “particularly the Coharie people in North Carolina. As a servant leader, I act according to what the community needs, with no eye on personal gain.” He names health care and educational resources as abiding concerns of Native peoples, and cites matters related to civil and criminal jurisdiction as being often in dispute. “Native Americans have a unique sovereign relationship with the United States,” he says. “I’d like to help protect it.”

Having received his B.A. from Dartmouth College in 1997 (majoring in environmental studies and chemistry), Mr. Simermeyer attended Vermont Law School and completed a Master of Studies in Environmental Law in 1998. He came to Cornell later that year to assume the directorship of Akwe:kon,
the University's American Indian community center and dorm. Cornell's historically strong relationship with Native communities in New York State and its efforts to enroll Native American students, as well as Mr. Simermeyer's acquaintance with the Native American students already at Cornell, led to his matriculation at the Law School in the fall of 2001. "I am very grateful to former Dean Teitelbaum and the American Indian Law Center, who encouraged me to attend Cornell Law School," he says.

Besides serving as president of Cornell's NALSA chapter during his second year and as a current bench editor of the Law School's Moot Court Board, Mr. Simermeyer worked with John Blume and Sheri Lynn Johnson in the Cornell Death Penalty Clinic, a program he credits with having provided a balanced view of the death penalty, as well as insight into the disparate social issues that arise when the law interacts with different communities. Of special importance was a course in Federal Indian Law, which Dale White '79, a member of the Mohawk nation, taught as an adjunct professor. Mr. White had previously worked for the Native American Rights Fund, and had advocated for the Mohegan tribe in Connecticut. "His hands-on experience representing Native rights made his course especially valuable," Mr. Simermeyer notes. "I'm grateful Cornell offers such a course along with traditional ones. It's a good balance of a core legal education and a specialization in Indian law."

After graduation, Mr. Simermeyer intends to advocate for Native American interests on the national level, either at a nonprofit organization like the National Congress of American Indians (NCAI), in Washington, D.C., or at a private law firm like Hobbs Straus Dean & Walker (also in D.C., where Mr. Simermeyer worked during his 2L summer), which represents the interests of native peoples vis-à-vis the federal and state governments of the United States. As he explains, this relationship is complicated, and the need to monitor it constant: "Native Americans—because their existence as sovereign peoples predates either federal or state governments—have certain inherent rights, including a unique governing status, that are independent of rights contingent on state or federal law. Inherent rights, however, are frequently diminished with or without the consent of the tribes, so there is a continual need to defend them. I'm committed to advocating on behalf of the tribes, to protecting the self-governance of native peoples, and generally to providing representation to a historically underrepresented minority."

Through the Law School's externship class, Mr. Simermeyer spent the fall semester this year doing legal research and writing at the NCAI. He addressed such matters as tribal sovereignty protection, tribal relations with states, and federal recognition of Native American tribes, as well as broader issues of special importance to Native Americans, including energy, environment, trust reform, and land use. Taken all together, his work at the NCAI has reinforced for Mr. Simermeyer what the heterogeneous tribal profile of Baltimore's Native American community first taught him: that the Native community comprises a diversity of peoples, separable cultures, and unique, often competing claims. "There are cultural and political considerations in representing Native Americans," he explains, "because they are both distinct ethnic groups and distinct sovereign nations. There are more than 500 American Indian tribes, and each maintains a unique sovereign relationship with federal and state governments. Different tribes have different local needs and different interests to pursue, so on a national level it's largely a matter of reconciling those interests while maintaining each tribe's unique standing as a cultural and political entity."

Although sophisticated and politically astute, Mr. Simermeyer's dedication to Native culture is irreducibly personal. He has been honored as a "fancy dancer" (a pow-wow style of traditional dance), and as a singer with the White Pine Drum. His game is lacrosse, which he has played both on the NCAA Division 1 level at Dartmouth, with Baltimore's Native American Lacrosse Club, and in the Iroquois Box Lacrosse League with the Tonawanda Seneca team. In ways great and modest, Mr. Simermeyer is committed to his Native American people, body and soul.

~John A. Lauricella

Sequoyah Simermeyer '04 performing at the opening of the exhibition "Strong Hearts: Native American Visions and Voices" at the Herbert F. Johnson Museum in April, 1999
Emlyn I. Griffith was the presenter of the New York State Bar Association High School Community Service Award in April. Mr. Griffith is a member of the New York Bar Foundation’s board of directors.

Beatrice S. Frank was appointed by the Association of the Bar of the City of New York to chair the Association’s task force on Women in the Courts.

Last year, Rudolph de Winter retired from Kramer Levin Naftalis and Frankel of New York City. Mr. de Winter continues to do pro bono work with the Nassau Suffolk Law Services Committee.

Edward v. K. Cunningham Jr. was appointed to the board of directors of the Metropolitan Opera.

In May, James C. Moore received the Adolph Rodenbeck Award from the Monroe County Bar Association for his distinguished 37-year legal career. The award is the association’s highest honor. Mr. Moore, formerly the president of the New York State Bar Association, is currently a partner at Harter Secrest & Emery. His practice focuses on civil litigation involving architect and engineer liability, products liability, construction and insurance coverage.

Martin E. Dollinger joined the firm of Greenbaum Rowe, Smith, Davis & Himmel LLP in Woodbridge, N.J., as a partner in the real estate department in May. Mr. Dollinger concentrates his practice on complex transactional real estate with an emphasis on office, industrial, and retail leasing.

At the end of last year, Donald G. Cherry retired from IBM after over 35 years of service, the last 16 years specializing in employment law. In retirement, Mr. Cherry would like to continue working as an employment lawyer for a firm, corporation, or as a consultant in either New York City or Florida.

In June, Susan S. Robfogel was named one of Rochester’s Twenty Most Influential Women by the Rochester Business Journal.

This summer, James B. Dolan’s firm, Badger, Dolan, Parker & Cohen, moved to new office space at 1 State Street in Boston. He is partner, George F. Parker III ’68, handled the negotiations.

Microsoft Corp. appointed Marshall C. Phelps Jr. corporate vice president and deputy general counsel for intellectual property. He will manage Microsoft’s 3,000 patents and over 11,000 trademark registrations. Mr. Phelps joins Microsoft after 28 years with IBM Corp., where he was vice president for intellectual property and licensing.

Four years ago, after 30 years of practicing law in public, private, and in-house settings, Susan Froehly Teich and her husband, Leonard, retired from Conoco Inc. Feeling rejuvenated after four years of retirement, Mrs. Froehly Teich accepted a position as executive director of Scenic Texas, Inc.
The non-profit organization is dedicated to making Texas “an uncommonly beautiful state” by, among other things, removing roadside billboards and lining Texas highways with trees.

In June, John H. Gross, of the firm of Ingerman Smith LLP, was elected to the executive committee of the New York State Bar Association. The executive committee oversees the management and administration of the state bar. Mr. Gross’s practice focuses on the representation of school districts and colleges. In addition to his New York State Bar affiliations, Mr. Gross is a member of the Nassau County and Westchester County bar associations.

In addition to his work at his firm of Burns, Wall, Smith and Mueller, P.C., this spring, Gregory J. Smith was appointed assistant clinical professor at the University of Colorado’s School of Medicine Health Sciences Center. He teaches Fundamentals of Doctoring, Ethics in the Health Professions, and Health Law.


After 30 years in private practice, Margaret G. Graf accepted Cardinal Mahony’s request to serve as general counsel to the Archdiocese of Los Angeles, the largest and most diverse diocese in the United States. Mrs. Graf was formerly a partner at the firm of Reed Smith Crosby Heafey LLP in Los Angeles. Thomas M. Roche was named general counsel of Exxon Mobil Chemical Co.

The Rhode Island Senate Judiciary Committee unanimously approved Allen P. Rubine’s nomination as a Superior Court judge. His nomination then moved to the full Senate where he was unanimously confirmed. Mr. Rubine said that he was humbled by his selection, calling it the “fulfillment of a dream.” Prior to his nomination, Mr. Rubine was a litigation partner with the firm of Winograd, Shine & Zacks in Providence, Rhode Island.

President George W. Bush chose Rosemary Pye for the prestigious Presidential Rank Award of Meritorious Executives. Mrs. Pye was chosen based on her distinguished career in government service. Since 1989, Mrs. Pye has served as regional director of the National Labor Relations Board’s Boston region, serving Massachusetts, Rhode Island, Maine, New Hampshire, and Vermont.

President George W. Bush nominated Gary L. Sharpe to the federal bench for the Northern District of New York. The Northern District covers the area from Binghamton to Watertown and from Syracuse to Albany. Prior to his nomination, Mr. Sharpe served as federal magistrate in Syracuse and Binghamton. Of his nomination, Mr. Sharpe said, “I love what I’m doing now, but it’s time for a new challenge.”

Grace Sterrett was named chair of the New York State Bar Association’s 4,500-member Business Law Section. Mrs. Sterrett is a partner with the firm of Hudson Cook LLP. In addition to her involvement with the Business Law Section, Ms. Sterrett is the past chair of the Consumer Financial Services Committee, and a founding member of the American College of Consumer Financial Services Lawyers.

The U.S. Senate unanimously confirmed the nomination of Hon. Richard C. Wesley to the U.S. Court of Appeals for the Second Circuit. Prior to his confirmation, Judge Wesley served as associate judge of the New York State Court of Appeals. Judge Wesley was appointed Justice of the Supreme Court’s Appellate Division of the Fourth Department by Governor Cuomo in 1994, and was elevated to the state’s highest court by Governor Pataki in 1997. Judge Wesley is also actively involved in the affairs of Cornell Law School, serving on the Advisory Council since 1999.

President George W. Bush nominated Phillip S. Figa, former president of the Colorado Bar Association, to succeed retiring Judge Richard Matsch on the United States District Court for the District of Colorado. Mr. Figa’s nomination was advanced by Senators Ben Nighthorse Campbell and Wayne Allard. Long active in the affairs of his alma mater, Mr. Figa is a member of the Colorado Regional Committee of Cornell Law School, which supports the efforts of the Law School’s annual giving program.
David L. Gorman, representing Jamaican sugar cane cutters, began his fourth trial against the island’s sugar cane growers. Mr. Gorman’s accidental involvement in sugar cane litigation began when he was called as an expert to decipher the sugar cane cutter’s contracts. “I’d thought I’d get to wear a white hat, to do some good,” said Mr. Gorman. “I didn’t expect to be still doing it 14 years later.” Mr. Gorman has had success against the cane growers, but admits that if he loses this trial, he will probably have to put this particular legal crusade behind him.

In June, Russell F. Hilliard took office as the 2003–04 president of the New Hampshire State Bar Association. Mr. Hilliard is looking forward to the challenges of his new post, and to traveling the state to meet the members of the New Hampshire state bar.

Burns & Levinson LLP named Mark Schonfeld as co-chair of the firm’s Intellectual Property Group. Mr. Schonfeld has extensive experience in protecting leading brand names from infringement, and he also serves as counsel to the Imaging Supplies Coalition, an anti-counterfeiting organization. In addition, Mr. Schonfeld is on the advisory board of the IP Litigator, and serves on the board of directors of the International Anti-counterfeiting Coalition.

Sharon M. Collins published her first book of photographs, To the Light: A Journey through Buddhist Asia (W. W. Norton & Co.). Ms. Collins practiced law for thirteen years as a federal prosecutor in Washington, D.C., before beginning her second career in photography.

Fried, Frank, Harris, Shriver & Jacobson announced that Valerie Ford Jacob was elected co-managing partner. Ms. Jacob joined the firm’s New York office in 1978, and became a partner in 1986. Ms. Jacob has been a member of the firm’s governing committee for many years, and will continue to head the firm’s capital markets practice.

Donald R. Frederico received the 2003 Founders’ Award from Alternatives for Community and Environment, a non-profit organization dedicated to environmental justice. Mr. Frederico received the award for his representation of a low-income Boston neighborhood against two sewer authorities that allowed raw sewage to contaminate the plaintiff’s land and homes. Information about Alternatives for Community & Environment can be found at www.ace-ej.org.

In May, Stephen E. Kesselman moved to Old Westbury with his wife and three young children to join the litigation department of one of Long Island’s largest firms, Ruskin Moscou Faltischek, P.C., in Uniondale, N.Y.

San Francisco litigator Leslie G. Landau was sworn in as Contra Costa Superior Court judge in early November. Judge Landau, of Orinda, California, was the managing partner of the San Francisco office of the 850-lawyer firm of Bringham McCutchen. She specialized in complex litigation and appellate work. Judge Landau earned her undergraduate degree from Wesleyan University and clerked for the late Tenth Circuit Court of Appeals Judge William E. Doyle.

The cover of To the Light: A Journey through Buddhist Asia, with photographs by Sharon M. Collins ’78

Leslie G. Landau ’83 (right) being sworn in as Contra Costa Superior Court judge.
The American College of Real Estate Lawyers is the premier professional association for real estate lawyers. Ms. Liu focuses her practice on commercial real estate and loan transactions. She also has extensive experience in connection with restaurant and hotel management agreements.

Cornell University President Jeffrey S. Lehman announced in August the appointment of Barbara L. Krause to the position of senior advisor to the president. As senior advisor, she will advise the president on a wide variety of issues related to the university, and will accept special assignments from the president. Ms. Krause has been serving as both counselor to the president-elect and transition director since January of this year. Prior to that, she served as executive secretary to the search committee that nominated President Lehman for election by Cornell’s Board of Trustees, while simultaneously serving as assistant secretary of the corporation and associate university counsel. Of Ms. Krause’s appointment, President Lehman said, “Barbara Krause is a gifted attorney, possessing rare measures of judgment, insight, analytical acuity and organizational talent. At the same time, her experience as assistant secretary of the corporation has given her a deep understanding of the range of issues that confront the president of the university. I found her counsel to be invaluable during the transition period, and I am grateful for her willingness to continue to serve Cornell in this new role.” Ms. Krause graduated summa cum laude from Duke University in 1981. While a student at Cornell Law School she served as editor in chief of the Cornell International Law Journal. A native of Freeport, Maine, Ms. Krause captained the Duke women’s basketball teams in 1980 and 1981, and was inducted into the Maine Sports Hall of Fame in 1999.

Konrad J. Liegel was appointed chair of the Environmental and Land Use Group at the firm of Preston, Gates and Ellis LLP in Seattle. Mr. Liegel focuses his practice on conservation land use and nonprofit law.

Sheppard, Mullin, Richter & Hampton announced that Douglas E. Perry joined the firm’s Washington, D.C.-based Government Contracts and Regulated Industries Practice Group as partner. Mr. Perry practices in the District of Columbia and in Pennsylvania. He is a member of the Public Contract Law Section of the American Bar Association, and has written a number of articles and lectured frequently on the federal procurement process.

Last summer, Debra Goetz Rosenberg and her husband, Steve, had their third child, Joshua, who joins older brother Evan (7), and sister Shira (4). Mrs. Rosenberg and her family moved to Texas last year, and she now works at the firm of Atlas & Hall.

Huhnsik Chung has joined the New York Office of Edwards & Angell, LLP as a partner, and continues to practice in the fields of insurance and reinsurance dispute resolution and transactions.

David W. Feeney II joined the Ithaca office of Harris Beach LLP. Mr. Feeney is an associate in the litigation and commercial real estate development and finance practice groups.

Christopher D. Roy was appointed by Governor James H. Douglas to serve a four-year term on the Vermont Environmental Board. The Environmental Board is the quasi-judicial board charged with administering Vermont’s statewide land-use law, Act 250. Mr. Roy also serves on the Vermont Advisory Committee to the U.S. Commission on Civil Rights, and is on the board of directors of Family Connection Center, Inc. and Vermonters for Tax Reform. Mr. Roy is a commercial litigator and director with the Burlington, Vermont, law firm of Downs Rachlin Martin PLLC. He resides in Williston, Vermont, with his wife, Lisa, and his two sons, Peter and David.

David L. Hayes joined the southern California office of Dorsey & Whitney as a partner. Mr. Hayes focuses his practice on high-technology transactions, acquisition and protection of intellectual property, financing of high-tech companies, and domestic and international software licensing.
Richard A. Ruffer and his wife, Maria, are pleased to announce the birth of their son, Alexander Min-Liang, on April 23. After several years as a senior analyst at Moody’s Investors Service, Inc., Mr. Ruffer is currently a managing director at Bear Stearns & Co. Inc. in New York City, where he heads the commercial mortgage securitization group.

Paul D. Callister recently accepted positions as director of the Leon E. Bloch Law Library at the University of Missouri-Kansas City and assistant professor of law. Mr. Callister’s research includes pedagogy of legal research instruction, and information policy and law.

R. Jeffrey Harris is serving his first term as the state representative for the 23rd district in the Missouri House of Representatives. Mr. Harris, a Democrat, won his House seat by a comfortable margin. He serves as Chief Deputy Whip, and was recently appointed to the Governor’s Commission on the Future of Higher Education. Mr. Harris is also happy to announce his marriage to the former Katherine Perry on March 27 in Florence, Italy. They live in Columbia, Missouri.

Ann Carey Juliano was granted tenure as a professor of law at Villanova University School of Law. Before becoming a professor, she was an attorney at the United States Department of Justice, Environmental and Natural Resources Division. Professor Juliano’s research and teaching interests focus on civil procedure, employment discrimination, federal Indian law, and environmental law.

David D. Roberts is now a full-time magistrate for the Cleveland Municipal Court Housing Division. He and his wife, Lila Hanft, and his son, Sascha (5), welcomed a second son, Max, who joined the family this past summer.

Robert L. Cholette married Beth Toffey on June 6, 2003. Both are graduates of Bucknell University.

Geoffrey B. Schmits ’94 was in attendance. Mr. Cholette is of counsel at Harter, Secrest & Emery in Rochester, and his wife is the clinical director for counseling services at SUNY Geneseo. They reside in Penfield, N.Y., and can be reached via email at BobCandBethT@aol.com.

Jeffrey Starbuck O’Dwyer sold the rights to his first novel, Red Meat Cures Cancer, to Random House as part of its Vintage Contemporaries line. The hardcover edition of Mr. O’Dwyer’s book, which satirizes American pop culture and the fast food industry, was recently nominated for the 2002 Book of the Year Award by ForeWord Magazine.

Daniel A. Shacknai married Eve Rachel Hall in a beautiful June wedding at the Brooklyn Botanic Garden. Ms. Hall is a television consultant for children’s programming. She graduated from Wesleyan University and received a master’s degree in education from Harvard. Mr. Shacknai is the deputy commissioner for intergovernmental affairs at the New York City Fire Department in Brooklyn.

Joshua E. Swift was named legal counsel to the chief of the Wireline Competition Bureau at the Federal Communications Commission.

Denis J. Bensaude left her position as counsel for the ICC International Court of Arbitration after four years of service and joined the firm of Bredin Prat in Paris, where she specializes in international arbitration.

Charlene V. Keeling was promoted from a consulting attorney in the technology contracts group of JPMorgan Chase Bank to vice president. Ms. Keeling finds her new post challenging and satisfying.

Herve Jean-Marie de Kervasdoue has been elected partner of the French firm of Deprès Dian Guignot, where he will develop the firm’s merger and acquisition practice.
Hans K. von Rohr and his wife, Barbara, are pleased to announce the birth of their daughter, Johanna Carlotta Franziska, on April 6. Mr. von Rohr is managing director of Deutsche Bank in Belgium.

Mark A. Adams and his wife are pleased to announce the birth of their son, Zachary, who was born the day after they closed on their new home in Glen Ridge, New Jersey. Mr. Adams works at the New York office of Cleary, Gottlieb, Steen & Hamilton, where he often sees classmates Scott N. Shorr and Mike R. Holden.

Dava R. Casoni was married on July 5 in Buffalo, New York, to Peyton M. Craighill. A number of her classmates joined in the celebration.

Monica J. Eagan married Rowland Richards on March 15. Mr. and Mrs. Richards continue to live in Buffalo, where she is an assistant U.S. Attorney, and he is an associate in the intellectual property group of Phillips, Lytle, Hitchcock, Blaine & Huber.

Julie V. Greenberg and her husband, Joe, welcomed their first child, Nathan William, on February 7. Nathan was born at 6 lbs. 9 oz. with a full head of dark hair. Ms. Greenberg is a litigation associate in the Pittsburgh office of Kirkpatrick & Lockhart LLP.

Rene Devlin Harrod married a British cyclist, Keith Harrod, and moved to Fort Lauderdale, Florida. She has joined the firm of Berger Singerman to continue her practice as a commercial litigator.

Matthew S. Kelman happily announces that he and his wife, Karen, have a new baby girl, Caroline, born on May 28. Mr. Kelman is in-house counsel for Major League Baseball Advanced Media, the interactive media/Internet division of Major League Baseball.


Denise Johnson Lazar joined the firm of Wildman Harrold as an associate in their litigation practice group. Ms. Lazar will work from the firm’s Chicago office, and will focus her practice on commercial litigation and professional liability.

After five years of commercial litigation in Chicago with the firm of Latham & Watkins, Rene Devlin Harrod married a British cyclist, Keith Harrod, and moved to Fort Lauderdale, Florida. She has joined the firm of Berger Singerman to continue her practice as a commercial litigator.

Michael J. Smith recently co-authored an article entitled “Invoking the Fair Use Doctrine Depends on Scope of Reproduction.” The article addresses the fair use of copyrighted works in electronic formats, including the Internet. The article appeared in The Legal Intelligencer as well as the July issue of Metropolitan Corporate Counsel. Mr. Smith is currently working on a follow-up to the piece on fair use of trademarks and comparative advertising.

Darian M. Ibrahim left Troutman Sanders LLP in Atlanta, where she had been a corporate associate for the past four years, to become a law clerk for Chief Justice Norman S. Fletcher of the Georgia Supreme Court. Ms. Ibrahim also reports that she was married in Atlanta on June 14 to Jamie L. Haefer, a 2003 graduate of the University of Virginia School of Law. Fellow alumni attending from Cornell Law School were: Brett L. Gross ’99 (groomsman); Jeffrey M. Berman ’00; Albert S. Cho ’99; Nicholas S. Goldin ’99; Joshua T. Jacobson ’99; David G. Montone ’99 and Anne Billick ’01; Weecha R. Rutngamlug ’99; and Michael S. Shim ’99.

Last May, Ingrid Kuo-ying Tung and Nathan Douglas Wieler were married in Mebane, North Carolina. They reside in Pittsboro, North Carolina.

Gary L. Walters joined the firm of Squire, Sanders & Dempsey LLP as an associate in their Cleveland office.

Lee M. Holland is pleased to announce the birth of his daughter, Charlotte M. ary. Charlotte was born on June 21, in Boston. Both mother, Barbara (“Bobbie”) Holland, and daughter are doing very well.

Susan M. Betzjtimir has entered the political fray as a candidate for the Schuyler County (New York) Legislature. Dr. Betzjtimir is also pleased to report that she was awarded the Republican Senatorial Medal of Freedom, which is the highest honor the Republican members of the Senate can bestow.

After three years at Goodwin Proctor LLP in Boston, Stacy Smith Walsh joined Day, Berry, & Howard LLP in Hartford as an associate in the employment law and litigation sections. Ms. Smith Walsh and her husband, Kevin, have relocated to West Hartford, Connecticut.

Newborn daughter, Charlotte Mary, of Lee M. Holland ’01
Cynthia S. Newtown '01 with her son, Logan, and husband, Robert J. Newtown

Cynthia S. Newtown left Southern Tier Legal Services in Bath, N.Y., to assume the post of Assistant Public Defender in Jefferson County, N.Y. (Watertown). Ms. Newtown has wanted to work as a public defender since entering law school, and she is overjoyed at the opportunity to find a position so close to her hometown of Norfolk, New York. Ms. Newtown is also pleased to announce that her son, Logan, recently celebrated his second birthday.

Christal A. Sheppard joined the staff of North Carolina Democratic Representative Mel Watt as legislative assistant for his Financial Services Committee. Before joining Representative Watt’s staff, Ms. Sheppard worked as an associate at the Washington, D.C. office of Foley & Lardner.

02 Pablo Barraquer was appointed advisor to the Superintendent of Companies of Colombia. Mr. Barraquer’s most recent project involves producing a comparative law study of insolvency laws, which will be used by the Superintendent to draft Colombia’s bankruptcy laws.

Monika Gupta joined Ropes & Gray in 2002 as an associate in the corporate department. Prior to joining Ropes & Gray, Ms. Gupta interned in the office of Senator Hillary Rodham Clinton in Washington, D.C., where she contributed to the post-September 11 recovery effort.

Matthew A. Peterson has joined the Ithaca offices of Harris Beach LLP. Mr. Peterson will focus his practice on general litigation and a variety of corporate and transactional matters.

Levina Wong joined Ropes & Gray as an associate in both their litigation and corporate departments.

03 Michael C. Bonafede won the 2003 Burton Award, which recognizes authors who use plain, clear, and effective writing instead of archaic and stilted legalese. Mr. Bonafede is an associate at Weil, Gotshal & Manges LLP in New York City.

To the cheers of many of her classmates, Alyson Courtney Bruns and Chad Andrew Sitzman were united in marriage at a joyous garden celebration on the lawn of historic Joslyn Castle in Omaha. Mrs. Courtney Bruns is an associate with Liddle & Robinson LLP in New York City.

In Memoriam
George Allman Orr Jr. ’47  David Beecher Hudnut ’62
Sinon O’Neil ’48  George Milanos ’66
Curtis McAnn ’58

Editor’s note: Personal items, newspaper clippings, and other notes are welcome for possible publication in the Cornell Law Forum. Please address correspondence to the attention of Seth Peacock ’01 at Cornell Law School, Myron Taylor Hall, Ithaca, New York 14853-4901 (607 255-5251; fax, 607 255-7031; sjp18@cornell.edu). The alumni office may also be reached at alumni@postoffice.law.cornell.edu.

The career office prepares a monthly newsletter of job opportunities for experienced attorneys. Alumni interested in listing opportunities or seeking new positions may contact Judy Mather at 607 255-5873 for further information.
Welcoming Dean Stewart J. Schwab

Alumni across the country will have the opportunity to welcome Dean Schwab as the new Allan R. Tessler Dean. Come out to meet Dean Schwab and hear his exciting vision for the future of Cornell Law School.

January 2004
New York City
February 2004
Los Angeles, CA
San Francisco, CA
Portland, OR
Seattle, WA
March 2004
Boston, MA
April 2004
Dallas, TX

The above schedule is tentative and subject to change. Please visit the Law School’s website at www.lawschool.cornell.edu/alumni or call the alumni office at 607-255-5251 to verify dates.
Q: Can spring be far behind?

A: Yes