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A Note from the Dean

Our task is to train and inspire students so that they may lead fulfilling lives of service in and around law. As usual, this issue of the Forum highlights just a few of our wonderful students and alumni, showing that we are succeeding in this task. I can personally attest to the power of Amie Ely’s speech at final convocation, reprinted in this issue. The selection task for our editors is daunting, because we have such a rich variety of students who go on to such a dazzling array of careers as alumni.

The key to our success is our brilliant faculty, many of whom are featured in this issue. Professor Theodore Eisenberg is the subject of this issue’s faculty profile. The interview reveals Ted’s penchant for letting his accomplishments speak for themselves. So the Dean must add here that Ted Eisenberg is—put simply—the foremost researcher on empirical legal studies in the world. Ted has been on the Cornell faculty for almost twenty-five years. His teaching has ranged from civil rights to bankruptcy law to empirical studies to tax to constitutional law, and his scholarship is equally vast. He has mentored many colleagues, including co-authoring articles with at least ten Cornell Law faculty members. He is a star.

All faculties benefit from regeneration, and this issue introduces a dozen new faculty members in our community. Valerie Hans officially joins the tenured faculty in February 2006. She is one of the country’s leading researchers on juries, and more generally on the relationship between the public and the courts. Her book Business on Trial: The Civil Jury and Corporate Responsibility (2000) is the first to study systematically how juries react to corporations as defendants in cases. Her book Judging the Jury (1986, with Neil Vidmar) is the classic overview of empirical studies of the jury. An update is in the works, while she moves on to new projects as well. We are excited by Professor Hans’s addition to our tenured faculty.

Two new members of our permanent skills faculty are also introduced in this issue. Jessica Ciani-Dausch joins our Lawyering Program and brings terrific business experience to this critically important program. Angela Cornell is starting a new Labor Law Clinic for us, and continuing our strong ties to the Cornell’s School of Industrial and Labor Relations.

This issue also shows off our exciting array of visiting faculty members. Each is distinctive, but collectively they renew our energy and help us build relationships throughout the legal academy and beyond. We are grateful for the chance to share their talents.

And the issue starts off with a provocative article by Professor Robert C. Hockett, in his second year on the tenure-track faculty. Bob teaches Business Organizations and Financial Institutions, and his interests, as shown here, are far-ranging and eclectic.

Happy reading!

Stewart J. Schwab
November 2005
A Jeffersonian Republic by Hamiltonian Means: Values, Constraints, and Finance in an Authentic American “Ownership Society”

Robert C. Hockett

Editor’s Note: This essay summarizes two forthcoming articles, one in the Cardozo Law Review, the other in the Southern California Law Review, that describe an “ownership society” consistent with American values and political constraints. Claims made here are more fully substantiated, with appropriate citation, there.

From “Programs” to “Society”

The indefinitely contoured notion of an “ownership society” (OS) is hardly new to American politics or law. It might be called the seventeen-year cicada of American domestic policy—emerging once per generation onto the agenda, generating just a bit of buzz, then receding once again to leave a mass of empty husks and buried eggs behind. Unlike those furtively flourishing insects, however, ownership-promoting proposals seldom have crescendoed to a deafening din; nor have they sounded the same notes to everyone’s ears. Rather, “ownership solutions” and their cognates have been proffered to or on behalf of differing constituencies for differing reasons, and so have tended to mean different things to different people.1

In contrast to the oft-recurring, thus far ill-defined idea of an OS, widening usage of the phrase “ownership society” appears to augur something new. And I think that we can make of this a salutary opportunity, for Americans of all political persuasions: the opportunity to push beyond the aforementioned fragmentation, polyvalence and cyclicality by making—for the first time since the nineteenth century—a coherent and enduring public commitment to fostering the spread of responsibly owned, independence-conferring, productive assets over our citizenry.

For use of the phrase “ownership society” to designate an end-state toward which one believes that policy should strive entails certain commitments. Those who use the phrase cannot mean merely that we ought to foster a society in which some people own some things. Nor can they be contemplating merely a society whose law recognizes and vindicates property rights. We never have not lived in those “societies.” To what, then, can the notion of an “ownership society” refer if it would not be trivial? Surely it must mean a polity whose members are publicly conscious of the individual and societal value of widespread owning, and who accordingly work to propagate that value among themselves. An “ownership society,” that is to say, must be some latter-day rendition of that venerable American ideal, the Jeffersonian “yeoman republic.”

But making a society-shaping and enduring public project of ownership-spreading raises antecedent tasks that must be addressed sensibly and sensitively if the project is to put down roots, spread, flourish and endure. The project must be conceived, articulated and implemented in a manner consistent with the core values and political self-understandings of those who jointly constitute the society that wills to be an OS. The project must also be designed and pursued in a manner that makes optimal accommodation
with—even optimal employment of—the facts of ownership psychology and ownership-defining law. And a society devoted to becoming and/or remaining deeply an OS should be mindful of, and learn from, its own programmatic history. Let us touch upon these tasks in turn.

Core Values: Three Political Traditions

“First things” first. The American political identity comprises three prominent valuational traditions—what I’ll call, I think with minimal if any idiosyncrasy, the Civic Republican, Classical Liberal, and Pragmatic Consequentialist traditions. An enduring American OS should resonate with all three—ideally with a reconciling synthesis of them.

Civic Republicans historically have prized mutual responsibility, productive independence, and rough equality of exogenously given productive means among generally hard-working, but potentially over-reaching or under-producing (including “free-riding”), republican citizens. Civic Republican thematics were conspicuous at the time of the American Revolution and Founding, and continue to reverberate in our latterday celebrations of personal responsibility, “communitarian” engagement, small business and “the family farm,” not to mention our deploiring of indolence, avarice, plutocracy, corruption and the notion of a “professional political class.” The Republican tradition also is vestigially present in the Guarantee Clause of our constitution.

Classical Liberals historically have been concerned with policing the divide between legitimately public matters—the stuff of appropriate collective concern—and properly private ones. When thoroughgoing and consistent, the aim has been to delineate, and vindicate, a maximal sphere of life-building autonomy, consistent with the equal autonomy of others, enjoyed by citizens conceived as fundamental rights-bearers. Like Civic Republicanism, Classical Liberalism bears a venerable pedigree in American public life—from the Declaration of Independence’s extolling the self-evident rights to life, liberty and the pursuit of happiness, to the Constitution’s guaranteeing equal protection and basic liberties in the Bill of Rights, to contemporary struggles to be free of perceivedly excessive regulation by government or interference (including externalities imposed) by fellow citizens.

Pragmatic Consequentialism, as its name suggests, has been less systematically articulate about the nature of the citizen, her rights and her duties, than have Republicanism and Liberalism, confining itself instead to the assessment of policies by reference to two stripped-down evaluative focal points. The first such focal point is (somehow) aggregated wealth or welfare, the present day salience of which is manifest in our tendency to track indices of national income and market capitalization, as well as in politicians’ prais-
ing or bemoaning policies as “pro-” or “anti-growth.” (It also, of course, figures into mainstream “law and economics” scholarship.) The second Consequentialist focal point is fundamental fairness—the degree to which policies or practices affect equally deserving or undeserving citizens symmetrically. That concern is contemporarily manifest in, among other places, debates over tax policy and the distribu-tional consequences of other legal rules and régimes.2

The Traditions’ Joint Product: Template of Our “Ownership Society”

Our three political traditions converge, via their shared interests in rough equality or fairness and responsible, freely productive activity, upon a single evaluative ideal—that of what I call an “efficient equal-opportunity republic,” or “EEOR.” The EEOR serves as normative scaffolding for any OS that would cohere with our core values, hence for any recognizably American OS.

The EEOR views (adult) citizens as ethically independent, but boundedly responsible, value-productive agents. Each citizen bears the fundamental right—and the responsibility, as consistent with the equal right and responsibility of others—to formulate and to pursue her vision of what constitutes a life well-lived, free of unwarranted and unconsensual constraint by others acting individually or collectively. “Unwarranted” is for its part understood by reference to that proviso, “as consistent with the equal right and responsibility of others.”

All three EEOR-constitutive American political traditions have of course stumbled, in various ways, over the “equal right and responsibility” proviso. And so they have stumbled over what constitutes “warranted” interference, what should count as “over-reaching” or efficiency-offending externality, etc. But there is a straightforward solution to such problems implicit in the concept of agency itself, if we but attend to it: Since agency is action upon the outside world in pursuit of agent-formulated ends, responsibly transforming exogenously given prospects or resources into outcomes, equal agency is simply equal access to such prospects or resources. Equal agency is equal opportunity—equal “real,” or “material,” opportunity. And such opportunity, accordingly, is the stuff with whose fair and efficient allocation—hence ownership, we shall see—the EEOR is concerned. Call this the “equal opportunity principle.”

All three of our political traditions are committed to the equal opportunity principle, but have struggled with its realization for a number of reasons. Probably chief among them is the fact that the resources and opportunities that we benefit by in adulthood are the product of countless concatenated occurrences involving both ethically exogenous chance and ethically endogenous—responsible—choice. The difficulty of empirically disentangling these intermingling inputs to our “life-building” or “utility-production” functions accounts for our seemingly interminable disputes, notwithstanding our shared ethical commitment to equal opportunity, over myriad policies bearing upon the distribution of benefits and burdens. A “boundary dispute” lies at the root of our policy disputes. And that dispute is rendered all the more intractable by measurement challenges afflicting the quantification, interpersonal comparison, and commensuration of disparate resources, opportunities and risks differentially held and differentially valued by disparate persons.3

A workable EEOR (hence American OS), however, can by and large sidestep the boundary dispute and measurement challenges. In so doing it will both vindicate its commitment to the equal agency ideal, and foster efficiency, whether conceived as wealth, or as welfare-maximization, in the only sense in which “efficiency” is ethically cognizable—viz., as consistent with the equal opportunity principle. The key is, first, to rely upon markets bearing certain EEOR-required properties as distribution mechanisms; and second, to take certain steps—some of which, through sundry forms of public and private law, we take already—to ensure that those markets bear the requisite properties.

I call the EEOR-required market properties “process neutrality,” “entry neutrality,” and “completeness,” which jointly enable markets (a) to honor citizens’ autonomous valuations of resources, oppor-
Each citizen bears the fundamental right—and the responsibility, as consistent with the equal right and responsibility of others—to formulate and to pursue her vision of what constitutes a life well-lived.

tunities and risks, (b) to aggregate those valuations appropriately, and so (c) to sidestep the aforementioned measurement challenges in an ethically satisfactory manner. And while space does not permit full explication upon those market properties and how they discharge their appointed roles here, it is in respect of the last two properties that the idea of an “ownership society” proves helpful. For entry neutrality and completeness are unambiguously furthered by spreading, and protecting by property rules, (a) certain ethically exogenous life-building inputs whose current spread is the result of chance, not beneficiary choice, and (b) such market-allocated holdings as are traceable to such initial holdings. The “inputs,” or what I shall call “core endowments” described at (a) accordingly constitute the material opportunities or resources whose ownership an authentically American, nontrivial OS will seek to spread widely.

**Appropriate Ownership-Spreading: Core Opportunity Endowments**

The first class of exogenous opportunity endowment that our values commit us to spreading widely comprises the genetic determinants of citizens’ capacities to build useful lives, accumulate wealth, and pursue happiness. Birth with a handicap or subsequently realized predisposition to debilitating illness on the part of one citizen warrants other citizens’ chipping in to mitigate such handicaps’ or illnesses’ debilitating effects.

The second class of core endowment is that of opportunities for education into early adulthood. Boundedly responsible agents begin their lives as non-responsive children, and gradually grow more responsible as they mature. Pursuant to our own equal opportunity principle, then, we do properly to spread real educational access as widely as possible over our citizenry at least into early adulthood.

Health, functional capacity and education can be viewed as distinct elements of “human capital.” A third range of broad American agreement as to what constitutes an ethically exogenous core endowment can be characterized as access to certain forms of nonhuman capital. Access to, ownership of, and participation in firms and other value-adding networks—the varyingly integrated institutional arrangements through which productive synergies of pooled and organized human and nonhuman capital are mixed, then channeled into wealth-creation—is surely as important as is access to means of developing one’s human capital. So is access to what might be called a “base of operations,” a home, in which one can maintain one’s basic health and productive capacity, and one’s human capital, thus preventing premature depreciation, so to speak.

Our OS-in-the-making has been innovative in respect of home-spreading and education-spreading. Essentially the same constraint-respecting, financial-engineering means have been employed. But we have not yet adapted these methods to the task of business-ownership-spreading. We’ll get to that. But first we catalogue constraints, that second “task” we mentioned at the outset of this essay.

**Core Constraints and Strategies: Legal and Endowment-Psychological**

An enduring American OS must cohere with more than the core American political values. It should also make optimal accommodation with the constitutive features of ownership psychology and ownership-defining law.

As to ownership-defining law, for a complex set of reasons which I must regrettably pass over in silence here, the most salient feature of our “legal endowment” that concerns us is the degree to which it maximally fosters EEOR autonomy through property rules over and above liability (or other) rules. By vindicating an owner’s right not to part with her asset at a price not of her naming, property rules carve out a maximal sphere of valutational and life-planning autonomy. In so doing they also complement the aforesaid agency-respecting, appropriately value-aggregating role of markets in the EEOR.

But in a world of scarcity some efforts at promoting property-rule-protected ownership among current non-owners might superficially appear to threaten, not preserve, the property-rule-protected entitlements of
some current owners. How are we to deal with that problem? Here we look not only to the law, but the psychology of ownership as well: Pursuant to the “endowment effect” and cognate dispositions documented by experimental psychologists and economists (working, happily enough, in one seminal case with obliging Cornell students), wealth that one presently holds appears to be experienced as more valuable or salient than wealth that one “might” or “will” hold. The practical and strategic consequences of this peculiar perceptual predisposition are two-fold, operating from both what we might call the “delimiting” (or “taking”) and the “endowing” (or “giving”) sides of the opportunity-allocation process.

From the “delimiting” side, measures that in effect slow the rate of future growth in holdings by those who, by equal opportunity lights, already are well endowed, or that disproportionately speed the growth of holdings belonging to those who are under-endowed, will face less opposition than apparent “confiscations” of what already is held. From the “endowing” side, endowing that takes the form of “refraining from [perceived] taking,” or that is conditioned upon perceivedly deserving behavior (in effect ethically endogenizing the endowment), will face less opposition than will endowing that looks on the surface more like an out-and-out grant. The policy-optimal strategy, then, is to channel per- ceivedly “new,” and/or manifestly earned or exogenous, core assets to—while refraining from perceived taking of such assets from—those who by equal opportunity lights are presently underendowed.

From Strategy to Schema: The Method of Financial Engineering

Where we publicly hold some large stock of material asset-stuff such as arable land, the strategies just described are readily employed. We can, for example, channel our vast public tracts, in smaller but adequately independence-conferring-sized plots, to such under-endowed citizens as are prepared to work responsibly to render them productive. Such was of course the method of the nineteenth- and early twentieth-century Homestead Acts. Alternatively or additionally, we can dedicate land in larger tracts to endow institutions that spread other core endowments over the citizenry. Such was the method of the nineteenth- and early twentieth-century Land Grant Acts, contemporaneous and programmatically associated with the Homestead Acts, which funded the establishment of open-access higher education institutions nationwide—among them, of course, Cornell.

Where, on the other hand, we are lacking in sufficient stock of an already accumulated and still public asset such as land used to be, the methods of nineteenth- and early twentieth-century homesteading and “schoolsteading” are not available to us. The “new” resource that we must channel is not already accumulated but is yet to be accumulated, reasonably expected to come to fruition in future—though still, ideally (in view of our constraints), in critical part through the diligent efforts of beneficiaries themselves. In such case the method of past homesteading and land-granting gives way to the method of future financial engineering.

How and Why the Method Works

“Finance” broadly denotes the class of means by which something presently desired and not yet had may be paid for, even when it cannot be purchased outright with already accumulated cash or other assets. The word therefore frequently connotes, more particularly, the act of borrowing as one such means.

Often the future yield is what affords the means of paying for the present use of the borrowed asset itself. When that is the case, the project sometimes is said colloquially (and potentially misleadingly) to be “self-financing,” “self-amortizing” or “self-liquidating.” The investment that the project amounts to in such case has, at a minimum, “broken even,” hence is financially rational to have undertaken.

The best investments, a fortiori, are those that yield the highest returns—hence more than break even or “self-liquidate.” They yield substantially more than what has been sunk into them, even after costing interest and discounting returns by the rate that one
could have earned by safely investing in bonds over the course of a project’s completion.

From this point of view, post-secondary education, housing, and even many possible securities portfolios that one might finance by borrowing at rates that have prevailed, on average, for decades now constitute good investments. And that is of course to ignore the incalculable nonpecuniary benefits yielded to individual and society alike by citizens’ holding such assets.9

Why, then, does the U.S. not constitute an “ownership society” already, with every adult owning a home, a substantial income-yielding or value-appreciating securities portfolio, and at least a four-year post-secondary degree? The answer is tripartite: First, significant fractions of our adult population do hold the first and/or the last of these three core assets, while far fewer did before the 1930s in the first case and the 1960s in the third—the decades when we first took steps collectively to spread the owning of those assets broadly. (See below.) Second, we have not as yet worked publicly to spread substantial direct owning of the second asset type, securities, and it shows. And third, absent public action of this sort, things are likely to remain this way, just as evidently would have been the case with homes and higher education absent our concerted efforts.

But why is that? What are the “concerted efforts” to which I refer, and why would they be necessary in facilitating the spread of ownership of those three “fundamental assets”? The answer is, again, finance. In order for investments such as those in homes, in educations or securities to make pecuniary sense, again, their discounted long-run yields must exceed the costs, including opportunity costs, of their financing. The borrowing rate must accordingly be “low enough.” But in order for that to be the case, those who have the funds to lend must not perceive the loans to be “too risky.” The lender’s calculus largely mirrors the borrower’s, though it’s more severe: She will offset the returns on her investment by the returns that she could earn on alternative investments of her funds bearing similar risk-features to those attaching to the contemplated loan. But unlike the borrower, she will not permit the nonpecuniary benefits derived (by the borrower) from the credit-purchased asset to compensate for added increments of cost.

Frequently, as most of us know from experience, a lender mitigates or lessens risk by taking a security interest in some asset already owned by the borrower, or by seeking a guaranty from some well-resourced associate of the borrower. But therewith comes the source of that old adage that “it takes money to make money.” Absent collective action, financing is most readily available to those who, in a sense, have least need of it—those with direct or indirect access to already-accumulated, collateralizable assets.

Absent collective action, financing is most readily available to those who, in a sense, have least need of it—those with direct or indirect access to already-accumulated, collateralizable assets. Finance performs as little more than a temporary liquidation service in such circumstances. The lender acts as non-custodial pawnbroker on a grander scale.

But here lies also a key to the means of breaking what some have called this “tyranny of collateral and connection” or “closed loop of finance.” For collateral and personal connection are not in principle the only means of mitigating lender risk. If likely failure rates over a broad swath of investments can be statistically estimated and actuarially stratified, and measures be taken to weed out improvident projects, then we can pool, classify and minimize default risk while providing against the latter with less than 100 percent collateralization. We can require borrowers simply to cover pro rata shares of aggregated default risk. We can move from collateralization to default insurance.

We can enhance the boost thereby given the pool of loanable funds by taking a further step: Closely
associated with perceptions of and aversions to risk are the desire and demand for liquidity—the capacity to withdraw from an investment as readily as one enters into it. If, then, not only default risk, but debt obligations themselves (rights to repayment) can be pooled, and shares in the pool sold as resalable securities, we can effectively complete the market for asset-acquisition financing debt by “securitizing” it, allowing such risk as attaches to the securities to flow to its most efficient bearers. We shall thereby have optimized the volume of such financing available.\textsuperscript{10}

The Method Applied I: Modern Home Finance

What we have just described as “the Method” of financial engineering actually was pioneered in respect of federal home finance policy, over the course of the 1930s and 1940s. Early in the twentieth century as now, most who purchased non-rural, purely residential real estate did so partly on credit. What was different was that fewer, for that reason, purchased housing at all. Housing credit markets were more fragmented, mortgages in consequence less liquid investments than they are today. Home loans in consequence were extended for much briefer terms—generally two to three years—at the end of which they “ballooned” to coming due in full. Loan-to-value ratios, in turn, were quite low by modern standards. As little as fifty percent was considered high, and was rare. Financing on such terms fell far short of most would-be buyers’ capacities; and so second mortgages, junior liens, and rollover refinancings were the norm.

When real estate prices leveled off, then fell in 1928, short-term mortgages no longer could be refinanced in full. Resultant forced sales and foreclosures, which reached the rate of over 1,000 per day once some fifty percent of all home mortgages in the country had gone into default, brought prices even lower, pulling the real estate market into a classic downward spiral.

The programs instituted to address this crisis, begun in the last year of the Hoover administration, broadened through the Roosevelt years and continuing in but minimally altered form today, cannot fail to impress in their innovativeness and comprehensiveness. The process began with the Federal Home Loan Bank Act (FHLBA) of 1932, which authorized establishment of a system of Regional Federal Home Loan Banks roughly parallel to that of the Federal Reserve’s system of Regional Federal Reserve Banks. The Regional Banks provided standards and supervision to member institutions—the private mutual savings banks (MSBs) then responsible for most mortgage lending—and in return supplied added lines of credit on the security of the mortgage loans that they held (thus “monetizing” those mortgages).

The new Congress that took office in 1933 built upon Hoover’s well-designed initiative, first with a Home Owners’ Loan Act (HOLA) in 1933, which provided for refinancing loans on favorable terms to enable erstwhile home-owners to recover their homes, and for the spread of further MSBs by directly affording national charters. One year later, the National Housing Act (NHA) of 1934 afforded a system of deposit insurance for the MSBs analogous to that newly instituted for depositors in commercial banks, boosting the availability of lendable deposits. More critically, the NHA instituted a system of insurance for the MSBs themselves, against defaulting mortgagors: Section 203 of the Act provided for a nationwide “mutual mortgage insurance system” through which the newly created Federal Housing Administration (FHA) could insure first mortgage loans made for the construction, purchase, or refinancing of one- to four-bedroom family homes.

The FHA insurance scheme fundamentally altered the regime of home financing in the U.S. It effectively replaced traditional collateralization requirements with national default-risk-pooling. The uniform requirements upon which FHA conditioned its insurance fostered development of a standardized home mortgage instrument marketable throughout the country; that opened the door to securitization, hence fuller risk-pooling, more on which presently. The housing quality preconditions upon which FHA conditioned its insurance also ensured the financial rationality of federally facilitated home-finance investments. And FHA’s requirements of (a) actuarial soundness, and
(b) risk classifying and separate pooling ensured that the system retained the traditional efficiencies of a private insurance market.

Congress effectively completed its ad hoc discovery of “the Method” of financially engineered ownership-spreading in 1938, by chartering the first modern “government sponsored enterprise” (or GSE). The Federal National Mortgage Association—FNMA, or “Fannie Mae”—was charged with making a national market in FHA-insured mortgage instruments themselves, i.e., with “securitizing” those mortgages. In effect, Fannie Mae along with later progeny (Ginnie Mae, the Government National Mortgage Association, and Freddie Mac, the Federal Home Loan Mortgage Corporation) closed the proverbial circle, separately completing the markets for housing credit and credit-risk-bearing, thereby maximizing the availability of such credit to home-buyers in the manner described above. Fannie Mae proved sufficiently successful, even on market terms, to privatize in 1968. It now offers a multitude of home finance services.

The Method Applied II: Higher Education Finance

Federal involvement in higher education finance, in this case since the later 1950s and, especially, the middle 1960s, has substantially replicated that in home-finance. Once again, a perceived crisis—this time a 1957 Soviet satellite launch—acted as impetus. Public perceptions of national security and confidence that “we [were] number one” were badly shaken by the launch of Sputnik. Public discourse turned quickly to the question of who, or what, was to blame.

One principal culprit, as determined by Congress and President Eisenhower, turned out to be standard science and technical education. Congress reacted swiftly by passing the National Defense Education Act (NDEA) of 1958. At the heart of NDEA was the National Defense Student Loan (NDSL) program, which for the first time (apart from the GI Bill) offered long-term, low-interest loans broadly to Americans seeking post-secondary education. The NDSL program, renamed the “National Direct Student Loan” program in 1972, then the “Perkins Loan” program in 1987, continues today, though subsequently established programs now account for more students and dollars.

As the 1950s gave way to the early 1960s, federal involvement with higher education-spreading came to be described not simply in national defense, but in “great society” terms. The first critical step came with the Economic Opportunity Act (EOA) of 1964, whereby Congress among other things established the Federal Work-Study Program (FWSP), which like the NDSL program continues to the present day. FWSP’s linking of education aid to work is significant in light of the constraints upon effective asset-spreading catalogued above.
We would realize the noblest dream of some of our most celebrated founders—the dream of a fair and efficient republic of self-sufficient, responsibly productive owners.

The EOA was but a beginning, however. The real milestone of the 1960s, which stands to contemporary higher education finance much as the 1934 NHA stands to contemporary home finance, came one year later with the Higher Education Act (HEA) of 1965. The HEA forms the basis of current federal financial assistance programs for seekers of higher education. It not only brought then existent programs under one umbrella, but established critical new programs. Most important for our present purposes was the federal Guaranteed Student Loan (GSL) Program, now known as the Stafford Loan Program.

As originally designed, the GSL Program offered one particularly salient benefit: a federal guaranty of the debts incurred by those financing their post-secondary educations through borrowing. The guaranty, of course, operated much as did federal mortgage insurance after the passage of the NHA in 1934. It removed lender risk, rendering loanable funds more readily available on cheaper terms.

A particularly important augmentation of the GSL program’s credit-enhancing effect came with Congress’s 1972 Amendments to the HEA: Those amendments brought into being the Student Loan Marketing (SLM) Corporation, better known as “Sallie Mae,” a GSE bearing distinct family resemblances to Fannie Mae. As its full name suggests, Sallie Mae was chartered as a market-maker for shares in pooled student loan obligations. Like Fannie Mae, that is, it was—and is—a securitizer. Also like Fannie Mae, Sallie Mae only began as a GSE. Once the federal government had established the existence and shown the long-term viability of the requisite secondary market, it gradually withdrew: Sallie Mae began to privatize in 1997, and completed the process at the end of last year. And like Fannie Mae, it now does much more than securitizing.

The Method Untried: From Homes and Skills to Securities

“The Method” of financial engineering has worked well in spreading ownership of homes and human capital widely over much of the citizenry of our OS-in-making. But what of the other core endowments we discussed above—access to insurance in respect of genetically determined functional capacity (another critical form of human capital), and to nonhuman capital, to productive networks and organized enterprises, through which one is enabled to capitalize upon one’s own diligence? I have treated of the first of these elsewhere, so confine myself here to the second.

Human capital finance and home finance will often be of little use apart from access to nonhuman capital. For among other things, we have just seen that “the Method” of publicly facilitated home and higher education finance itself works in conjunction with the beneficiary’s earning income that enables her to amortize her publicly facilitated mortgage debt or student debt. Yet in a world where stochastic short-term “mismatch” between productive investment and consumer demand, similar mismatch between technology-driven productivity improvements and consumer demand, and global “outsourcing” periodically can slacken domestic demand even for highly skilled labor—and in which ownership of, as full or partial substitute for employment by, firms itself requires nonhuman capital—such access tends to fall quite regularly, if nonetheless unpredictably, into short supply.

The only solution to that problem which looks comfortably consistent with American OS values and constraints appears to be to facilitate the spread of such nonhuman capital itself by the Method of financial engineering. A completed American OS in effect will draw home, skill and implement (nonhuman capital) back together as they once were in the nineteenth and early twentieth century agricultural-extension-supplemented “homestead.” A comprehensive OS, like the old homestead itself, will amount to a manner of “three-legged stool,” comprising home, human, and nonhuman capital.

Employing the Method in the realm of contemporary nonhuman capital-spreading would mean fostering and facilitating the extension of credit for purchase of ownership shares in firms in a manner replicating the means which, as described above, we have employed in connection with home and human capital-spreading. We require, then, some general-
ization of the familiar Employee Stock Ownership Plan—the ESOP—into a publicly facilitated, portable form that does not tie the beneficiary to a single firm that happens to offer such plans (and that concentrates beneficiary risk by rooting employment income and ownership income in the same institutional source). Can that be developed?

Even allowing for private lenders and secondary markets to take a lead role here as we have done in the case of home and education capital-spreading, we would have to contend with a host of challenges in connection with any program of “nonhuman capital homesteading” that do not arise, or at any rate do not appear to arise as poignantly, in the case of “homesteading” or “human capital homesteading.” There is good reason, however, to believe that these and other challenges can be met. Such I labor to show, challenge by challenge, in the fuller articles from which the present précis stems. But for now, alas, I’ll have to leave you tantalized.

A Jeffersonian Republic, by Hamiltonian Means

By way of one concluding bit of tantalizing, let us consider what we would have accomplished were we to succeed in bringing the Method of financial engineering to nonhuman capital endowment-spreading in the way that we have done to home and human capital endowment-spreading: We would realize the noblest dream of some of our most celebrated founders—the dream of a fair and efficient republic of self-sufficient, responsibly productive owners. And we would do so by spreading opportunity endowments foreseen by others of our most celebrated founders as more promising than mere land, through means recognized by those other founders to be capable of working near-miracles—the means of finance, of credit as credere, of faith in the future, so long as it’s wrought by industrious citizens. To have done that would be not only extraordinary, it would be nationally redeeming and reconciling. For the first set of founders just mentioned, along with their followers, have alas been at odds with the other set of founders just mentioned, along with their followers, since the dawn of our independence as a nation. In effecting a real, nontrivial, comprehensive American ownership society, then, we would have effected both a great republic of owners and a long-awaited national unity. We shall have effected, at long last, a true Jeffersonian republic, by Hamiltonian means.


2. On the role of those I here call Pragmatic Consequentialists in American legal thought, see Robert S. Summers, Instrumentalism and American Legal Theory (1982). Holmes, the “realists,” and more recently Richard Posner probably are the best-known legal pragmatists. Civic Republican ideals, for their part, are conspicuous in the work of Frank Michelman and Cass Sunstein, among others, while Classical Liberal commitments figure prominently in the work of Ronald Dworkin, Richard Epstein, and Charles Fried.


4. See, classically, Guido Calabresi and Douglas Melamed, “Property Rules, Liability Rules, and Inalienability: One View of the Cathedral,” 85 Harvard Law Review 1089 (1972). Most “core endowments” already are property rule-protected (or more) in this sense, once held. “Propertization” in the interest of EEOR autonomy in an OS would have “bite” in respect of certain other entitlements currently protected by liability rules as “mere” expectancies, e.g., contractual contingent claims, liquidated damages provisions, etc. There are well-worn arguments against propertization in such contexts, but they trade upon a conception of efficiency that lacks purchase in an EEOR.

5. I will not here distinguish between endowment effects, loss-aversion or WTP/WTA gaps. Nor will I distinguish between these and the more clearly conceptually distinct, though nonetheless empirically entangled, phenomena.

Robert C. Hockett is an assistant professor of law at Cornell Law School.

6. A classic case of mixed “refraining” and “conditioning upon earning” in recent decades is the earned income tax credit, or EITC, the political success of which stands in upon earning” in recent decades is the earned income tax credit, or EITC, the political success of which stands in

7. The closing line of Ezra Cornell’s speech upon our university’s inauguration in 1868 is illuminating: “I believe that we have made the beginning of an institution which will prove highly beneficial to the poor young men and the poor young women of our country.” See http://trmc.library.cornell.edu/Ezra-exhibit/EC-life/EC-life-11.html.


10. “Securitization” has burgeoned quite rapidly in recent decades, giving rise to some of the fastest growing and largest segments of the global securities markets. It is not widely appreciated that this began with, and continues to be significantly driven by, the activities of erstwhile “government sponsored enterprises” (GSEs) like Fannie Mae, more on which below. See, e.g., Leland C. Brendsel, “Securitization’s Role in Housing Finance: The Special Contributions of the Government-Sponsored Enterprises,” in A Primer on Securitization 17-29 (Leon T. Kendall and Michael J. Fishman, eds., 2000); Lewis S. Ranieri, “The Origins of Securitization, Sources of Its Growth, and Its Future Potential,” in Securitization, op. cit., at 31-43.


In Search of Truth and Justice—Without Becoming an Empty Suit

Amie N. Ely ’05

Editor’s Note: The following article is based on the address given by Ms. Ely at the Law School’s convocation on May 15, 2005.

It was October 20, 1979, and the snow on Wyoming’s Big Horn Mountains blanketed the hunters’ tents and trucks. It was so remote, so still, so peaceful, that when their bodies were discovered in their cook tent the next morning, it was simply assumed that they had died of asphyxiation from a faulty stove. It wasn’t until the next evening, after the bodies were moved and the scene disturbed, that it became clear that all three of these men had been shot at very close range.

These men had names, families, and histories. Kenny had a wife and four children waiting for him in North Dakota. Tom left behind a twenty-two-year-old wife and a toddler. Tom’s brother Joe was the third victim. The murders shocked the small Wyoming town where the two brothers lived and devastated their parents and ten siblings.

Investigators questioned a coal miner named Ronald Selig about a week later. The next day, he drove his Ford Bronco off the mountain at an outlook called “Fallen City.” As he recovered in the hospital, he twice confessed to killing Kenny, Tom, and Joe. Selig claimed they’d stolen some equipment from his camp, and said he felt threatened when he came to their tent to confront them. He said he shot them and then stepped over their bodies to retrieve his belongings. The only physical evidence that supported his story was an ordinary orange coffee cup found in that tent that Selig later claimed was his.

There was a trial. The jury read Selig’s confessions, and he took the stand and he told his story about what happened in that tent. At one point in the testimony, Selig’s attorney asked him, “Did you shoot as fast as you could shoot?”

“Yes,” he said, “That’s the way it happened. Fast as I could squeeze the trigger.”

When it came time to instruct the jurors, the defense argued that they should only be able to choose between guilty of first-degree murder and not guilty—that second degree murder or manslaughter should not be options. The prosecutor was unprepared to argue for the other charges. The public defender, on the other hand, assigned a young lawyer to write memoranda of law on every instruction he wanted—including the all-or-nothing option. The judge sided with the defense, and the state was forced to prove the murders were premeditated to get a conviction.

The jury hung. One of the two holdouts for acquittal later said that “nobody felt like [Selig] was an innocent man,” and that she and the other juror who voted “not guilty” wished they had the option of convicting him of second-degree murder.
The state retried Ronald Selig a couple of months later in a different county before a different judge. This judge suppressed the confession. Then he threw an inmate informant off the stand when it turned out that a state agent who wasn’t supposed to be in the courtroom was present. What had been a story of self-defense shifted to a strategy of reasonable doubt. Selig sat silent while his attorneys poked holes in the state’s case. The jury learned that the state had lost the bullets, and that the bodies of the three men had been moved from the scene before anyone realized that they’d been shot.

Much of the second trial survives only through newspaper articles and interviews, as it wasn’t transcribed. One of the jurors told me later, “The foreman of the jury said, ‘You know, I think every one of us in here knows he’s guilty, and I don’t think there’s a damn thing we can do about it.’” The state of Wyoming simply had not proven its case.

And so, after a few hours of deliberation, they acquitted the man who confessed to killing Tom Ely, his brother Joe, and their friend Kenneth Windjue.

Tom Ely was twenty-six years old when he died on that cold mountain, and he was my father. Uncle Joe was thirty-two. And, as hard as it is, I can now understand that, given how the story unfolded in the courtroom, the jury probably did the legally correct thing when it sent Selig back to his family.

For more than two years, I traveled the roads of Wyoming, interviewing lawyers, investigators, jurors, and even one judge. I found what I’ve told you, and quite a bit more. But the last witness to what happened on October 20, 1979, died on Independence Day a year and a half after he was acquitted. I still don’t know what actually happened the night my father died.

The foreman of the jury said, “You know, I think every one of us in here knows he’s guilty, and I don’t think there’s a damn thing we can do about it.”

Sometimes the law can give us answers; sometimes it can’t. But we as lawyers have a responsibility to search, to seek the substance of “what happened” even if we cannot find it, and to seek truth even if procedural barriers may prevent it from outing.

We have the power to carry the past into the present, and to try to make sense of the things that went wrong.

A few months into my investigation, I spoke about the case with a civil rights lawyer, a man who is now a law school dean. He asked if I was going to law school. I told him that I didn’t think I could ever become a lawyer, because what was wrong and what was illegal didn’t seem to match up. I told him I didn’t want to become a part of a system that seemed based on justice in name only.

He said, “You know, Amie, if injustice bothers you, then law is really where you need to be. Just don’t become an empty suit.”

I thought about that for quite a while. Eventually, I realized that he was right—that law has the power to heal as well as wound, that understanding this system would not only permit me to contextualize the case that so impacted my family and me, but would also give me the tools to do for other people what hadn’t been done for my father: to seek both truth and justice.

A few weeks into our 1L year, I talked with one of our professors about some of the legal issues I didn’t understand about this case. Near the end of the conversation she said, “Amie, you know, you need to live for the living.” At the time, that wasn’t what I wanted to hear. But now, I think she may be right—partially, at least. Cornell Law School has granted us awesome powers; armed with the ability to use and manipulate
this thing called law, we do have a responsibility to use for the living the skills we’ve developed over the last three years.

But, at the same time, law is built on what came before it—on precedent. And so are we. Without knowing where we’ve been, we can’t chart where we’re going. Without remembering what drew us to the law, and feeding that fire no matter where we go, we risk losing a sense of purpose, of urgency, and of grace. Without honoring that which came before us, and that which made us the group of 209 people in funny black hats assembled together right now, surrounded by those who we love and who made us who we are, we only barely understand ourselves. And without understanding ourselves, we can’t be the compassionate, loyal, fierce, and vulnerable people we will need to be to find and speak the truth and to truly serve justice.

I came to law school to understand what happened after my father was murdered. In beginning to live for the living, in entering a system that can both harm and heal, and in bridging skepticism and hope to demand more of myself and of the work I have chosen, I honor his memory. You each have your own stories, your own reasons for being here, and a future waiting for you to live it.

We matter. In our hands, we will soon hold other people’s lives and hopes, and their last chance for justice. Let’s hold on to what brought us here, honor what came before us, and do all that we can to never become empty suits.

Without remembering what drew us to the law, and feeding that fire no matter where we go, we risk losing a sense of purpose, of urgency, and of grace.
Assisting Law Schools Affected by Hurricane Katrina

On September 2, just days after Hurricane Katrina struck a devastating blow to the Gulf Coast, Cornell Law School offered law students and faculty at the New Orleans law schools of Tulane and Loyola a temporary home. Two students from Tulane have already arrived, welcoming the opportunity to continue their legal studies as the Law School granted them special non-degree visiting status for the fall semester.

Claire M. Germain, the Edward Cornell Law Librarian, has invited law librarians from areas affected by Hurricane Katrina to relocate to Ithaca for as long as necessary. The Law School is offering office space, access to resources, and other possible services. The library will also provide document delivery at no charge to law libraries in the affected areas.

Karen Comstock, assistant dean for public service at the Law School, has kept the Law School community updated on the relief effort, and is helping to direct individual contributions to the places where they can do the most good. Meanwhile, the Law School has joined with Cornell University in assisting in recovery operations for the New Orleans and Gulf Coast region.

Cornell University has created a website to facilitate Cornell’s response at http://www.cornell.edu/katrina/. The site is a comprehensive gathering of information about the outpouring of help from the Cornell community to victims of Hurricane Katrina, and about the University-wide offer of housing and assistance to colleagues at Tulane.

“The entire Cornell community recognizes the terrible plight of our colleagues at Tulane University,” said Cornell President Hunter R. Rawlings. “We want to do everything we can to help them in their time of need.”

New Permanent Faculty

Cornell Law School is delighted to welcome two new faculty members this fall. Valerie P. Hans, a visiting scholar for Fall 2005, will assume a permanent position as professor of law starting in Spring 2006. Angela Cornell will serve as a lecturer and director of the Labor Law Clinic.

Valerie P. Hans received her B.A. degree from the University of California at San Diego, and holds M.A. and Ph.D. degrees in psychology from the University of Toronto (1978). She taught in the departments of sociology and criminal justice at the University of Delaware from 1980 to 2005. Professor Hans was a visiting scholar at Stanford Law School from 1986 to 1987; a visiting professor in the department of legal studies at the Wharton School, University of Pennsylvania, from 1993 to 1994; and a visiting scholar and adjunct professor at the University of Pennsylvania School of Law from 2000 to 2001.

Professor Hans has published widely on issues relating to social science and the law, especially the jury system. She is co-author of Judging the Jury (with Neil Vidmar, Plenum, 1986), and has written many articles on jury selection, jury decision-making, jury instructions, jury bias, the jury in death penalty cases, and jury reform. She is also the author of Business on Trial: The Civil Jury and Corporate Responsibility (Yale University Press, 2000), a summary of ten years of her research on how juries decide cases involving business and corporate parties. She has testified as an expert witness on jury matters in criminal cases, and has consulted with lawyers and government agencies on law and social science issues.

In addition to her academic work, Professor Hans has served as co-director of research for the Special Committee on Gender of the District of Columbia Circuit’s Task Force on Gender and Racial Bias, and was a member of the Delaware Task Force on Effective Use of Juries. She also helped to found and served as the first president of the Consortium for Undergraduate Law and Justice Programs, which has as its goal the promotion of undergraduate programs in law and society.

Professor Hans is pleased to join the faculty at Cornell Law School, which has a strong reputation as a premier site for empirical studies of the legal system. She will teach courses in Social Science and Law, Empirical Studies of Law, and Jury Decision Making.
When she’s not working on law and social science, Professor Hans is likely to be found in her garden. She is soliciting advice about how to achieve peaceful coexistence with the abundance of deer and other wildlife that are currently using her new Ithaca backyard as a restaurant.

Michael Bend, Professor Hans’s husband, is relocating his educational consulting business to Ithaca; their son Zack is a seventh-grader at Boynton Middle School.

The Law School’s second new faculty member, Angela B. Cornell, graduated from the University of Washington School of Law in 1989. She worked with the Chilean Human Rights Commission from 1989 to 1990, and with APRODEH (Association for Human Rights) in Lima, Peru. She is the co-author of “Democracy, Counterinsurgency and Human Rights: The Case of Peru,” published in Human Rights Quarterly (November 1990). For six years she represented low-income immigrants, many of whom were fleeing persecution in their country of origin.

Previously Ms. Cornell was a partner at Peifer and Cornell, LLP, a small Albuquerque labor and employment law firm. She is recognized as a specialist in labor and employment law by the Board of Legal Specialization in New Mexico, and she has extensive union-side labor law experience, representing both public- and private-sector, blue- and white-collar unions. She also has considerable employment law experience, and has litigated in the following areas: Family and Medical Leave Act; Americans with Disabilities Act; Age Discrimination in Employment Act; race, national origin and sex (disparate treatment and sexual harassment) discrimination; First Amendment retaliation; and Title IX.

Prior to leaving New Mexico, she served as a Labor Commissioner on the New Mexico Labor and Industrial Commission, which hears appeals from the Labor and Industrial Division, and primarily enforces the state’s “little” Davis-Bacon Act. She also served on the Albuquerque Personnel Board, which, pursuant to the Merit System Ordinance, reviews the decisions of hearing officers when City employees contest termination or severe disciplinary action.

Ms. Cornell has a joint appointment with Cornell Law School and Cornell University’s School of Industrial and Labor Relations. She is developing a Labor Law Clinic, which will be offered in the spring. Students will have a unique opportunity to learn labor law through a classroom component combined with practical experience researching issues, providing advice, and representing unions in different forums. Ms. Cornell says, “Cornell is the ideal place to develop a Labor Law clinic, with its rich history, commitment and collective expertise in the area of labor and industrial relations. I am delighted to have the opportunity to be a part of the Law School community.”

**Visiting Faculty for the Academic Year**

The Law School is pleased to host visiting professors Jonas Grimheden and Alan Hyde, in residence for the 2004-2005 academic year.

Visiting Assistant Professor of Law Jonas Grimheden comes to the Law School from dual posts at the Faculty of Law, Lund University, Sweden, and the Raoul Wallenberg Institute for Human Rights and Humanitarian Law (RWI), where he is a project manager and researcher on programs in China.

Professor Grimheden graduated from Lund University, Sweden, with a degree in East and Southeast Asian Studies and a focus on the Chinese language. At Lund University, he studied law and received his first law degree (jur. kand., 1995). He received an LL.M. in international human rights law (1996), and an LL.D. (2004) on a dissertation concerning judicial inde
dependence under international human rights law with a particular focus on the People’s Republic of China. From 1999 to 2000, he established the Raoul Wallenberg Institute’s office in China. At RWI, Professor Grimheden oversaw educational programs designed for Chinese judges and prosecutors.

Professor Grimheden spent the fall of the 2001 academic year as a visiting scholar at Yale Law School, and the following spring as a visiting scholar at Harvard Law School. At Cornell, Professor Grimheden will teach Chinese Law and International Human Rights Law.

Professor Alan Hyde earned his A.B. from Stanford and his J.D. from Yale. Presently Professor of Law and Sidney Reitman Scholar at Rutgers University
School of Law, he has taught previously at New York University School of Law, and served as a visiting professor at Yale, Columbia, New York University, Cardozo, and the University of Michigan law schools.

Professor Hyde is the author of Working in Silicon Valley: Economic and Legal Analysis of a High-Velocity Labor Market (2003), Bodies of Law (1997), the co-author of Cases and Materials on Labor Law (2nd ed., 1982) with C.W. Summers and H.H. Wellington, and the co-author of Cases and Materials on Labor and Employment Law (forthcoming, 2006) with C.W. Summers and K. Dau-Schmidt. His current research projects include bargaining structures for low-wage service workers, game theory analysis of transnational labor standards, high-velocity labor markets like Silicon Valley, in which employees change jobs all the time and there are few trade secrets, and the design of a North American free labor market. He is a director of the Association for Union Democracy, and frequently writes briefs in labor and employment cases on behalf of the association and other employee rights organizations.

In the fall semester Professor Hyde will teach Labor Law and Transnational Labor Law, and, in the spring, he will teach Employment Law. Professor Hyde and his wife, civil court judge Ellen Gesmer, live in Greenwich Village. He has two children; Toby, a sports broadcaster in California, and Laura, an undergraduate at Stanford, who is spending this year doing HIV/AIDS education in Tanzania, and studying poetry at Oxford.

Professor Hyde is an amateur oboist who plays in chamber groups. His late father, he notes, graduated from Cornell (B.A. ’36, M.D. ’39), and he says he is “delighted to be renewing ties” with his father’s alma mater. “In addition to its outstanding law school,” Professor Hyde says, “Cornell University has one of the best economics and music departments in the country, and the very best school of industrial and labor relations. Who could ask for anything better?”

Lawyering Program’s New Faculty Members

This fall, three new faculty members join the Lawyering Program: Jessica Ciani-Dausch, Joseph C. Dole, and Anthony B. Schutz.

Jessica Ciani-Dausch, who joins the program as a lecturer, received a B.A. in International Studies summa cum laude from Miami University in 1998. In 2002, she graduated from a joint-degree program at Georgetown University, receiving a J.D. from Georgetown University Law Center and a Masters of Science in Foreign Service from Georgetown School of Foreign Service, with an advanced certificate in international business diplomacy. Her masters’ work concentrated on international commerce and finance.

Ms. Ciani-Dausch was an associate attorney in Washington, D.C., at Baker and McKenzie LLP, an international law firm, advising foreign and domestic clients on various securities regulatory matters. She assisted in the representation of several large custodian banks with respect to the application of U.S. and foreign laws to the custody of securities in foreign jurisdictions; advised foreign broker-dealers and foreign investment advisers on the application of U.S. securities laws to web-based and other cross-border business activities; and advised on the application of provisions of the Sarbanes-Oxley Act to U.S. and foreign issuers. Her writings include “New Rule Restricting the Purchase and Sale of Equity Securities,” published in BNA International World Corporate Finance Review in April 2004 (co-authored with Margaret R. Blake).

Ms. Ciani-Dausch taught English as a Second Language to adult immigrants in the Washington, D.C., area and provided pro bono legal assistance to the Humane Society of the United States. She will teach Lawyering at the Cornell Law School in the fall and spring semesters. “I am very much looking forward to bringing my corporate and international experience to the Lawyering Program,” said Ms. Ciani-Dausch. “I’m thrilled to have the opportunity to teach lawyering skills to first-year students. Coming from practice, I can attest that these foundational skills are absolutely essential to the practice of law, particularly in an international setting, where clear, effective communication is a necessity. Already my experience at Cornell has been a positive one due to the helpful and friendly nature of everyone at the Law School. I’m looking forward to making Ithaca, and Cornell, my home.”

A visiting lecturer during the fall semester, Joseph C. Dole is a Cornell alumnus. He graduated from Cornell in 1983, and received an M.P.A. from Syracuse University’s Maxwell School of Citizenship and Public Affairs in 1985. At Yale Law School, where he was awarded a J.D. degree in 1988, he was a senior editor of the Yale Law Journal. After graduation, he served as clerk

Most recently, Mr. Dole has been a visiting professor at the Syracuse University College of Law. He will teach in the Lawyering Program in the fall semester. Mr. Dole lives in Syracuse with his wife, Kate, and their twin sons, Sam and Harry. “I am excited about returning to Cornell as a teacher, rather than as a student,” Mr. Dole says. “The physical changes in the campus over the last twenty years are truly impressive.”

Anthony B. Schutz, visiting lecturer, is an assistant professor at the University of Nebraska College of Law. He received his B.S. in criminal justice summa cum laude from the University of Nebraska at Kearney in 1998, and his J.D. with highest distinction from the University of Nebraska College of Law in 2003. Mr. Schutz was a corrections officer for the Buffalo County Detention Center before law school. During law school, he worked for Cline, Williams, Wright, Johnson, and Oldfather, and was the editor in chief of the Nebraska Law Review.

Mr. Schutz spent the last two years as a judicial clerk for Hon. C. Arlen Beam of the U.S. Court of Appeals for the Eighth Circuit. Last year he also taught Legal Research and Writing as an instructor at his alma mater. He will teach as part of the Lawyering Program for the fall and spring semesters at Cornell, before returning to University of Nebraska College of Law as an assistant professor.

When he is not working, Mr. Schutz spends time with his wife, Cori, and children, Angelina and Berlyn, rides his motorcycle, and plays golf. “Cornell is one of the best law schools in the country,” Mr. Schutz says, “and I look forward to spending a year with the people who give it that reputation.”

**Visiting Faculty for the Fall Semester**


This is the third year at Cornell for Stephen Goldstein; he was Beth and Marc Goldberg Distinguished Visiting Professor in 2003, and adjunct professor of law in 2004. He received his A.B. 1959 summa cum laude from the University of Pennsylvania, and his J.D. 1962 summa cum laude from the University of Pennsylvania Law School.

After clerking for Justice Arthur Joseph Goldberg on the U.S. Supreme Court, Professor Goldstein joined the faculty of the University of Pennsylvania Law School (1966-76), before moving to Israel, where he became the Edward S. Silver Professor of Civil Procedure, Faculty of Law, the Hebrew University of Jerusalem. From 1987 to 1990, he served as dean of the law faculty at Hebrew University, and he continues on the faculty there. He has been a visiting professor at the University of California, Berkeley, Tulane, Cambridge University, and the University of Oxford.


The Law School most cordially welcomes Reg Greycar, who returns as a visiting professor. Professor Greycar also visited at the Law School last spring term from the University of Sydney, Australia; her profile appeared in the Spring 2005 issue of the Forum. She is teaching Feminist Jurisprudence this fall.

Eric A. Kades received his B.A. from Yale College (1984), worked at the Federal Reserve Bank and on Wall Street, then returned to Yale, earning his J.D. degree in 1994. While at law school, Professor Kades was an articles editor for the Yale Law Journal, and won a prize for Best Property Paper. He clerked for Judge Morton I. Greenberg of the Third Circuit, and began his teaching career at Wayne State University in Detroit, where he earned teaching awards in 1995, 1996 and 1997.
Professor Kades is currently on the faculty at William and Mary Law School in Williamsburg, Virginia. There, in 2004, he won both the law-student-selected Walter L. Williams Jr. Teaching Award, as well as the College of William and Mary’s Alumni Fellowship Award, a prize given to outstanding younger faculty members. His research centers on the application of economics to property rights in contexts ranging from eminent domain to the overuse of antibiotics.


Michael A. Perino received his J.D. from Boston College Law School, where he was elected to the Order of the Coif, and his LL.M. degree from Columbia Law School. He is currently a professor at St. John’s University School of Law in New York. His primary areas of scholarly interest are securities regulation and litigation, corporations, and complex litigation. He has also been the Justin W. D’Atri Visiting Professor of Law, Business and Society at Columbia Law School, and a lecturer and co-director of the Roberts Program in Law, Business, and Corporate Governance at Stanford Law School.

Professor Perino has authored numerous articles on securities regulation, securities fraud, and class action litigation. Congress relied on the empirical findings of his article “Fraud and Federalism: Preempting Private State Securities Fraud Causes of Action” (50 Stanford Law Review 273 [1998]) in enacting the Securities Litigation Uniform Standards Act of 1998. He is the author of the leading treatise on the Private Securities Litigation Reform Act, Securities Litigation After the Reform Act (CCH 2000). He has testified in both the United States Senate and the House of Representatives, and is frequently quoted in the media on securities and corporate matters. The SEC has retained him to provide it with a report and recommendations on the adequacy of arbitrator conflict disclosure requirements in securities arbitration. He will teach Business Organizations and Securities Regulation in the fall semester.

Theodore P. Seto received his B.A. magna cum laude from Harvard College, where he was elected to Phi Beta Kappa, and his J.D. magna cum laude from Harvard Law School. While in law school, Professor Seto served as executive editor of the Harvard Law Review. Upon graduation, he clerked for Judge Walter Mansfield of the U.S. Court of Appeals for the Second Circuit. He then practiced for fourteen years as a civil litigator and tax attorney with the firms of Foley, Hoag and Eliot in Boston and Drinker, Biddle and Reath in Philadelphia before joining the Loyola faculty in 1991.

Professor Seto has also served as a visiting professor at Université de Paris X. He was founder and deputy director of Loyola Law School’s Tax LL.M. Program from 2000 to 2004, and founder and director for the Center for Interdisciplinary and Comparative Jurisprudence from 2004 to 2005. He has served as articles editor of The Tax Lawyer, and published articles in the Yale Law Journal and the Tax Law Review, among others. His current research interests include tax theory and jurisprudence. He will teach Federal Income Taxation and International Taxation in the fall semester.

Kent D. Syverud, Marc and Beth Goldberg Distinguished Visiting Professor of Law, is currently on sabbatical from Vanderbilt Law School, where he serves as Dean and Garner Anthony Professor of Law. In January 2006, he will become Dean and Ethan Shepley University Professor at the Washington University School of Law in St. Louis.

Professor Syverud’s scholarship includes empirical studies of civil jury trials and the settlements that precede them. In 1977 he received at B.S.E.S. from Georgetown University and earned an M.A. in economics and a J.D. from the University of Michigan in 1981. He was law clerk to Justice Sandra Day O’Connor of the Supreme Court, and also practiced law at Wilmer, Curlet and Pickering. He established a reputation as a preeminent scholar in complex litigation, insurance, and civil procedure at Michigan Law School, where he taught from 1987 to 1997. He was a visiting professor at the University of Pennsylvania in
1997, and at the University of Toyko in 1994. He has served as president of the Southeastern Conference of the American Association of Law Schools, and is currently serving as president of the American Law Deans Association and chair of the Law School Admissions Council.

A renowned teacher and scholar, Professor Syverud has won outstanding teaching awards at both Vanderbilt and Michigan, and his scholarly work includes articles on a wide range of topics. Professor Syverud will be on campus from September 5 through September 17. He will be teaching Negotiations, a two-day compressed course.

**2005 Paris Summer Institute**

Ninety students attended the twelfth annual Summer Institute of International and Comparative Law in Paris. One-third were Cornell students, a third came from twenty-five other U.S. law schools, and the final third were from eleven foreign countries (Argentina, Australia, Brazil, Canada, El Salvador, France, Greece, Italy, Japan, South Africa, and Taiwan). Introductory lectures given by Professors Bernard Rudden (Introduction to the Laws of Europe) and Xavier Blanc-Jouvan (Introduction to French Courts and Legal Professions), as well as the traditional visits to the Cour de Cassation and the Conseil d’Etat, took place in the period from June 28 through July 1. The courses, which ran from July 4 through July 27, were: Comparative Corporation Law, Finance and Banking (Dean Stewart Schwab and Professor James J. Hanks Jr.); The Death Penalty: Comparative Practices and Perspectives (Professors Trevor Morrison and Sheri Johnson); International Commercial Arbitration (Professors John J. Barceló III and Tibor Várady); Comparative Legal Studies (Professors Mitchel Lasser and Annelise Riles); Introduction to French Law (Professors Claire Germain and Xavier Blanc-Jouvan); Comparative Free Speech, Press and Religion (Professor Steven Shiffrin); International Human Rights (Professor Muna Ndulo); International Sales Law (Professor Winnie Taylor); and Introduction to the American Legal System (Professor Faust Rossi). Students were also offered beginning and intermediate French classes.

On July 7, an alumni reception in honor of Dean Schwab was held at the Marie du Vème Arrondissement (City Hall for the Fifth Arrondissement) on the Place du Panthéon. The annual career panel featured three attorneys practicing in Paris: Eric Chang, J.D./Maîtrise en Droit ’02, an associate at Herbert Smith; Erica Stein, Counsel at the Paris Secretariat of the ICC International Court of Arbitration; and Jonathon Polier, Avocat à la Cour (a private practitioner in Paris). The Paul Hastings firm sponsored its annual reception at its Paris offices.

Students once again could choose from a wide array of city tours and field trips, organized by French language instructors Chantal Casanova and Claude Bédard-Claret, together with professional tour guide Laurent Brouazin. The events included evening visits to the Louvre and Orsay Museums; a bateau-mouche boat excursion on the Seine; a picnic at Versailles; and walking tours of the Ile de la Cité, the Marais, Montmartre and the Luxembourg Gardens. Students also toured the French National Assembly and the French Senate.

The program hosted a closing reception on Saturday, July 30, following the last examination. It was held at Le Cercle de l’Union Interalliée, thanks to the invitation of Professor Hanks. Over seventy students, faculty, and guests attended on a beautiful evening in Paris.

**Clarke Program Organizes Joint Conference on Legal Transplants and Mixed Jurisdictions**

Set in the Center for International Studies and Research (CERI) at Science Po, Paris, a two-day conference uniting fourteen prominent legal scholars from the U.S., Europe, Argentina, Taiwan, Japan, and China, took place on July 14, Bastille Day, to address legal transplants. The aim was to bring together Asianist and Europeanist scholars to discuss how law moves across jurisdictions, and to ultimately identify what Asian and European legal systems might share in their institutional design as they continuously undergo—to different degrees and at different moments—reform. The participants had a common interest in finding a vocabulary for the proliferation of the technology of law making. In all fourteen cases, the slightly unfinished quality of the presentations made them particularly effective in this setting.
As each was marked by a certain implicit *points de suspension*, post-presentation discussions were all the more generous in candor.

The comparative analytical framework addressed the relocation of legal meaning. Implicit references to peripheral matters concerning the politics of difference were raised to illustrate the complexity not only of relocation, but also of all translation—juridical, linguistic, and epistemological. But because the make-up of the conference was disciplinarily homogeneous, ultimately no overt importance was given to the non-legal institutions that are affected by and engage with the legal systems in flux.

To give an example of two “untranslatable” cultural concepts evoked by the particular legal systems in which these concepts find their historical origin: Jacobinism in France and Confucianism in China are concepts whose meanings may be sources of contentious debate in their country of origin, although everyone knows the concepts exist implicitly. The question is, how do those kinds of culturally ingrained idioms get transplanted to other systems, especially when to “know it’s there” is juxtaposed with “not knowing exactly what it is”? In other words, models of legal transplants will inevitably have different effects on one culture or another, particularly when certain understated meanings get redefined and reinterpreted epistemologically and linguistically.

The conference was composed of a series of portraits of particular legal situations, and the underlying attempt was to draw some comparative ties between seemingly disparate legal histories and cultural contexts. This created a subtle duality between the identified need to set all critical analysis of legal transplants in their appropriate and unique context, and the accepted challenge to perceive the potential commonalities between these different versions of the import and export of legal forms of reasoning.

• Annelise Riles (Cornell) opened the first panel with a presentation on the topic of “legal fiction” as the epitome of legal technique. Professor Riles stressed the relevance of ethnographic insight in the very discussion of form, suggesting that “forms generate us.”

• Christophe Jamin (Science Po) spoke about the way that legal transplants present certain shifts in the very status of jurisdiction, producing not only a strong impact at the institutional level, but also a continuous exchange between legal and socio-political systems.

• Mitchel Lasser (Cornell) proposed a slightly more optimistic examination of the French legal system. The French system, he said, is not monolithic; rather, it should be regarded as complicated, fractured, and in motion. Different versions of legal transplants give way to potentially useful, valuable, and productive entry points for both comparative legal analysis and practice.

• Pierre Legrand (Sorbonne Paris-I) asked how transplants could account for the translation of the specificity of a case, and pointed especially to the importance of respecting another way of coming to a legal issue under different circumstances.

• Zhiyuan Cui (Tsinghua University) invited participants to think about the normative assumptions embedded in the notion of “legal normalness.” What does it mean to become, or to aspire to become, a “normal” country?

• Amalia Kessler (Stanford) looked at the ways in which early modern English systems influenced the U.S. civil legal system.

• Maximo Langer (UCLA) introduced the analytical concept of “hybridity” to examine the confluences between civil and common law systems in Latin America.

• Takashi Uchida (Tokyo) spoke about the instrumentality of law for citizens in the context of privatization, and stressed the importance of looking at the connection between legal scholastic tendencies (he referred to “attitudes”) and current structural legal reforms.

• Grace Kuo (Taiwan) discussed the links between different legal vocabularies, elucidating the materiality of “family” vis-à-vis the law. The economic transaction of marriage practices illustrates a form of internal legal transplant—a meeting point where contracts law and family law intersect.

• Blanca Rodriguez Ruiz (Sevilla) illustrated how the law’s aim to regulate relationships between people becomes all the more challenging once the traditional and institutional conceptions of marriage and family shift in a given society.

• Lama Abu-Odeh (Georgetown) used the example of the Egyptian constitution, an “amalgamation of different ideological bends—neo-liberal, neo-colonial, socialist, Islamic,”
to illustrate the kinds of collages and superimpositions of certain legal systems. She contends, “They’ve never crossed anything out—they just keep adding.” She also mentioned how social movements in Egypt have managed to turn into human rights activism.

• Ralph Michaels (Duke) addressed the dichotomy between textual changes versus internal changes in legal transplants. In the absence of textual change, are there certain legal realities that transcend text and change?

• Kunal Parker (Princeton), to close the conference, invited his colleagues to think further about the often occulted roots of certain legal cultures. Drawing from his most recent research, he spoke of the different forms of historical consciousness in nineteenth-century U.S. law, in order to draw connections with American stereotypes about U.S. civil law. He stressed the importance of temporality and movement in the comparative legal analysis, bringing forth questions about how different times and spaces affect law.

The conference came to a close with a certain open-ended quality, which undoubtedly invited further reflection on the subject matter. It seemed clear that the fourteen members of the conference enjoyed the complexity of the debates at stake, coupling a sense of play with the significance of academic dialogue.

Professor Farina Named Fellow of ABA’s Administrative Law Section

Cynthia R. Farina, professor of law at Cornell Law School and associate dean of the Cornell University faculty, has been named a fellow of the section of Administrative Law and Regulatory Practice of the American Bar Association. This section of the ABA provides a forum for new ideas and developments in regulatory law. The section “regulates the regulators”; it provides guidance to federal agencies like the EPA, which draw up, administer, and enforce regulations largely on their own. It also publishes journals and reference works on administrative law, maintains a database of federal and state administrative law, and sponsors awards recognizing scholarship in the field. Section fellows are drawn from the top ranks of legal scholarship and practice.

“I was delighted to learn that our colleague, Cynthia Farina, has just been named a fellow of the Administrative Law Section of the American Bar Association,” said Stewart J. Schwab, the Allan R. Tessler Dean of Cornell Law School. “The list of fellows is an impressive collection of academics and practicing lawyers in the public and private sectors, including former solicitors general, a counsel to the President, U.S. Supreme Court justices, and top agency lawyers.”

After receiving her J.D. from Boston University, Professor Farina clerked for Judge Raymond J. Pettine, U.S. District Court for the District of Rhode Island, and Judge Spottswood W. Robinson III, U.S. Court of Appeals for the District of Columbia Circuit. She served as an associate with Foley, Hoag and Eliot before joining the Cornell Law School faculty in 1985.

Summers Lectures on Form at 2005 Annual Meeting Of Dutch Association of Philosophy of Law

On June 2, Professor Robert S. Summers was a guest at the Annual Meeting of the Dutch Association of the Philosophy of Law held at the University of Utrecht. He presented the Annual Plenary Lecture at this meeting. His topic was “Form and Function in the Law.” Professor Summers addressed the central themes in his forthcoming book on this subject.

The lecture had been published just prior to the meeting in the Dutch Journal for Legal Philosophy. This timing was to facilitate ready discussion of the lecture when given, and a most lively and extended discussion ensued.

Dutch Professors Visit Cornell Law School

On Wednesday, April 20, Ronald Janse and Peter Rijpkema, of the University of Utrecht in the Netherlands, visited the Law School. Their university is founding a law school and is in the process of planning the curriculum and considering possible teaching methods to be used.

The two visitors sat in on Professor Summers’s class in contracts, and Professor Clermont’s class for undergraduates on the nature and functions of law. They also interviewed teachers in the Clinic as well. They expressed special interest in the “Socratic Method” as used in some American law schools, and hope to introduce it in the Netherlands.
Gary P. Van Graafeiland ’72 On
Eastman Kodak Contracting

On Monday, April 25, Gary P. Van Graafeiland ’72, general counsel and senior vice president of Eastman Kodak Company, spoke to Professor Summers’s contracts class on the role of lawyers in advising on the contracting activities of a major American corporation. Mr. Van Graafeiland described several highly interesting types of “real-life” contract issues for the students and discussed a number of “contract lessons” he has learned. The hour closed with a question and answer session.

Mr. Van Graafeiland is a 1972 graduate of Cornell Law School and was a student of Professor Summers. Also, Mr. Van Graafeiland’s father, Ellsworth, was a 1940 graduate of Cornell Law School, and for about thirty years served as a judge of the U.S. Second Circuit Court of Appeals.

Jay W. Waks ’71 Elected Chair of Cornell University Council

On July 1, Jay W. Waks ’71 was elected the twenty-sixth chair of the Cornell University Council. Mr. Waks, who also chairs the Law School’s Advisory Council, is the fourth law alumnus to serve in this distinguished role, following Jeffrey S. Estabrook ’83, who chaired from 2001 through 2003; C. Evan Stewart ’77, who chaired the Council from 1993 through 1995; and John E. Rupert ’51, who was chair from 1977 through 1979.

The Cornell University Council is an organization of selected alumni and friends who are leaders in service to the University. The Council’s mission is to provide an opportunity to exchange information between the University and the communities represented by its members, to mobilize alumni in focused efforts that benefit the University, and to provide the University with a source of expertise in a wide range of areas, including admissions and financial aid, athletics, career services, the arts, governmental relations, human resources, international relations, student and academic services, sustainable development and environmental stewardship, and technology transfer.

Candidates for Council are selected on the basis of leadership, active involvement, and work in Cornell activities, achievement of a major leadership role in business, profession or other chosen work, and significant contribution to the betterment of society through leadership in the community, public schools, charitable organizations, or other humanitarian undertakings. For more information on the Council, see http://www.alumni.cornell.edu/council.

The chair of the Council oversees the organization and recommends to its Administrative Board new ways to increase the Council’s usefulness to the University. Mr. Waks, whose extensive leadership experience includes serving as chair of the Employment and Labor Law and ADR Practice Groups of Kaye Scholer in New York City, the international law firm of which he is a partner; serving as chair of the Law School Advisory Council, past national chair of the Cornell Law School Annual Fund, national co-chair of the Law School Dean’s Special Leadership Committee, and chair of several Class of ’71 Law School Reunion Campaign Committees; serving on Cornell’s School of Industrial and Labor Relations Advisory Council; and serving as a Fellow of the ABA Foundation, is well-suited to this significant alumni leadership role.

Said Dean Schwab, “All of us at the Law School are delighted by Jay’s election as chair of the Cornell University Council. Jay has been marvelously effective in every volunteer leadership role he has held at the Law School, and I have benefited greatly from his wise counsel as chair of the Law School Advisory Council. I have every confidence that Jay will continue to serve his alma mater with great distinction in this new and important role.”

“There is no greater honor than to be called upon to serve Cornell, and especially to lead a body of distinguished alumni and friends such as those who are on the Cornell University Council,” said Mr. Waks. “During this coming year, I expect to focus University Council members, more than ever before, on the significance of their role as Cornell’s premiere ambassadors. This will mean tapping the expertise of many of our devoted Council members to emphasize the treasures of Cornell to a wider variety of national and global communities than ever before.”
Law Students Take on Real Life Cases Saving Asylum Seekers

The inside of a U.S. jail cell is what he’s been looking at for the past thirteen months, waiting for his asylum appeal to be ruled on. If he is deported to the Dominican Republic, he will be killed. He knows this because he’s been threatened in jail, and thugs have made menacing remarks to his wife. For that reason, his name and location are not mentioned in this story.

Two Cornell law students, Ralph H. Mamiya ’06 and Krisitin M. McNamara ’06, have taken on his case through the Law School’s Asylum and Convention Against Torture Appellate Clinic.

Here is their client’s story. Entering the United States illegally in the late 1980s, he found employment as a mechanic, got married and raised five children. After drug dealers moved into his neighborhood—men who also happened to be Dominican—he wanted to do something to protect his children, so he volunteered and was recruited by federal agencies to act as an informer. Based on his testimony, very high-level dealers were convicted and deported. His identity was revealed to them inadvertently in a document turned over to the defense, leading to the threats on his life.

Despite his record of having helped the feds fight crime, he ended up in jail after he was convicted of two nonviolent infractions—misdemeanors akin to, say, driving without a license. U.S. law required that he be jailed, then deported to his country of origin because he had entered the country illegally, had criminal convictions, and had never completed the application process to become a citizen. Knowing he’d be identified and killed if he were repatriated, he requested asylum. An immigration judge denied his plea, and he remains in jail until an administrative appeals board reviews the case.

Law lecturer Estelle McKee and adjunct professor Stephen Yale-Loehr have been co-teaching the clinic for the past three years. The course, which is necessarily small, is always oversubscribed. “It’s crucial for a law school to offer such a course,” said Ms. McKee. “It’s a chance for students to learn about complex legal issues, fine-tune their research and legal analysis skills, and learn how to speak and work directly with a client.” It is crucial in another way: students serve the client population with the fewest rights, “not even the right to a court-appointed attorney. Many do not speak English. They often don’t understand why they are being held, and are terrified about being sent back to their native countries,” she said. “Imagine trying to make your case without knowledge of the law or the language,” said Ms. McNamara.

“Students have been clamoring for more clinical experience in law schools, and immigration and asylum law has become a passionate topic among law students,” said Professor Yale-Loehr. “The course is especially timely because Congress has just passed a law that makes it harder for immigrants to qualify for asylum.” “The course is a great educational opportunity for law students, because we learn about complex legal issues, and get to work on actual cases affecting someone’s life,” said Mr. Mamiya. He is especially interested in asylum law because it “incorporates human rights and is fairly revolutionary stuff. It is modeled on international refugee laws—although the U.S. has interpreted them more strictly than some other nations have—but the language is still there.” Among the grounds for asylum protection is persecution based on political opinion, or being a member of a religious or social group.

“A client’s credibility to a judge is very important in getting a favorable judgment,” noted Mr. Mamiya. “In our case, the judge in the initial hearing did find our client credible but didn’t see informants as ‘as a social group’,—rejecting the client’s defense, he explained. But Mr. Mamiya and Ms. McNamara found other cases where informants were held to be a social group by the courts—and are basing some of their appeal on those findings. “We have made some strong arguments, without a doubt,” said Mr. Mamiya. Their brief was filed with the Board of Immigration Appeals, which is expected to rule on the case shortly.

Most of the cases that the students work on, usually in teams of two, come through the Board of Immigration Appeals pro bono project, which is run by the Catholic Legal Immigration Network, Inc. (CLINIC). Clients must be deemed “meritorious” asylum seekers who did not have an attorney in their original im-
migration hearing and now need help appealing a decision. The students spend two-thirds of the course learning the ins and outs of asylum and immigration law, ethical and confidentiality issues, and how to interview clients and work with interpreters for non-English speakers. Early in the semester they also begin working on their cases. “We draft our briefs, workshop each other’s briefs, offer suggestions to make them stronger, more persuasive,” said Mr. Mamiya. When they were building their case, he and Ms. McNamara spoke with their client weekly over the phone and met with him in person.

Ms. McNamara said she found the clinic experience “a lot of work, intense, but incredibly rewarding. For the first time I felt that I could do something good with all this education.” Both she and Ms. Mamiya are committed to continuing to do pro bono legal work throughout their law careers as a result of their experience in the course, they said.

Ms. McKee said she finds teaching the course doubly rewarding. “The students are fantastic, and I can see the enthusiasm build in them” as the semester progresses. Said Professor Yale-Loehr, “They know they are doing important work, even saving someone’s life, if they are successful.”

Ithaca and the Battle for Same-Sex Marriage
As the previous semester came to an end, Students for Marriage Equality hosted a panel discussion at the Law School entitled “Ithaca and the Legal Battle for Same-Sex Marriage.” The speakers were Ithaca Mayor Carolyn Peterson, City Attorney Marty Luster, Ithaca attorney Mariette Geldenhuys, who is representing several of the twenty-five same-sex couples seeking marriage licenses in Ithaca, and Joseph Wheeler ’03, one of the plaintiffs in the lawsuit (Seymour v. Holcomb, 790 N.Y.S.2d 858).

Mayor Peterson recounted her experiences surrounding her March 1, 2004, public announcement that the City of Ithaca would support same-sex couples in achieving the right to marry in New York State. Just weeks into office, with same-sex marriage a hot political issue all over the country, and a strong gay and lesbian community in Ithaca, she decided to act quickly and decisively in support of the couples. She told the audience, “I know my community…. I had to and wanted to make some sort of decision.” Mayor Peterson’s support of gay marriage never wavered, despite receiving numerous hate mail messages following her decision.

City Attorney Marty Luster praised the work of twenty-three Cornell law students who assisted him during the Spring 2004 semester by preparing legal memoranda addressing the issues the City was likely to face in the upcoming litigation. He noted that since the City of Ithaca had been formally named as a defendant in the lawsuit filed by the twenty-five same-sex couples, the City’s standing to challenge the legality of the state’s prohibition on same-sex marriage was at issue. The City appeared as a defendant because the State Department of Health had required the City to refuse marriage licenses to same-sex couples. Mr. Luster explained that the City is making its constitutional claims under New York law rather than federal law, in order to insulate the case from review by the U.S. Supreme Court.

Mariette Geldenhuys delivered an analysis of the legal arguments she is making on behalf of the couples, discussing both due process and equal protection claims. She explained, “The right to marry the person of your choice is [a] fundamental right,” and that a prohibition on same-sex marriage also constitutes impermissible gender discrimination. Joseph Wheeler ’03 told the audience how he responds when people challenge him about gays’ and lesbians’ right to marry. He explained that same-sex marriage fits comfortably within the dominant legal and cultural norm of marriage as between two persons, and that allowing gays to marry does nothing to disturb this essential characteristic of marriage.

Lynne Stewart at Cornell Via Videoconference
Attorney Lynne Stewart spoke at Cornell Law School late in April, appearing via a videoconference hosted by student chapters of the National Lawyers Guild and the American Constitution Society. Cornell School of Industrial Labor Relations Professor Risa Lieberwitz introduced Ms. Stewart, who was out on bail following her February conviction by a federal jury on counts of conspiracy, defrauding the U.S. government, and
providing support for terrorism. The charges stemmed from her court-appointed representation of Egyptian Sheik Omar Abdel Rahman, an Islamic cleric convicted of charges connect with the 1993 World Trade Center Bombing. When Ms. Stewart issued a press release that Mr. Rahman had withdrawn his support for a ceasefire, later clarifying that he did not intend to urge a return to warfare, government prosecutors claimed that she had violated Special Administrative Measures (SAMs), authorized by the Patriot Act, that restrict communications between clients and the outside world.

Ms. Stewart explained that relaying messages and providing clients with a public forum was a part of zealous representation. Fielding a student question, Ms. Stewart explained that her role did not include, nor did this case involve, relaying a fatwa, or a command to kill, although she admitted having made a prior statement that armed struggle may be necessary in certain struggles against oppression. In its pursuit of the case against her, Ms. Stewart said, the U.S. government had raised charges on indictment that exceeded the range of her alleged misconduct, screened an inflammatory and irrelevant Osama Bin Laden video at her trial, and electronically eavesdropped on attorney-client meetings. Ms. Stewart suggested that she would pursue several constitutional challenges on a post-sentencing appeal.

Her talk raised issues that affect legal professionals regardless of their political stance. A seasoned public interest lawyer, Ms. Stewart urged that convictions such as hers would have a chilling effect on zealous client representation, and even deter competent, well-intentioned attorneys from accepting cases for unpopular defendants. She requested that attendees join a letter-writing campaign urging clemency from the sentencing judge. The sixty-five-year-old lawyer could face up to thirty years in federal prison.

Law School Recognizes Graduates During Final Convocation of the Class of 2005

The Cornell Law School recognized its graduating students during convocation ceremonies Sunday, May 15, at 2 p.m. in Bartels Hall on the Cornell University campus.

The actual degrees, conferred during the university Commencement on May 29, are as follows: Juris doctorate (J.D.) degrees were awarded to 195 students; one student received the Doctor of the Science of Law (J.S.D.) degree; sixty-two received Master of Laws (LL.M.) degrees; eight received Doctor of Law and Master of Laws in International and Comparative Law (J.D./LL.M.) degrees; two received Juris Doctor/Maitrise en Droit degrees; one received the Juris Doctor/Diplôme d’Études Supérieures Spécialisées-Droit et Globalisation Economique (J.D./D.E.S.S.) degree; and three received the Juris Doctor/Master of German and European Law and Legal Practice (J.D./M.L.L.P.) degrees.

During the Law School convocation ceremony, presided over by Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law, Amie Nicole Ely ’05, from Greybull, Wyoming, was chosen by her classmates to give the J. D. Student address (see page 13 in this issue). Agnes Poggi, LL.M. ’05, from Paris, France, spoke on behalf of her LL.M. classmates. The students selected John A. Siliciano, vice provost of Cornell and professor of law, to give the faculty address. Following the speeches, John DeRosa, assistant dean for student services, called each graduate to the stage to receive Dean Schwab’s congratulations on behalf of the Law School and the university.

Student Prize Awards

At the end of the spring semester, Dean Schwab announced the recipients of the Freeman, Gould, and Herzog prize awards for the 2004-05 academic year. These awards are made each spring from nominations submitted by members of the Law School community.

Freeman Award for Civil-Human Rights

This prize is awarded annually to the law student or students who have made the greatest contributions during his or her law school career to civil-human rights. This year’s co-winners are Judith A. Amorosa, Matt J. Faiella, Sara D. Greengrass, and Marie-Pierre Py.
**Stanley E. Gould Prize for Public Interest Law**

This prize is awarded each spring to a third-year student or students who have shown an outstanding dedication to serving public interest law and public interest groups. This year’s co-winners are Stacey D. Neumann, Karen M. Phillips, Jessica E. Polansky, and Matthew W. Wessler.

**Seymour Herzog Memorial Prize**

This prize is awarded each year to a student or students who demonstrate excellence in the law and commitment to public interest law, combined with a love of sports. This year’s co-winners are Jonathan E. Rebold and Dawningstar W. Sikorski.

**Carrie Davenport ’05 Wins 2005 Dubroff Writing Award**

Carrie E. Davenport ’05 has won the 2005 Dubroff writing award for the best student immigration writing from the American Immigration Law Foundation for her paper, “A ‘Brutal Need’: How Application of Expedited Removal to Potential Refugees Violates the Fifth Amendment.”

“This marks the fifth time in fifteen years that a Cornell student of mine has won the award. Must be something in the Myron Taylor water,” said Professor Steven Yale-Loehr. Information about Ms. Davenport’s paper, the award, and the writing competition can be found at http://www.ailf.org.

**D. S. Pensley ’06 Wins First Place in Writing Competition**

In August, the Pacific Legal Foundation (PLF) announced the winners of its sixth annual “Program for Judicial Awareness Writing Competition,” awarding cash prizes to three law school students for writing excellence. D. S. Pensley ’06, a J.D. candidate at Cornell Law School and an M.A. candidate in Cornell University’s Department of City and Regional Planning (specifically historical preservation planning), was the first place winner with her essay, “Close Encounters of the Local Kind: Proposing a Test of Intrinsic Fairness for Contested Development Exactions.”

“The winners of this year’s competition demonstrated not only exceptional legal writing talent, but also excellent legal reasoning analyzing some of the most intriguing issues being argued in the courts and academia today,” said program director and principal attorney R. S. Radford. “We’re pleased to award these students for their fine writing and research, and the hard work they obviously put into their essays.” The foundation will now work with the winners to have those essays published in legal and academic journals.

The student writing competition is part of PLF’s Program for Judicial Awareness, which promotes the publication of works of legal academic scholarship that advance an understanding of key constitutional issues before the nation’s courts. The Program for Judicial Awareness was established in 1999 to encourage balance and reason in legal scholarship addressing some of the most important issues of our time. The program works with law students, professors, and practicing attorneys to help ensure that legal professionals have access to a sound, balanced body of legal and academic resources to support their research, briefing, and decisions.

The yearly writing competition is open to students currently enrolled in law school or graduate school in the United States. The essays address one of three questions on an area of the law within the Foundation’s mission, incorporating pertinent case law and applicable academic literature. This year’s questions focused on property rights and the constitutionality of the Endangered Species Act. The Foundation is already preparing for the next competition and more information, along with a copy of the winning essay, is available at http://www.pacificlegal.org.

**The Class of ’08**

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 over 4,100 applications. The 193 members of the J.D. class hail from thirty-three states and nine foreign countries. Women constitute 50 percent of the first year class; 25 percent of the class are minority group members. They have earned their undergraduate degrees from one hundred and two colleges and universities, majoring in over forty-five different sub-
jects. The most represented undergraduate schools are Cornell, Georgetown, Dartmouth, Columbia, Harvard, and SUNY-Binghamton. Over fifty percent have had fulltime job experience, and close to ten percent have already earned a graduate degree.

But the Class of 2008 is more than just a number of academic and demographic statistics; it is a group of accomplished and diverse individuals. Below are brief resumes of some incoming students:

- **Audrey M. Yiadom** (New Jersey, B.A. Social Sciences Interdisciplinary, Cornell University) was a College Scholar while completing her B.A. at Cornell. She spent a summer in Ghana studying the effects of British colonialism on the country, and on its future development. Ms. Yiadom is a recipient of the Cornell Alumni Scholarship. She has decided to attend Cornell because “Cornell has the best program to support my study of international development.”

- **Michael H. Bornhorst** (South Carolina, B.S. in Radio/Television/Film from Northwestern University) may have written some of the jokes you laughed at as you watched television shows aired on the WB network, ABC Family Channel, and UPN. He started his career as a production assistant on the show *Friends*. Mr. Bornhorst is “pursuing a J.D. with hopes of practicing entertainment law, focusing on the rights of artists.”

- **Chris R. Gruszczynski** (New York, B.A. in Economics and Sociology, Cornell University) graduated from the MIT Sloan School of Management in the Finance Management Track in 2004. He has since been working as a senior consultant for a large consulting firm. He has worked previously for UBS Investment Bank, Sonic Trading, and Datek Online/Heartland Securities. While at Cornell as an undergraduate, Mr. Gruszczynski was president of the Economics Society and was a Regents Cornell Scholar. After law school, armed with M.B.A. and J.D. degrees, he hopes to “use my degrees and professional expertise to become a leader and innovator in the field of business law.”

- **Miguel Loza** (California, B.A. in Political Science, Stanford University) volunteered as a Spanish interpreter at the Stanford Law Clinic and as a tutor for local disadvantaged students while an undergraduate at Stanford. During summers in college, Mr. Loza interned at two different newspapers in southern California. He spent a semester in Chile learning about Chilean politics, history, and culture. Mr. Loza is a three-time recipient of High Honors for Academic Excellence from the Stanford Latino Community. He will be attending Cornell Law School for the “strength/reputation of the international law program, and the opportunities to study abroad.”

- **Lisa M. Newstrom** (Texas, B.A. in English, Northwestern University) spent two years as a bilingual elementary school teacher in Rio Grande City, Texas, for Teach For America, and is currently a bilingual special education teacher in Austin. During college at Northwestern, she was a post-adoption assistant at an adoption agency. She has received many scholarships, including a National Merit Scholarship. Ms. Newstrom has also won awards ranging from excellence in public service to academic accomplishments in writing. She “was impressed by Cornell’s…dedication to helping students who wish to pursue a career in public-interest law.”

These are just a few of the exceptional students that make up the class of 2008.

**Cornell Law School Welcomes LL.M. and J.S.D. Students from Around the World**

In mid-August, the LL.M. Class of 2006 arrived in Ithaca. All of the LL.M. students completed their first degrees in law in their home countries prior to coming to Cornell and many have practiced law for several years. The class includes academics, lawyers, judicial clerks, judges, in-house legal counsel, as well as students with various other legal backgrounds. The LL.M. students are a diverse and unique group with top academic credentials.
This year, the incoming class of fifty-seven students was chosen from close to 900 applicants. The students come from twenty-five countries and five continents. Thirty-five percent are from Europe (principally western Europe), forty-five percent from Asia, and the balance from the rest of the world (with Central and South America having the largest representation). Forty-two percent of the LL.M. students are women. In addition, four incoming J.S.D. students began their doctoral programs this fall. All of the J.S.D. students completed an LL.M. degree at Cornell Law School (three from the class of 2005 and one from the class of 2004) prior to beginning the J.S.D. program. The new J.S.D. students are from Argentina, Korea, and Taiwan.

The LL.M. Class of 2006 began its time at Cornell with a ten-day orientation program covering topics including "Introduction to the Common Law," "Federal and State Court Systems," "Introduction to American Legal Research," "Interdisciplinary and Critical Studies at Cornell," the New York State Bar Examination, and computer-based legal research, as well as tours of the school and campus, a reception with faculty, practical skills training, and tips on adjusting to life in Ithaca and at Cornell. The LL.M. students are totally immersed in the life of the Law School. They can select their courses from virtually all of the classes in the Cornell Law School curriculum, plus three LL.M.–specific courses (Principles of American Legal Writing, Contracts in a Global Society and U.S. Legal Research for LL.M. Students). This wonderful group of students contributes a distinct international flavor to the law school community.

Jane Deathe’s Retirement
On April 22nd, the Law School’s Berger Atrium was alive with students, alumni, faculty, and staff as the Law School hosted a celebration for director of financial aid Jane Deathe, whose retirement was slated for the end of June. Ms. Deathe touched the lives of thousands of students, first as a Law School employee, beginning in 1978, and then, in 1986, as the Law School’s director of financial aid. Richard Geiger, associate dean and dean of admissions, served as master of ceremonies. Speakers who honored Ms. Deathe included Kathleen Sullivan ’05, Tracy Mitrano ’95, chair of the Law School’s Advisory Council Jay Waks ’71, professor emeritus Ernie Roberts, and professor and former dean Peter Martin.

The speakers’ themes dealt with Ms. Deathe’s unwavering commitment to students, her professionalism, and the wonderful legacy she established during her time at the Law School. After the presentation to Ms. Deathe of several retirement gifts, including Cornell golf accessories and a table-top timepiece, Anne Lukingbeal, associate dean and dean of students, made a special presentation to Ms. Deathe of a memory book. The book consisted of hundreds of notes, cards, and remembrances from alumni, staff, and students on whom Ms. Deathe’s extraordinary combination of counseling skills and personal kindness had made an impression over the years.

Summer 2005 Public Interest Fellowships
The Law School’s Public Interest Fellowship (PIF) summer grant program continues to thrive thanks to the tireless and creative fundraising efforts orchestrated by the student Public Interest Law Union (PILU) and guided by Karen Comstock, assistant dean for public service. Our alumni continued to give generously through the Phone-a-thon and Mail-a-thon. Finally, Dean Schwab provided the last, crucial contribution, ensuring that every student who applied for a PIF grant and who secured qualifying work (broadly defined in the public interest and government sectors), would receive funding.

Public Interest Fellowship (PIF) Program
This year a record seventy-three students received PIF grants. Notably, twenty of these were second-year students, which is also a record. Given that second-year summer employment traditionally sets the stage for the initial post-graduate legal job, this increase in public sector 2L summer employment is emblematic of the growing interest among Cornell Law students in pursuing public sector careers.

The majority of students combine their PIF grant with a summer work-study award for a total summer stipend of $5,000 for second-year students ($2,600 PIF) and $4,000 for first-year students ($1,600 PIF). Some of the grants enabled students to work in situations as varied as the Georgia Capital Defenders Office, the South Carolina Equal Justice Alliance, Covenant House in New York City, the Federal Trade Commission in New York City, the International Criminal Tribunal for the former Yugoslavia at the Hague, Safe Horizon in Brooklyn, the office of Assemblywoman Loretta Weinberg in New Jersey, and the Tibet
Justice Center in Berkeley, California, along with numerous public defender and U.S. attorney offices in various states, including the office of the New York State Attorney General.

**Public International Summer Fellowship Program**

Students taking summer legal internships with government agencies or non-profit organizations outside of the United States are eligible for PIF grants. However, due to federal regulations, these students are unable to utilize federal work-study money to help fund their internships.

This year, through a generous contribution by the Berger International Legal Studies Program, five students received $2,400 Public International Summer Fellowships, which, coupled with their PIF Fellowships, enabled them to receive full summer funding: Benjamin Bang Yi Chou ’07 with International Labour Office, Geneva, Switzerland; Christine K. Gau ’06 with International Criminal Tribunal for the Former Yugoslavia, The Hague; Gregory F. Laufer ’07 with the United Nations International Criminal Tribunal for Rwanda, Tanzania (Greg also secured some funding through Amnesty International); Sharon F. Linzey ’06, with Kurdish Human Rights Project, London; and Ralph H. Mamiya ’06 with the Campaign for Good Governance, Freetown, Sierra Leone.

**Equal Justice America**

Equal Justice America is a non-profit organization that provides funding to law students for internships in organizations providing direct civil legal services to low-income clients. Cornell is one of forty law schools eligible to receive EJA funding. This year, five first-year students received EJA grants. In most cases, students were able to couple their grant with work-study funding to receive a total of $4,400.

Students who received EJA grants included Heidi L. Craig ’07 with Farmworker Legal Services; Jocelyn E. Getgen ’07 with Safe Horizon; Sathya S. Gosselin ’07 with Texas Rio Grande Legal Aid in Austin, Texas; Kristen A. Stanley ’07 with the Legal Aid Society of Rochester, New York; and Summer L. Sylva ’07 with the Native Hawaiian Legal Corporation, Honolulu, Hawaii.

**Equal Justice Works 2005 Summer Corps**

Equal Justice Works is a national organization that provides information, support and training for law students and lawyers pursuing public interest careers. Their Summer Corp program provided $1,000 AmeriCorps education award vouchers to 250 law students this summer.

Two first year students received these awards: Charlotte L. Lanvers ’07, with Disability Rights Education Defense Fund, Berkeley, California (Ms. Lanvers also received a PIF grant); and Justin D. Pfeiffer ’07, with the Cornell Legal Aid Clinic.

The Moot Court Board hosted the Cuccia Cup in November. Caleb B. Piron ’07 and John R. Byrne ’07 argued against Ari M. Selman ’07 and Martin L. Roth ’07 in a final round before a distinguished panel that included Hon. Michael Kanne, U.S. Court of Appeals for the Seventh Circuit; Hon. Peter Hall ’77, U.S. Court of Appeals for the Second Circuit; and Hon. Robert Hinkle, Chief Judge of the U.S. District Court, Northern District of Florida. In what the judges described as a close round, Mr. Selman and Mr. Roth were declared the winners and received the 2005 Cuccia Cup Trophy. Learn more about this and future tournaments at [http://mootcourt.lawschool.cornell.edu/](http://mootcourt.lawschool.cornell.edu/).
## JUDICIAL CLERKSHIPS

### CLASS OF 2005

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Judith A. Amorosa</td>
<td>Hon. Roberto Rivera-Soto ’77, New Jersey Supreme Court</td>
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<tr>
<td>Edmund S. Aronowitz</td>
<td>Hon. Robert Lewis Hinkle, U.S. District Court for the Northern District of Florida</td>
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<tr>
<td>Sebastien Beauregard (LL.M)</td>
<td>Hon. Mr. Justice Louis LeBel, Supreme Court of Canada</td>
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<tr>
<td>Ilana T. Buschkin</td>
<td>Hon. Paul Crotty LL.B. ’67, U.S. District Court for the Southern District of New York</td>
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<tr>
<td>John W. Cerreta</td>
<td>Hon. Samuel A. Alito, Jr., U.S. Court of Appeals for the Third Circuit</td>
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<tr>
<td>Imri Eisner</td>
<td>Chief Justice Aharon Barak, Supreme Court of Israel</td>
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<tr>
<td>Amie N. Ely</td>
<td>Hon. Stephen Robinson ’84, U.S. District Court for the Southern District of New York</td>
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<tr>
<td>Justin D. Fitzdam</td>
<td>Senior Judge Maurice M. Paul, U.S. District Court for the Northern District of Florida</td>
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<tr>
<td>Todd A. Gluckman</td>
<td>Hon. Frederick Martone, U.S. District Court for the District of Arizona</td>
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<tr>
<td>Dana E. Hill</td>
<td>Senior Judge Walter K. Stapleton, U.S. Court of Appeals for the Third Circuit</td>
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<tr>
<td>Michael Keegan</td>
<td>Hon. Carmen Alvarez, New Jersey Superior Court</td>
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<tr>
<td>Mikael F. Nabati</td>
<td>Hon. Faith S. Hochberg, U.S. District Court for the District of New Jersey</td>
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<tr>
<td>Stacey D. Neumann</td>
<td>Associate Justice John A. Dooley, Vermont Supreme Court</td>
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<tr>
<td>Jeffrey C. O’Neill</td>
<td>Hon. Juan R. Toruella, U.S. Court of Appeals for the First Circuit</td>
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<tr>
<td>Deanna N. Piros</td>
<td>Hon. Rebecca R. Pallmeyer, U.S. District Court for the Northern District of Illinois (to commence Fall 2006)</td>
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<tr>
<td>Anne C. Pogue</td>
<td>Court Clerkship, Superior Court of Massachusetts</td>
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<tr>
<td>Jessica E. Polansky</td>
<td>Hon. Jon P. McCalla, U.S. District Court for the Western District of Tennessee</td>
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<tr>
<td>Hayley E. Reynolds</td>
<td>Hon. Timothy M. Tymkovich, U.S. Court of Appeals for the Tenth Circuit</td>
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<tr>
<td>Benjamin Rosenblum</td>
<td>Hon. Peter J. Walsh, U.S. Bankruptcy Court for the District of Delaware</td>
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<tr>
<td>Abigail C. Schwartz</td>
<td>Senior Judge John C. Lifland, U.S. District Court for the District of New Jersey</td>
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<tr>
<td>Gregory A. Scopino</td>
<td>Chief Judge James Gray Carr, U.S. District Court for the Northern District of Ohio</td>
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<tr>
<td>Weihe Shang</td>
<td>Hon. Donald S. Goldman, Superior Court, 5th Vicinage, for the State of New Jersey</td>
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<tr>
<td>Colleen P. Sorensen</td>
<td>Hon. Eric Lee Clay, U.S. Court of Appeals for the Sixth Circuit</td>
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<tr>
<td>Jason D. Vendel</td>
<td>Chief Judge William G. Young, U.S. District Court for the District of Massachusetts</td>
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<tr>
<td>Daniel J. Walker</td>
<td>Hon. Richard C. Wesley ’74, U.S. Court of Appeals for the Second Circuit</td>
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<tr>
<td>Brad S. Weinstein</td>
<td>Hon. Joseph Tauro ’56, U.S. District Court for the District of Massachusetts</td>
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<tr>
<td>Matthew W. Wessler</td>
<td>Hon. Richard L. Nygaard, U.S. Court of Appeals for the Third Circuit</td>
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### Additional clerkships for previous years’ graduates:

#### Class of 2004

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<tbody>
<tr>
<td>Ross A. Feldman</td>
<td>Hon. James I. Cohn, U.S. District Court for the Southern District of Florida</td>
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<tr>
<td>David Q. Gacioch</td>
<td>Chief Justice Ernest C. Torres, U.S. District Court for the District of Rhode Island</td>
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<tr>
<td>Kristine M. Koren</td>
<td>Hon. Juan M. Perez-Gimenez, U.S. District Court for the District of Puerto Rico</td>
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<tr>
<td>Wasa S. Serry-Kamal</td>
<td>Hon. Micaela Alvarez, U.S. District Court for the Southern District of Texas</td>
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#### Class of 2003

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<tr>
<td>Jimmy Chatsuthiphan</td>
<td>Hon. Bruce E. Kasold, U.S. Court of Appeals for Veterans Claims</td>
</tr>
<tr>
<td>Michael J. Marando</td>
<td>Hon. William J. Martini, U.S. District Court for the District of New Jersey</td>
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<tr>
<td>Mark D. Villaverde</td>
<td>Hon. William J. Martini, U.S. District Court for the District of New Jersey (commenced 9/04)</td>
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#### Class of 2002

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<th>Name</th>
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<tbody>
<tr>
<td>Tim P. Kasulis</td>
<td>Hon. Joseph M. McLaughlin, U.S. Court of Appeals for the Second Circuit</td>
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</table>

#### Class of 2001

<table>
<thead>
<tr>
<th>Name</th>
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<tr>
<td>Manisha S. Desai</td>
<td>Senior Judge John T. Nixon, U.S. District Court for the Middle District of Tennessee</td>
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<tr>
<td>Joseph P. Facciponti</td>
<td>Hon. Kenneth M. Karas, U.S. District Court for the Southern District of New York</td>
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Editor’s Note: The following list highlights the publications produced by the Cornell Law School faculty during the 2004–2005 academic year.

JOHN J. BARCELÓ
William Nelson Cromwell Professor of International and Comparative Law and Elizabeth and Arthur Reich Director, Leo and Arvilla Berger International Legal Studies Program

ARTICLE:

JOHN H. BLUME
Associate Professor of Law and Director, Cornell Death Penalty Project

BOOK:

ARTICLES:


KEVIN M. CLERMONT
James and Mark Flanagan Professor of Law

BOOKS:


CONTRIBUTION TO BOOK:

ARTICLES:


ROGER C. CRAMTON
Robert S. Stevens Professor of Law, Emeritus

CASE BOOK:

ARTICLE:

THEODORE EISENBERG
Henry Allen Mark Professor of Law

CASE BOOK:

STATUTORY COLLECTION:

ARTICLES:


**Stephen P. Garvey**
Professor of Law

**Article:**

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

**Multimedia Projects:**


**Online Publication:**

**Jane L. Hammond**
Edward Cornell Law Librarian (retired) and Professor Emeritus

**Article:**

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

**Contribution to Book:**

**Michael Heise**
Professor of Law

**Articles:**


“Signaling and Precedent In Federal District Court Opinions” (with Andrew P. Morriss and Gregory C. Sisk), 13 Supreme Court Economic Review 63 (2005).


**Robert A. Hillman**
Edwin H. Woodruff Professor of Law

**Articles:**

**Other:**

**Robert C. Hockett**  
Assistant Professor of Law

**Articles:**


**Sheri Lynn Johnson**  
Professor of Law and Assistant Director, Cornell Death Penalty Project

**Article:**

**Robert B. Kent**  
Professor of Law, Emeritus

**Article:**

**Douglas A. Kysar**  
Professor of Law

**Contributions to Books:**


**Articles:**


**Book Review:**

**Jeffrey S. Lehman**  
Professor of Law

**Book:**

**Contribution to Book:**

**Articles:**


**Peter W. Martin**  
Jane M. G. Foster Professor of Law

**Online Publications and Other Media**
*Breaking Out of Legal Education’s Time, Place, and Manner Box*, DVD presentation published by the American Bar Association, online at http://www.law.cornell.edu/back-ground/distance/otb/ (2005).


**Article:**
TRÉVOR W. MORRISON
Assistant Professor of Law

ARTICLE:

BOOK REVIEW:

JEFFREY J. RACHLINSKI
Professor of Law

CONTRIBUTIONS TO BOOKS:


ARTICLES:


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

CONTRIBUTIONS TO BOOKS:
“Law as Object,” in Law and Empire in the Pacific: Fiji and Hawaii (Santa Fe, N.M.: School of American Research Press, Sally Merry and Donald Brenneis, eds. 2004).


ARTICLE:

EMILY L. SHERWIN
Professor of Law

ONLINE PUBLICATION:

ARTICLES:


BOOK REVIEW:

STEVEN H. SHIFFRIN
Professor of Law

ARTICLE:

GARY J. SIMSON
Professor of Law

CASE BOOK:

ARTICLE:

ROBERT S. SUMMERS
William G. McRoberts Research Professor in the Administration of the Law

BOOK:
Revised Article One and Amended Article Two of the Uniform Commercial Code Substance and Process, with James J. White (West Group, 2005).

CONTRIBUTIONS TO BOOKS:


“On Giving Form its Due—A Study in Legal Theory” in Proceedings of the Twenty-first IVR World Congress (Fanz Steiner Verlag, 2005).


ARTICLES:


“Form and Function in Discrete Legal Units and in a Legal System as a Whole,” 34 Netherlands Journal for Legal Philosophy and Jurisprudence 8-22 (2005).

MARTIN T. WELLS
Charles A. Alexander Professor of Statistical Sciences and Elected Member of the Law Faculty

ARTICLES:


“Mapping Multiple Quantitative Trait Loci by Bayesian Classification” (with M. Zhang, K. L. Montooth, A. G. Clark, and D. Zhang), Genetics 169, 2305-2318, 2005.

W. BRADLEY WENDEL
Associate Professor of Law

ARTICLES:


BOOK REVIEW:


DAVID WIPPMAN
Vice Provost for International Relations and Professor of Law

BOOK:


ARTICLES:


Faculty Profile

Theodore Eisenberg

Professor Theodore Eisenberg, Henry Allen Mark Professor of Law, is the author or co-author of scores of law articles. He helped found and co-edits the Journal of Empirical Legal Studies. He oversees the publication of a major treatise (Debtor-Creditor Law, LexisNexis), two casebooks (Bankruptcy, Foundation Press, and Civil Rights Legislation, LexisNexis) and a statutory supplement (Commercial and Debtor-Creditor Law: Selected Statutes, Foundation Press), and he writes the usual complement of book contributions and reviews. An interviewer would be forgiven for thinking that he’d be a forthcoming subject. But he waves questions away. “I’m not that interesting,” he says.

He’s sitting in his office in front of his desk, the appearance of which suggests the state of creation before God said, “Let there be light.” He rips open envelopes and brown mailers stacked around him as he answers questions. He promises not to try to read while he’s being interviewed.

He grew up in East Williston, Long Island, where his father was an accountant and his mother was a bookkeeper. He played football, basketball, and baseball, and he collected baseball cards. (“We found some when we were cleaning out my mother’s house earlier this year.”)

His family was Jewish, but his father sidestepped more public demonstrations of faith. His mother’s family was large, and more observant. They regarded Professor Eisenberg’s sometimes irreverent father with suspicion. His standing with them was not improved when he brought young Ted to Hebrew school and told the teacher, “This can’t interfere with Little League.”

In high school, Professor Eisenberg continued to play baseball. He also began to play bridge. He was good enough at it to enter tournaments. “I really enjoyed it,” he says, brightening. “It’s a partnership game. You do well if you don’t take control of things, and if you try to exchange information.” This sounds a lot like his style as a scholar at Cornell, where he is known for his willingness to let co-authors take over the parts of projects they care most about, while providing them with the information they need to succeed. “I guess so,” he agrees. He’s not that interested in the analogy.

His older sister went to Temple University, and, after he graduated from high school, Professor Eisenberg chose to go to college in Pennsylvania, too. He went to Swarthmore, where, in his sophomore year, he declared a major in physics. Did he dream of becoming a physicist? “No,” he says. “I had to declare a major.”

“There were some guys there who were just geniuses. I was nothing special. When I worked at it, I was O.K. I was in the honors program. If you do honors, for the last two years, you don’t have any classes, it’s just seminars, and there aren’t any tests, and at the end, you’re examined by an outside examiner. I was pretty worried about that. But I passed.” And he graduated. He still didn’t know what he wanted to do.

“I had no positive attraction to law school. People seem to have the impression that kids are supposed to know what they want to do. I don’t think that’s true.”

Positive attraction or not, he went to law school at the University of Pennsylvania, where he met three memorable teachers: “Paul Bender, the civil rights teacher, Curtis Reitz, and Martha Field. She was the first woman they hired, and I had her the first year she was there. She’s been a good friend. I was a research assistant for her.”

So when did Professor Eisenberg decide he wanted to be a law professor?

“After I graduated from law school, when I was clerking and writing articles at night. I began to think that maybe I wanted to teach, since that seemed to be how I was spending my time. I had more time in those days,” he adds, wistfully. That was in 1973, the year he clerked for Earl Warren. “He was retired by then, but retired justices are entitled to clerks. I enjoyed it. And he traveled a lot, and when he traveled, I got to work on my articles. I didn’t learn to write until I went to law school,” he adds. “Physics majors don’t do papers.”

After his clerkship was over, he went to work for a large law firm, and he continued to write at night. “The cases I was working on were not ones which required deep thought. They were mechanical. It was a large commercial practice. They did corporate law, tax law. I knew I wasn’t going to stay there, so I didn’t
feel like I had to bill an especially large number of hours. Mostly, as a young person, what you’re trying to do is avoid doing something really stupid.” One has the feeling that Professor Eisenberg succeeded at this.

“Anyway, the firm was very nice about what I was doing. They even supplied secretarial help. There were no computers in those days, you needed someone to type your stuff. My first paper (“Congressional Authority to Restrict Lower Federal Court Jurisdiction”) was published in the Yale Law Journal in 1974, and that was a good thing to have. At that time, you could get a job merely on the basis of a strong academic record and a clerkship. Now, you have to have published.”

His first teaching job was at UCLA; he moved there in 1977. He and his wife Lisa chose Los Angeles over the University of Minnesota because Lisa, a publisher, had better prospects there. He visited Cornell for the academic year 1980-81, and accepted a full-time post at the Law School the following year.

“It’s grown on me,” he says of Ithaca. “I’m a small-town person now. I walk to work.” His wife writes children’s books. Amazon lists dozens of titles by Lisa Eisenberg, books of riddles, mysteries; she’s as prolific in her field as her husband is in his. “She’s a better natural writer than I am. She says I write like a lawyer.”

His daughter Kate is in a combined Ph.D./M.D. program at the University of Rochester. She plans to become an epidemiologist. Another daughter, Annie, is about to graduate from Cornell, and expects to enter the Teach for America program in the fall. Tommy, Professor Eisenberg’s youngest, is a junior in high school.

What’s occupying him at the present time? “Well,” he says, puckishly, “I just cleaned a thousand emails out of my inbox. I only have six hundred to go.” He turns to more consequential metrics of progress. “The Journal of Empirical Studies is going well. We’ve put out six issues, and so far, we’ve gotten every one to the printer on time.”

The journal publishes studies he and other scholars have done which apply the principles of empirical social science research to the field of law. Those published in the initial issues have won a great deal of attention from the media. Professor Eisenberg seems to have gained equal satisfaction, though, from behind-the-scenes work he has done for large, high-visibility mass tort suits on tobacco and asbestos. “It’s amazing how useful quantitative analysis can be,” he says, growing suddenly animated. “I want to teach a course someday called ‘How to Win Cases Using Numbers.’ I’ve been lucky to work with some of the best lawyers in the country, and on some of the most interesting cases ever brought to court. It’s lots of detail work, and you can’t leave any loose ends. I wouldn’t want to be the lawyer in any of these cases, though.”

It’s clear that Professor Eisenberg considers his present situation—aside from the unfavorable obligation-to-time ratio—ideal. His computer monitor is at the ready with information about his newest case (“I can’t tell you about it,” he apologizes), his phone is ringing, and the hallways are full of colleagues and students to talk to. “That’s the thing about Cornell. It’s a big-league university and law school in a small community. Students have reasonable access to faculty. We tend to be here.” And Professor Eisenberg is delighted with that—just as long as he doesn’t have to talk about himself.

—Antonia Saxon

Alumni Profiles

Lisa Bronson ’82

Lisa Bronson ’82 has just begun a two-year appointment as a faculty member at the National War College. The college, Ms. Bronson explains, offers the military’s top commanders and senior diplomats a place to hone their leadership and diplomatic skills. “We stress the fundamentals of strategic logic as we examine how various entities must work together and relate to one another in national security decision-making.”

During Ms. Bronson’s career with the U.S. government, she has held numerous positions of increasing importance and responsibility. Prior to teaching at the War College, she was the deputy undersecretary of defense for technology security policy and counter-proliferation, and director of the Defense Technology Security Administration. She was the principal advisor to the Office of the Secretary of Defense on matters of technology security policy, counter-proliferation policy, and national disclosure policies, as well as on the Cooperative Threat Reduction Program. Previously, she was the deputy assistant secretary of defense for European and NATO affairs. In 2000, she was awarded the “Distinguished Executive” Presidential Rank Award for her achievements during her public service career.
Ms. Bronson received her B.A. from Cornell University in 1979, and was commissioned as a second lieutenant in the U.S. Army in 1979. “I was awarded an ROTC scholarship, and I knew that I owed the army four years of service,” she says, “but I really wanted to be a trial lawyer, so I was granted a three-year delay to complete my legal studies at the Cornell Law School.”

At the Law School, Professor Faust Rossi was one of her favorite teachers. “He taught trial techniques, evidence, and civil procedure, and he had uncanny ability to bring all of that to life,” she says. Ms. Bronson also comments on the constitutional law class taught by Professor McNeil, a visiting faculty member. “It was quite the experience if you were called on, because you would be the only one called on for the entire hour,” she says. “You really needed to be prepared for class.”

Ms. Bronson believes that critical thinking and excellent writing and communications skills are essential components of leadership. “You have to push yourself to develop the best writing and speaking skills possible,” she says. “When I would find myself walking with the Secretary of Defense to an important briefing I had to be able to distill a relatively complicated subject and make recommendations in five minutes or less. So it is critically important to be able present your case in a clear, logical fashion; be prepared to answer the rapid-fire questions; and expect to be challenged in everything that you do.”

After Ms. Bronson received her J.D. in 1982, she entered the U.S. Army Judge Advocate General’s Corps, where she served for six years, with tours in Germany and South Korea. While she was with the Third Infantry Division in Germany, Ms. Bronson handled general court martial cases, but was then asked to take on a special assignment: “I was asked to assist in the negotiation of the chemical weapons treaty. The U.S. delegates were very overworked, and what was supposed to be a two-week assignment lasted for six months.”

When she finished her tour in Germany, Ms. Bronson was assigned to the Second Infantry Division in South Korea, where she spent one year prosecuting criminal cases. “I handled a much higher caseload than civilian lawyers, and it was a useful experience,” she says. “I spent a tremendous amount of time in the courtroom dealing with a wide variety of cases, including blackmail, murder, and rape.”

She then returned to the U.S., where she served in the Tort Litigation Branch. There she defended military doctors in malpractice suits. “Soldiers cannot bring suit against the military physicians, but their spouses and children can sue the military,” she explains.

After completing six years of active duty, Ms. Bronson considered a career in the military, but other opportunities in government service presented themselves. She says that one such opportunity resulted from her previous work revising the chemical weapons treaty. She accepted a job in the Department of Defense (DoD), and in 1993, was promoted to the position of director for negotiations and implementation. She oversaw the development and implementation of DoD policies on nuclear, biological, chemical, and missile nonproliferation and arms control.

In 1996, Ms. Bronson became the director of NATO policy in the Office of the Secretary of Defense. In this capacity she oversaw the Department’s contribution to NATO’s Fiftieth Anniversary Summit. She was also a key negotiator of the 1997 NATO-Russia Founding Act, and helped to orchestrate the Department of Defense’s contribution to the ratification of NATO Enlargement by the U.S. Senate.

Ms. Bronson believes that government agencies should be more creative in attracting and retaining young men and women into government service. “It’s not realistic for anyone to stay in the same kind of job for twenty or thirty years,” she says. She suggests that government employees be encouraged to work in industry, go back to school, or pursue other careers for a few years and then return to government service. “I believe that we would reap great benefits from people who expanded their job experience and returned with a much broader perspective.”

For now, a small, select group does have the opportunity for professional growth at the National War College, where Ms. Bronson is currently teaching. “They take the very best U.S. military leaders and Foreign Service officials from the United States in the middle of their careers, and prepare them for positions of increasing responsibility,” Ms. Bronson explains. “In addition to emphasizing critical thinking, our students must develop strong writing skills. The class also includes foreign nationals from several countries, and when they are assigned to teams, this broad cross-section of students creates a very interesting dynamic when it comes to problem-solving,” she notes.
After she finishes teaching at the National War College, Ms. Bronson plans to continue her career in public service. “I want to go back and rethink some of my approaches to strategy and to learn more about other parts of the world,” she says. “I want to become as proficient a teacher as I can, and take some of what I am learning at the War College to develop enrichment courses and training materials for other employees in the Department of Defense.”

-Cynthia Tkachuck

Joseph J. Iarocci ’84

When he graduated from Cornell Law School, Joseph J. Iarocci ’84 started out like many of his classmates: he went to work for a large firm in New York City. “Even though I was an associate for Shearman and Sterling, working on mergers and acquisitions and making good money,” Mr. Iarocci says, “I felt there was something missing from my life.” He and his wife, Laura, decided to relocate to Atlanta, where he became a partner with the Atlanta firm Lamar, Archer and Cofrin. At the same time, he enrolled in a master’s degree program in theology at Emory University. Yet Mr. Iarocci still felt unfulfilled. “I realized that my job just was not doing it for me,” he says. “At the time that I had this feeling, I was sitting at my desk and leafing through The National Law Journal when I saw a job posted for General Counsel at CARE. I looked at the qualifications, which included big firm experience and an interest in public service, and it was like a light switch went off in my head.”

So, in 1998, after fourteen years in private practice, Mr. Iarocci applied for and was offered the position of general counsel at CARE, one of the world’s largest private relief and development organizations. He held that position until last year, when he became CARE’s senior vice president of strategic support and chief financial officer.

When he talks about his experience as general counsel, Mr. Iarocci exudes tremendous enthusiasm and passion. “It was the best legal job in the world,” he says. “We have 12,000 people at CARE, and almost all of them are overseas, with only about five hundred working in the United States. All of our program work is done outside of the United States. CARE and its partners work in more than seventy countries. Last year, CARE made a direct difference in the lives more than forty-five million people.” As general counsel, Mr. Iarocci was responsible for many of the same kinds of legal issues that confront any large international corporation: intellectual property, real estate conflicts, labor and employment disputes, as well as contracts and various legal documents.

The transition from private practice to the non-profit world was an eye-opening experience, says Mr. Iarocci. “I assumed that the non-profit world would operate in the same way as the for-profit sector, and that the general counsel would be a revered and respected person because of my title,” he says. “I soon learned that in the non-profit world, what counts is the program, which is made possible through the efforts of the thousands of people who work in the field overseas. So I had to set about learning about our efforts, building relationships with our staff in the field, establishing credibility, and overcoming the bias against people from headquarters.”

“I wanted to graduate from one of the best law schools in the country,” says Mr. Iarocci, when he is asked why he decided to come to Cornell. One of his favorite teachers was George Hay, the Edward Cornell Professor of Law, who taught anti-trust law at that time. Professor Hay, says Mr. Iarocci, instilled in his students the importance of being thorough and thoughtful in working through complex legal issues. “He is a great teacher, combining passion, intelligence, and humor,” says Mr. Iarocci. Professors Faust Rossi and Peter Martin are among his other favorites. “Of course,” he adds, “like all students, I worshipped Anne Lukingbeal.”

Mr. Iarocci, a tireless advocate and spokesman for CARE, was the keynote speaker for the Cornell Law School’s Cyrus Mehri Public Interest Speakers Series in March 2002, and the lead speaker at Cornell’s International Student Programming Board in April 2005. Through his interactions with the students, Mr. Iarocci has found that today’s students are much
more aware of global issues, and more interested in helping to solve them. “When I started in law school in 1981, I was part of the so-called ‘me’ generation, and got caught up in a tide of people who were really concerned about getting the good jobs and making money,” he says. “Compared to my classmates and me, I believe today’s students are not as self-focused, and want to help save the world.”

Mr. Iarocci has traveled across the globe and witnessed firsthand the enormous toll in human suffering caused by natural disasters and societal upheavals. He has a deep admiration and respect for those who work in the front lines of relief operations and understands that what really matters in the field was not who you are, but how you can help get things done. “I can never fully describe the sights, sounds, and smells I have experienced in some of the poorest parts of the world,” Mr. Iarocci says. “It is very difficult for people to understand the kinds of choices that extremely poor people face every day.”

When Mr. Iarocci presents the statistics of poverty in the world, the numbers are staggering: “More than one billion people survive on the equivalent of less than one dollar a day. About 300 million people in sub-Saharan Africa live on barely 65 cents a day.” Despite the overwhelming scope of the problem, Mr. Iarocci firmly believes that global poverty can be overcome. He said that CARE works with local partners to address the root causes of poverty and to empower people to exercise their human rights to things that most of us take for granted—food, water, shelter, basic health care, and education. In addition to providing direct relief during crisis situations, CARE works diligently for policy changes in poor nations, and helps develop self-sufficiency in small economies.

“The poor do not always have to be with us,” Mr. Iarocci says firmly. “Lack of exposure is the heart of the problem. Silence is one of poverty’s greatest allies. Once you meet extreme poverty, you never forget it. I am convinced that this extreme poverty can be ended. There are sufficient economic, technological, and human resources in the world to eradicate it.”

Although none of his three daughters has accompanied him on his trips abroad, Mr. Iarocci says that they have learned a great about global poverty. “They’re getting it through osmosis,” he says. They also are aware of how zealous and enthusiastic their father is about his work. “I always knew in my heart that I wanted to do something fulfilling,” Mr. Iarocci says, in describing his decision to join CARE. “Millions of people have been saved through CARE’s relief efforts,” he says, “and I encourage anyone who wants to learn more or help us to visit www.careusa.org.”

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**Student Profiles**

**April Genevieve Bullard ’06**

April Genevieve Bullard ’06 finds criminal law fascinating. While studying for her B.A. in psychology at Duke University, she read many histories and biographies about the FBI and CIA. “Law seemed like the right next step,” Ms. Bullard says. “You can have a direct effect helping people. I’m interested in the investigative and criminal aspects of it, but I also want to see a positive effect from the work I do.”

Ms. Bullard was raised in Raleigh, North Carolina. Her father is a physician; her mother is a nurse who took time off to raise Ms. Bullard and her younger sister, and now keeps her husband’s office running. The family is close-knit and supportive. “I decided to go to Duke to be close to home, because my sister is ten years younger than I am, and I wanted to be around while she grew up,” explains Ms. Bullard. “After that, I decided that twenty-two years in North Carolina was enough!”

“I chose Cornell because it was an amazing school, and the Law School has such a good community. I also chose Cornell for the weather—I thought it would make me stay inside and study,” Ms. Bullard had already lived in New York City, so she was prepared for the weather. She went to New York City in 2001 on the Duke in New York Arts Program. As part of the program, she worked on a pilot television series, assisting with script research, graphic design, and the production of the VH-1 show *Pop-up Video.* “We also went to any performance you can imagine—plays, ballet, opera, jazz. I chose the program because even if you live in a city, you don’t usually take time to do those things.”

Then came September 11, and the attack on the World Trade Center. “We lived in Brooklyn Heights, across the river from Manhattan, and we could see a cloud of thick, black smoke,” Ms. Bullard recalls. “My birthday is September 15, so I got the first flight I could home. When I returned the next Monday, I was the only person on the plane. That certainly made me think about going back to New York. Every other day there was something new: the anthrax scare, bomb threats to the subway and office buildings.”

At Cornell, Ms. Bullard’s most memorable experience has been with the Cornell Death Penalty Project, taught by Professors John H. Blume and Sheri Lynn Johnson. “They are just wonderful,” says Ms. Bullard. “They really took an interest in the students and gave them a lot of responsibility. I got to go to Iowa with another student, Beth Hogan, to conduct the interview of a federal witness, and to attend the sentencing phase...
of a capital trial in South Carolina. It was the first federal death penalty conviction in South Carolina’s history.” The sentencing was an intense experience, Ms. Bullard recalls. “It showed me that there are two sides to every story—the tragedy of two women who were killed, and also the tragedy of the young man on trial, how heartbreaking his background had been. He had no support, no guidance, and was unbelievably neglected when he was younger. I still don’t know how I feel about the death penalty,” she continues. “But I realize that without certainty of guilt, it’s a dangerous punishment.”

She has also found studying administrative law with Professor Cynthia Farina to be very rewarding. “Her door is always open,” says Ms. Bullard. “It’s nice to see that she and [Professor] Sheri Johnson are so successful, but still have families and personal lives as well.”

Ms. Bullard presently serves as a Judicial Codes Counselor for Cornell. She counsels and represents undergraduates charged with violating the Academic Code of Integrity or Campus Code of Conduct. “We serve as part defense counselor and part liaison,” Ms. Bullard explains. “I think there can be a wide rift between the administration and the students in situations where a student is charged with violating Cornell’s academic or conduct policies. I like to find a compromise between the student and the administration, where the student who is found guilty may obtain counseling or do community service work—something rehabilitative and productive.”

This fall, she works as a law intern in the Prosecution Trial Clinic in the Ithaca City Court. “We have a class component where we talk with police officers and simulate examinations,” Ms. Bullard explains. “Then we observe trials, and have the opportunity to prosecute small cases like traffic tickets or city code violations.”

After spending the past summer with a corporate law firm, she’s not sure that sort of legal work is for her. “I’m trying to straddle the line. My dream job would be to obtain a clerkship and then work as an assistant district attorney,” she says.

In her third year of law school, Ms. Bullard continues to study criminal law. Whatever her final career choice may be, however, friends and family remain essential. “I don’t want to go to a city where I don’t know anyone. Once you’re out in the working world, you need a support system and friends who are close by,” Ms. Bullard concludes.

~Judith Pratt

Maymangwa E. Flying-Earth Miranda ’06

For Maymangwa Miranda ’06, community is crucial. She speaks of the Native American communities where she grew up, the communities in Minneapolis where she earned a degree in interdisciplinary studies at the University of Minnesota, and the communities of Cornell and Ithaca. Ms. Miranda sees law as a way of developing, helping, and empowering communities.

Raised by her mother and grandmother, Ms. Miranda grew up in Mobridge, South Dakota, on the Standing Rock Reservation that straddles South and North Dakota. “I am affiliated with the Standing Rock Lakota and White Earth Ojibwe from Northern Minnesota,” she explains. “I am a citizen of the Gila River Indian Community in Southern Arizona.”

After attending a predominantly white school in Mobridge, Ms. Miranda transferred to an all-Native American high school. “I think I might be one of four students who went on to college, so it was a pretty big deal,” she recalls. Indeed, Ms. Miranda was accepted at Harvard, but didn’t want to move away. “Indians often don’t go to college because they don’t want to leave their home communities,” she explains. In fact, her grandmother, Patricia Locke, helped establish tribally-operated colleges on reservations to serve that need. “She was an advocate for Indian rights, particularly advocating for Indian education issues and indigenous language preservation,” says Ms. Miranda. “She encouraged me to go to law school.” Ms. Miranda notes that her grandmother will be posthumously inducted into the Women’s Hall of Fame this October, alongside such notables as Hillary Rodham Clinton.

At the University of Minnesota, Ms. Miranda found “plenty of opportunities to engage in student organization and connect with the community. I worked on mobilizing Native students in the higher education system, and bridging the gap between the
university and the impoverished neighboring communities.” Her community connections led to an internship, and then a job, at the Minneapolis Department of Civil Rights. When her grandmother died in 2001, Ms. Miranda and her new husband, Innael Miranda, a Chicano with migrant worker roots, decided to spend some time at her home. While there, they organized a field office on the reservation for the South Dakota Democratic Party, registering and educating American Indian voters.

Now it was time for the next step. “I knew from a very young age I wanted to go to law school,” says Ms. Miranda, “even before I really knew what a lawyer was.” Before coming to Cornell, she attended the Pre-Law Summer Institute at the American Indian Law Center in Albuquerque, New Mexico, joining forty other Native American students in an eight-week intensive program. “It was an incredible experience,” she recalls. “I met students from diverse tribal backgrounds who planned to attend law schools throughout the country.”

Ms. Miranda wanted to go to a prestigious law school, and chose Cornell because of the strong Native American programs for undergraduates, and the rural surroundings. Even with the support of her brother, who recently finished his undergraduate degree at Cornell, and her husband, a graduate student at the Cornell Institute for Public Affairs, her first year was tough. Ms. Miranda was one of a sprinkling of students from the western states, and the only Native American. “The challenge was not only academic, but emotional,” she admits.

Things got better in the second semester, and improved even more in her second year. Two Native American students returned from semesters spent elsewhere. Ms. Miranda attended a Federal Bar Association conference on Federal Indian Law, where she was elected to serve as an area representative for the National Native American Law Students Association. She worked in the Women in Law Clinic, serving women affected by domestic violence or abuse. “I was glad to know that I was contributing to this community,” she says. She was an Honors Fellow in the Cornell Lawyering Program, serving as a teaching assistant to Joel Atlas for a first year writing class. At the end of that year, Ms. Miranda received the Honorable G. Joseph Tauro Dean’s Prize for the most improvement between first and second year.

This past summer, Ms. Miranda clerked at Sonosky, Chambers, Endreson and Perry, LLP, a firm that represents tribal interests exclusively. “It was exactly the work I want to do,” Ms. Miranda says. “I found it so gratifying that my work was directly serving tribal clients. I’m thankful for that experience.”

As the president of the National Native American Law Students Association (NNALSA) and managing editor of the Cornell Journal of Law and Public Policy (JLPP), Ms. Miranda looks forward to a busy year. Her duties as NNALSA president include organizing a job fair, a national moot court competition, and developing other programs to support Native American law students. “This organization plays an important role for Indian law students. There are so few Indians in law school, especially in top tier law schools. I’m happy and excited to work within an organization that supports them.” In her role as JLPP managing editor, Ms. Miranda will have the opportunity to work with several authors throughout the year. Her enthusiasm for writing stems from her creative writing interests. “Had I not been a law student, I would have been a writer,” she explains. “When I entered law school, I reluctantly set aside writing poetry and performing in open mic poetry readings.”

After graduation, Ms. Miranda plans to work in Washington, D.C., as an advocate for Native American issues of national importance. “There are so few Indian attorneys, and so many issues that affect our communities, certain issues are often not represented,” Ms. Miranda explains.

Ultimately, she wants to move back west to offer direct legal services for the Indian community. Her husband wants to use international economic development models to aid disadvantaged rural communities. It will be a powerful combination. Wherever they choose to live, the community they serve will be central to their lives.

-Judith Pratt
Ellen Conedera Dial ’77 to Serve as WSBA President-elect

The Washington State Bar Association announced that Seattle attorney Ellen Conedera Dial ’77 has been elected to serve as WSBA president-elect for the 2005–2006 term. Ms. Dial will then serve the state’s 28,800 lawyers as the 116th president from 2006 to 2007.

Ms. Dial is a partner at Perkins Coie. She has participated in a broad variety of Washington State Bar activities and has assumed a number of leadership roles. She chaired several WSBA committees, including the Ethics 2003 Committee, the Legislative Committee, the Character and Fitness Committee, and the Committee on the Code of Professional Responsibility. She also served as executive editor for the Real Property Deskbook (second edition); is first member emeritus of the Real Property, Probate and Trust Section Executive Committee; and, since 2001, actively serves on the Facilities Committee. In addition to her work on WSBA committees, she frequently speaks at Continuing Legal Education courses on ethics as well as real estate matters.

Ms. Dial is known for her leadership and community service beyond the WSBA as well. She co-chaired the 2004 and the 2005 King County Bar Association Awards Committee, and is a fellow of the American Bar Foundation. She has also served as a board member and as president of the Saul and Dayee Haas Foundation, a private charitable foundation that makes individual grants to school children throughout the state of Washington. She currently serves on the board of the advisory committee to the University of Washington World Series at Meany and the YWCA.

Through her service to her profession and to the community, her peers have recognized Ms. Dial. In 2004 she received the WSBA’s highest honor, the Award of Merit. She has been listed in Washington Law and Politics’s “Washington Super Lawyers,” Chambers USA America’s Leading Business Lawyers for Business 2005, and in Best Lawyers in America.

“Ms. Dial embodies the best of our profession, a first-rate legal mind, a deep commitment to professionalism and the public role of lawyers, and the good sense and judgment we need in a leader,” wrote David Boerner of the Seattle University School of Law.

Howard S. Levie ’30 and the Korea Armistice

Although most fighting on the Korean peninsula ended in 1953, no permanent peace treaty has been signed to end the Korean War. Legally, a state of war still exists, and only an armistice—a temporary agreement to cease hostilities—has kept the peace between North and South Korea. The Korea armistice is unique because one soldier—Army lawyer Howard S. Levie—wrote most of it. Mr. Levie graduated from Cornell University Law School in 1930, and practiced law in New York City until he joined the Coast Artillery in 1942.

Mr. Levie spent most of World War II in staff assignments in the Pacific. At the end of the war, he was heavily involved in the return of American and British prisoners of war from China, Korea, and Japan. He also attended the war crimes prosecution of Japanese General Tomoyuki Yamashita in Manila, Philippines, in October 1945. Mr. Levie’s experiences sharpened his interest in international law and the law of war. In 1946, having advanced from second lieutenant to captain, he was offered a commission in the Judge Advocate General’s department, and he accepted it.

In mid-1951, however, then-Lieutenant Colonel Levie was reassigned to the staff of the U.N. Command Armistice Delegation. His legal training meant he was often tapped by the command to be a liaison officer, and also to serve as official U.N. spokesman. But his most important job became writing the words of a truce agreement that would stop hostilities and lay the groundwork for a permanent peace treaty.

While dozens of voices argued at daily negotiations in Panmunjom, Mr. Levie wrote. He had no guidelines, no precedent. But he knew about an armistice agreement that had been signed by Bolivia and Paraguay in 1936, and he used the cease-fire
Mr. Levie also borrowed from World War I armistice agreements in creating provisions that would control the exchange of American, South Korean, North Korean, and Chinese prisoners. It was not easy to find the right words for the agreement.

“We have to be very careful,” Mr. Levie told an interviewer in 1952, “that there are no oddities in the armistice that could be misconstrued later. Not only must [the agreement] be legally correct, but it must be correct in common sense, grammar, and everything else.”

Mr. Levie returned to the United States in March 1953. But his draft agreement remained in effect. When representatives from the U.N. Command, North Korea, and China signed an armistice agreement on July 27, 1953, they put their pens to a document that Mr. Levie had written almost single-handedly. The key provisions are familiar to soldiers who have served in Korea. The armistice created a demilitarized zone that, in Mr. Levie’s words, was “to prevent the occurrence of incidents which might lead to a resumption of hostilities.”

The agreement also created the Military Armistice Commission that meets today in Panmunjom, and the Joint Observer Teams that patrol the DMZ. Perhaps most important, Mr. Levie’s provisions about prisoners of war remained intact, ensuring that American, South Korean, and Allied captives came home.

Until mandatory retirement from the Army in 1963 as a colonel, Mr. Levie continued to be called upon to handle international law questions of complexity and importance. World-renowned in the legal community, it was no surprise when Mr. Levie started a second career as a college professor. He joined Saint Louis University’s law school in 1963, and taught international law there until 1976, when he reached the mandatory retirement age of sixty-nine. But Mr. Levie was not yet finished. Invited to join the Naval War College faculty, he taught military and civilian students in Newport, Rhode Island, for more than ten years. Mr. Levie, now 97, lives in a retirement home in Portsmouth, Rhode Island.

Operation Blowout and Other Work by Julie Crotty ’96

Julie M. Crotty ’96 presently serves as assistant director of mediation for the non-profit National Association of Securities Dealers (NASD). She likes her current position “because it combines my legal and business training. It’s a managerial role that draws on my legal background.” But Ms. Crotty’s artistic side has found an outlet as the creator of award-winning short films in which she often combines the roles of the actor, director, writer, and producer.

Her first major awards came two years ago when she produced, co-wrote, and played a lead in a short spy spoof called Operation Blowout, made with a team for the 48 Hour Film Project in New York City. The films are part of a contest held in various cities around the world by an organization called “The 48 Hour Film Project” (http://www.48hourfilm.com). Each year, invited teams make a short film (under seven minutes) in forty-eight hours. Each team pulls its genre out of a hat at 7:00 pm on a Friday night. All of the teams are given a required character, prop, and line of dialogue which must be included in the film. They are not allowed to write or shoot footage prior to the contest, and must turn in the completed short film by 7:30 pm the following Sunday. The result of Ms. Crotty’s team was Operation Blowout, which won awards for best use of required character and best use of prop.

The required prop in Ms. Crotty’s film (in which she played the “arch villainess”) was “the dinkiest little table fan you could imagine.” The plot (“quite campy,” says Ms. Crotty) involved a young, attractive “super-spy” sent in to infiltrate a group plotting to harm world leaders in the UN. The meeting turned out to be a group therapy session held on behalf of a roomful...
of neurotic villains, with Ms. Crotty’s character at the helm manipulating them as the therapist. At one point, her character used the tiny fan to revive herself while one of the tough-looking villains bored the group with a long recital of his woes. The required character was a nuclear scientist, D. Oswald Rathbone; he appeared in the therapy group, and as the plot unfolded, was also revealed to have taken part in the plot to demolish the UN with a “nuclear-powered fan.” The audience thoroughly enjoyed the entire show, as they did the previous year when the short horror film, Anxiety, which Ms. Crotty co-wrote and acted in, won a prize for best special effects.

Ms. Crotty recently entered a thirty-second comedic public service announcement (PSA) in a contest created by the Association of Conflict Resolution (ACR) of Northern California. The PSA, which she wrote, directed, produced, and acted in, promoted mediation, and won the “Mediation Gold Medal Award.” It was screened at the annual meeting of the ACR, at an exhibit at John Jay College, and, because several of the leads in the PSA were black, was also chosen and screened at the Arizona Black Film Showcase.

In her most recent project, Ms. Crotty directed, produced, co-wrote, and played a lead in a five-minute romantic comedy called The Sound of Mingling for this year’s 48 Hour Film Project. She and her crew were pleased to hear they had won three awards: best directing (Ms. Crotty’s first best directing award), best cinematography, and best use of prop (a musical instrument).

All of Ms. Crotty’s three films that she submitted to the 48 Hour Film Project (Anxiety, Operation Blowout, and The Sound of Mingling) were judged to be within the top ten films in New York for each respective year.

Class Notes

41 **Frederick L. Turner** has published a memoir of the life of his father, Fredrick Henry Turner. *Life in the Canadian/American Old West: Early Life of Fredrick Henry Turner* was put together by Mr. Turner from notes his father wrote late in life. By the time Frederick came around, his father had retired from adventuring and was working as a carpenter. Of his father, Mr. Turner says, “He taught me everything, dear old dad, except how to be a carpenter.” Mr. Turner, formerly a Methodist pastor, retired from the ministry in 1980. He practiced law only informally as a pastor but, in his retirement, has taken it up again. “I loved the law, the theory of it, and I still do,” Mr. Turner stated. He has also taught Latin, Bible studies, and world religion courses at Elmira College. In June this year, he and his wife, Evelyn (who assisted in the writing of the book on his father), celebrated their sixtieth anniversary.

48 An honorary Doctor of Laws degree was awarded to **Murray L. Cole** by Montclair State University in May. Mr. Cole has been a member of Montclair State University’s Board of Trustees for twenty-three years, and has led the board for ten of those years, from 1983 to 1989, and from 1995 to 1999. He is an active participant in numerous university events, as well as a generous contributor of financial assistance, property, and equipment. In addition, Mr. Cole has been president of the Passaic County Bar Association, and has received the New Jersey State Bar Foundation’s prestigious Medal of Honor.

50 **Harold H. Benjamin** continues to work for The Wellness Community, a national, non-profit organization dedicated to providing free support education and hope to people with cancer and their loved ones through support groups, educational workshops, and nutrition and exercise programs. He also remains in close contact with classmates Stephen Bermas, Morton Moskin, Emlyn I. Griffith, Herbert D. Feinberg, Gerald F. Phillips, Lloyd Frank, Marc Joseph, and Arthur H. Bernstein.

**Emlyn I. Griffith**, a recently retired attorney and New York State regent emeritus living in Rome, New York, was awarded an honorary doctorate during Colgate University’s commencement last May. It was the eleventh honorary degree he has received from colleges and universities across New York State and Great Britain.

52 **Margery Fischbein Gootnick** took office as president of the National Academy of Arbitrators in May. She has also been re-appointed to a third term on the Foreign Service Grievance Board by Secretary of State Condoleezza Rice.

53 In special ceremonies conducted at Cornell last November, President Emeritus Frank H.T. Rhodes named Buffalo attorney **John L. Kirschner** a foremost benefactor of Cornell. This designation recognizes outstanding service to and support of the university by alumni and friends. Mr. Kirschner was presented with a statue of Ezra Cornell, and his name was inscribed on the Uris Library terrace wall. Mr. Kirschner is a senior partner at the Buffalo firm of Saperston & Day.

The Volunteer Lawyers project and the Nassau County Bar Association named **Rudolph de Winter** as the Pro Bono Attorney of the Year. In 2002, after thirty-one years as partner, Mr. de Winter retired from the ministry in 1980. He practiced law only informally as a pastor but, in his retirement, has taken it up again. “I loved the law, the theory of it, and I still do,” Mr. Turner stated. He has also taught Latin, Bible studies, and world religion courses at Elmira College. In June this year, he and his wife, Evelyn (who assisted in the writing of the book on his father), celebrated their sixtieth anniversary.

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Winter retired from the Manhattan law firm of Kramer Levin Naftalis & Frankel LLP and began his work with the Landlord/Tenant Project. In addition to his over five hundred hours of service, he also stays busy with his sixteen grandchildren.

Robert F. Grele was awarded an honorary degree from the Quinnipiac University School of Law. Mr. Grele is a principal in the law firm Cummings & Lockwood LLC, where he has practiced in the firm’s Greenwich office since 1964. He is primarily involved in estate planning, estate and trust administration, and all aspects of real estate. Mr. Grele is an avid sailor and a member of the Riverside Yacht Club, where he serves as an officer.

Four alumni who are partners at Proskauer Rose LLP were listed in the 2005-2006 edition of The Best Lawyers in America. The honorees were Arnold S. Jacobs ’64, Allan H. Weitzman ’73, Ronald R. Papa ’79, and Paul A. Salvatore ’84. The book is the nation’s definitive guide to legal excellence, and lawyers are chosen for inclusion based upon a peer-review study of 16,000 leading attorneys nationwide.

In an April ceremony in Paris during the general Assembly of the Comité Maritime International (CMI), on the occasion of his retirement as senior vice-president and member of the CMI executive council, Frank L. Wiswall Jr. was elected vice-president honoris causa under a constitutional provision invoked only twice previously. Although retired, Mr. Wiswall will continue to represent CMI in its special consultative status with the United Nations. The CMI, founded in 1897, is the oldest international organization in the maritime field.

William A. Kaplin is the author of American Constitutional Law: An Overview, Analysis, and Integration, a book published in late 2004 by Carolina Academic Press. Mr. Kaplin was one of six American scholars invited to participate in the first ever U.S.-U.K. roundtable on higher education law, held in June of 2004 at Oxford University. For the academic year 2005 to 2006, he will be on leave from Catholic University School of Law in Washington, D.C. and will serve as visiting professor of law at Stetson University College of Law in Gulfport, Florida.

Harold G. Cohen has been appointed vice chair of the New Jersey State Bar Association Equity Jurisprudence Committee. The mission of the committee, which consists of selected Judges of the Superior Court—Chancery Division and attorneys having active chancery practices, is to sustain the excellence of the equity bar and the high caliber of litigation for which the Chancery Courts in New Jersey are known. Mr. Cohen is a partner in the Cherry Hill office of Dilworth Paxson.

Bruce W. Felmy of McLane, Graf, Raulerson & Middleton, P.A. of Manchester, New Hampshire, recently chaired the first long-range planning process for the New Hampshire court system since the early 1990s, at the request of the New Hampshire Supreme Court. His planning committee’s report, A Vision of Justice—The Future of the New Hampshire Courts, sets forth a set of recommendations for the New Hampshire justice system in the areas of enhancing service to the public, making courts more accessible and understandable, implementing technology, improving training and procedures, and assuring high quality and accountability. Mr. Felmy has practiced at the McLane firm since his graduation and is the co-chair of the firm’s litigation department.

After a thirty-year career with the City of Kalama-zoo, Michigan, Robert H. Cinabro retired as Kalamazoo City Attorney in June. He has formed a professional corporation to practice as a municipal law attorney and consultant. Mr. Cinabro also recently had a book published, An Ellis Island Story, by Vantage Press in New York.

New York State Supreme Court Justice Thomas A. Dickerson continues writing in the class action area with the publication in June of his 316-page revision of Article 9 of Weinstein Korn & Miller’s New York Civil Practice (Lexis-Nexis online) as well as articles on class actions in the New York State Bar Association Journal, New York Law Journal, and Class Action Reports. Justice Dickerson is presently in charge of tax certiorari and condemnation proceedings in the Ninth Judicial District covering the counties of Westchester, Putnam, Orange, Rockland, and Duchess.
Allan H. Weitzman ’73 and Paul A. Salvatore ’84, both partners at Proskauer Rose LLP, were listed in the 2005-2006 edition of The Best Lawyers in America.

Carl H. Esbeck is back on the faculty of the University of Missouri School of Law after a time in Washington, D.C., where he served as senior counsel to the Deputy Attorney General at the U.S. Department of Justice. He teaches Civil Procedure, Constitutional Law, Religious Liberty, Civil Rights, and a seminar on the foundations of the American Constitution.

James C. Gacioch continues to litigate on behalf of plaintiffs and civil defendants with O’Connor, Gacioch, Leonard & Cummings, LLP, in Binghamton, New York. Mr. Gacioch is serving his second term as vice president for the Sixth Judicial District with the New York State Bar Association on its Executive Committee and in its House of Delegates. He also is one of five editors of the new Weinstein Korn & Miller's New York Civil Practice series. Mr. Gacioch’s son, David Quinn Gacioch ’04, is an associate in the Boston office of McDermott, Will and Emory, LLP.

The Rochester Business Journal and the University of Rochester Simon School of Business awarded Joyce P. Haag and Ann Schneppe McCormick ’81 the “Rochester’s Influential Women” award in June. Ms. Haag is currently the general counsel of Eastman Kodak and Ms. McCormick serves as general counsel of Home Properties, Inc.

The Boston Bar Association (BBA) has named Mitchell H. Kaplan co-chair of the BBA Delivery of Legal Services Section. Mr. Kaplan is a member of the Major Commercial Litigation Group and chair of the Securities Litigation Practice Group at the Boston law firm of Choate, Hall & Stewart LLP. His practice is concentrated in the area of complex commercial litigation, including securities litigation, accountant’s liability, contests for corporate control, SEC investigations, and disputes arising from real estate syndication and development. In addition to his current position, Mr. Kaplan has been extremely committed to the BBA; he is a past member of the BBA Council and a past co-chair of the BBA Administration of Justice Section. He was also appointed by the Chief Justice of the Massachusetts Supreme Judicial Court to a term on the Massachusetts Board of Bar Overseers, serving as its vice-chair for two years. Mr. Kaplan is a director of Greater Boston Legal Services and a member of the Board of Advisors of the Lawyers Committee for Civil Rights.

Attorney Jeremiah J. McCarthy of Williamsville, New York, was sworn in as president of the Bar Association of Erie County at its 118th annual meeting and election held in June. Elected by the Bar Association membership in 2004, Mr. McCarthy has just concluded a one-year term as vice-president. A partner in the Buffalo law firm of Phillips Lytle LLP concentrating on commercial litigation, Mr. McCarthy began his legal career at the Buffalo law firm of Moot & Sprague.

Gibbons, Del Deo, Dolan, Griffinger & Vecchione announced that Shepard A. Federgreen has been named a director in the firm. Mr. Federgreen works in the firm’s New York office as a member of the Real Property and Environmental Department. He concentrates his practice in complex commercial real estate transactions involving properties throughout the United States. In addition to conventional commercial real estate transactions, Mr. Federgreen has also represented clients in the acquisition, disposition, and financings of hotels and motels, ranging from destination resorts to independent motels. He was recently elected to the membership of the American College of Real Estate Lawyers.

Donald G. Davis has joined the law firm of Ellenoff Grossman & Scholl LLP in New York City, effective June 2005, as a partner in the firm’s commercial litigation group. He has also published, in June of 2005, a book of political satire, entitled One State Two State Red State Blue State: A Satirical Guide to the Political and Culture Wars (Wasteland Press), which has been endorsed by President Clinton’s former humor speechwriter.

Brooks E. Harlow, a partner in Miller Nash’s business department, was elected by the Federal Communications Bar Association (FCBA) to be its delegate to the American Bar Association’s House of Delegates. The FCBA is a volunteer organization of attorneys, engineers, consultants, economists, government officials and law students involved in the study, development, interpretation and practice of communications and information technology law and policy. With three thousand members, the FCBA has been the leading bar association for communications
As the ABA delegate, Mr. Harlow will also serve on the FCBA’s Executive Committee. This will be his second term on the Executive Committee, having previously served as Chapter Representative. A partner in Miller Nash’s Seattle office, Mr. Harlow focuses his practice on the telecommunications, energy, and internet industries. He also continues to speak across the country on these subjects. Most recently, he co-chaired the Tenth Annual Seattle Telecommunications Law Conference in 2005. As one of the largest multispecialty law firms in the Pacific Northwest, Miller Nash LLP serves clients locally and worldwide from its offices in Portland, Oregon, and Seattle and Vancouver, Washington.

The Rochester Business Journal and the University of Rochester Simon School of Business awarded Ann Schnepp McCormick the “Rochester’s Influential Women” award in June.

After nineteen years in private practice, ten of which were as partner, Victoria Potelicki Vance moved from the law firm of Arter & Hadden to The Cleveland Clinic Foundation, where she serves as associate counsel and director of medical litigation for The Cleveland Clinic. This position serves both the main campus in Cleveland, and the Clinic’s facilities in Florida. Ms. Vance and her husband, Rick, have three daughters: Bailey, Robin, and Riley.

Charles D. Cramton, Cornell Law School’s assistant dean for graduate legal studies, was appointed to the New York State Bar’s special committee to study whether the bar exam adequately measures professional competence, its effects on law school curricula, and on diversity in the judiciary and the bar. The committee is comprised of the dean, professors, and leaders of bar association committees related to legal education.

President George W. Bush nominated Dennis P. Walsh to the National Labor Relations Board (NLRB). Mr. Walsh will serve for the remainder of a five-year term expiring in December 2009. While awaiting Senate confirmation, Mr. Walsh is serving as special assistant to Wilma B. Lieberman of the NLRB, and has previously served as a Member of the NLRB.

Joseph J. Iarocci was the keynote speaker for the International Festival hosted by the International Student Programming Board at Cornell in April. Mr. Iarocci is the senior vice president of strategic support and chief financial officer of CARE USA, one of the world’s largest private humanitarian organizations, which is dedicated to ending global poverty by empowering women. He gave a speech entitled “A Tsunami Every Day,” which contrasted sudden, high-profile humanitarian emergencies with the state of extreme poverty that exists in the world “every day of every week of every year.” (See profile of Mr. Iarocci on page 41 of this issue.)

Bonnie A. Redder, a partner in Hodgson Russ LLP’s Health Law Practice Group, has joined the board of directors of The Theatre of Youth, a Buffalo, New York, nonprofit theater company. The Theatre of Youth is a professional company of adult actors who perform for young audiences to instill and nurture an appreciation of live theater as well as provide a stimulating cultural experience. At Hodgson Russ, Ms. Redder concentrates her practice in health and hospital law, and she serves as outside corporate counsel to a number of hospital systems.

Paul A. Salvatore was one of four alumni, all partners at Proskauer Rose LLP, who were listed in the 2005-2006 edition of The Best Lawyers in America. The book is the nation’s definitive guide to legal excellence.

Hodgson Russ LLP partner John J. Zak gave a presentation entitled “Beyond Good Governance—Avoiding Director Liability Though Indemnification and Insurance” at the Canadian Corporate Counsel Association’s national spring conference in Toronto, Ontario. The conference, entitled “Corporate Counsel and the Global Village: Meeting the Challenges of Doing Business Beyond Our Borders,” was attended by more than 290 people. Mr. Zak is a partner in the firm’s Corporate & Securities Practice Group. He concentrates his practice in U.S. securities regulation and compliance, mergers and acquisitions, and corporate law and governance. He regularly counsels Canadians on U.S. securities and corporate law matters.

Richard E. Jackim is pleased to announce that the Exit Planning Institute recently published his book The $10 Trillion Opportunity—Designing Successful Exit Strategies for Middle Market Business Owners. With the aging of the baby-boomer generation, over seven million businesses are expected to change hands over the next fifteen years. As a result, exit plan-
ning will need to become an important part of every professional advisor's vocabulary. The book is designed for attorneys, financial advisors, insurance consultants, estate planners, and other business advisors who want to learn how to incorporate exit planning into their professional practices. Copies are available through most major on-line resellers or at www.exit-planning-institute.org.

88 Carl J. Boykin has joined the staff of the United States Attorney's Office as an assistant U.S. attorney. Mr. Boykin's duties and responsibilities will include coordinating investigations and prosecutions of federal criminal offenses as well as prosecuting appeals on behalf of the United States, primarily in the U.S. Court of Appeals for the Second Circuit, New York City. U.S. Attorney Glenn Suddaby noted, “the people of the United States will be well served by such a highly skilled and experienced person who possesses the dedication, professionalism, and integrity which will make him an outstanding assistant U.S. attorney.”

Roberto H. Castro reports that he is busy working through the CFA Charterholder designation, IAS and US GAAP harmonization and differences, and several chapters of two upcoming books, one involving FLP valuation, and the other on fair value. He is also working on a peer-reviewed forensic economics journal. Mr. Castro invites alumni, both here and abroad, that are interested in submitting articles to the journal to contact him for more information.

89 Thomas E. Gilbertsen has been named chair of the Litigation Section at Collier Shannon Scott, PLLC, in Washington, D.C. He was also the featured speaker at the Northstar Conference Class Action Litigation Summit in New York City on June 2005.

Chief Judge Joel M. Flaum of the United States Court of Appeals for the Seventh Circuit is pleased to announce the appointment of Pamela Pepper to a fourteen-year term as United States bankruptcy judge for the United States District Court for the Eastern District of Wisconsin. She took office in July. Ms. Pepper served as a law clerk to Hon. Frank M. Johnson Jr. of the United States Court of Appeals for the Eleventh Circuit, and then worked as an assistant United States attorney in Chicago and Milwaukee. Among her many professional activities, she serves as chair of the Board of Governors of the State Bar of Wisconsin, president-elect of the Milwaukee Bar Association, treasurer of the Association for Women Lawyers, and editor of the Seventh Circuit Bar Association Circuit Rider. She also serves on the boards of the Wisconsin State Public Defender and Federal Defender Services of Wisconsin.

90 Adam Newhouse married Yumi Takahashi on April 29, 2005, on Magic Island in Honolulu. Classmate Mark Mukai attended the reception. Mr. and Ms. Newhouse had earlier celebrated a traditional wedding in Tokyo.

The U.S. Senate confirmed Philip J. Perry on June 9 as general counsel of the Department of Homeland Security. He was officially sworn in by Secretary Michael Chertoff, and took office on June 10, 2005. “I am pleased to have Phil serve as general counsel of the Department of Homeland Security,” said Secretary Chertoff. “I look forward to his counsel and leadership as we pursue our mission of preserving our freedoms while protecting the nation’s security.” Mr. Perry most recently served as a partner with Latham & Watkins, LLP. Previously, he served as general counsel in the Office of Management and Budget in the Executive Office of the President. Mr. Perry has also served as acting associate attorney general, and principal deputy associate attorney general at the Department of Justice.

91 Mario D. Carballo and his wife, Mary, welcomed their third daughter, Angelina Kattia, into the world on April 14, 2005.

Perry J. Nagle and his wife, Indah, are proud to announce the birth of their first son, Clayton Ismail Nagle, in December 2003. The Nagles recently relocated to Milwaukee, Wisconsin, where
Perry joined classmate Kelly Kimmel Falkner at the law firm of Gutglass, Erickson, Bonville, Seibel & Falkner, S.C.

The law firm of Hunton & Williams has elected Jeffrey W. Gutchess to its partnership. Mr. Gutchess is a member of the litigation, intellectual property, and antitrust team in the firm’s Miami office. His practice focuses on commercial litigation, class action defense, and international dispute resolution.

Patricia A. Barasch and her husband, Paul Furtaw, announce the arrival of Cassidy Ilana Furtaw Barasch. Their “winter sunshine” arrived on February 11, weighing 7 pounds, 9 ounces, and measuring 20.5 inches long.

Deborah A. Czuba will be taking a new position as a staff attorney at the Office of the Georgia Capital Defender.

David W. Engstrom has been named of counsel to the firm Harkins Cunningham LLP. Mr. Engstrom is a commercial litigator with broad experience representing clients in complex cases in federal and state courts, at both the trial and appellate levels. He has represented clients in securities fraud and derivative actions, antitrust actions, and other general commercial matters. Mr. Engstrom clerked for Hon. Janis Graham Jack, U.S. District Court, Southern District of Texas, from 1995 to 1997.

Jill R. Gaulding was named the co-winner of the Collegiate Teaching Award for the 2004-2005 academic year at the University of Iowa College of Law, an annual honor voted on by the students. Professor Gaulding teaches courses in contracts, employment discrimination, and comparative employment law.

Riccardo A. Leofanti has been promoted to partner at Skadden, Arps, Slate, Meagher & Flom, LLP, beginning in April 2005. He is based in the firm’s Toronto office, where he advises Canadian companies and investment banks on U.S. securities laws and international corporate finance matters.

Robert F. Teplitz and wife welcomed their first child, Benjamin Martin (8 pounds, 10 ounces, on March 29, 2005). The Teplitz family also moved into a new house that they had spent the previous year and a half building. In addition, Mr. Teplitz was appointed chief counsel/policy director to Pennsylvania Auditor General Jack Wagner.

Jonathan M. Brand has been appointed the eleventh president of Doane College in Crete, Nebraska, beginning his duties in July. Founded in 1872, Doane College is the oldest four-year, private liberal arts institution in Nebraska. Doane College’s 300-acre residential campus in Crete has an enrollment of approximately 1,015 students. President Brand moved from his current post of vice president for institutional and budget planning at Grinnell College, where he worked with former Cornell Law School Dean Russell Osgood. President Brand and his wife, Rachelle LaBarge, have two children: Madeleine (nine) and Ethan (seven).

Sarah Richards moved from Chadbourne & Parke LLP in New York City to become assistant general counsel at Avon Products, Inc. She now works with Kim Azzarelli ’97 at Avon headquarters.

Eric D. Yordy and his wife, Dina, announce the birth of their second son, Caleb Evan, born February 25, 2005. Caleb joins his brother Joshua Dallin, who is “a very busy two-and-a-half-year-old.” Mr. Yordy currently serves as director of New Student Programs at Northern Arizona University.

Robert L. Kilroy has been named as a “Massachusetts Rising Star, Super Lawyer” in the May 2005 edition of Boston Magazine. According to the article, the listing in Boston Magazine represents the top 2.5% of the “best up-and-coming lawyers” in Massachusetts. Mr. Kilroy is a labor and employment lawyer specializing in employment litigation with the law firm of Mirick, O’Connell, DeMallie & Lougee, LLP, in Westborough, Massachusetts.

Preti Flaherty of Portland, Maine, announced in April that Sigmund D. Schutz has been named a partner with the firm. Mr. Schutz practices with the firm’s environmental and litigation groups and has extensive experience in the firm’s media law practice, which is the largest in the region. Later in April, with his colleague Jonathan S. Piper, Mr. Schutz won a Maine Supreme Court decision allowing the public access to investigative records related to allegations of sexual abuse by eighteen or more deceased Roman Catholic priests. The decision, on behalf of the state’s largest newspaper publisher, Blethen Maine Newspapers, Inc., requires that the Maine Department of Attorney General disclose the names of the priests accused of sexually abusing children. The names of victims and witnesses will remain confidential. The decision is the rare case in which the media has successfully obtained investigative information from law enforcement. In addition to his work with Preti Flaherty, Mr. Schutz also serves as chair of the board of directors of the Southern Maine Chapter of the American Red Cross, clerk of the Maine Freedom of Information Coalition, and serves on the Environmental Technology Board of the Maine Technology Institute.
Perkins Coie announced that Mark A. Metcalf has joined its national business practice group as an associate. He will practice at Perkins Coie’s Seattle office and will focus on corporate governance and transactions. Prior to joining Perkins Coie, Mr. Metcalf practiced for five years as an associate at the Palo Alto, California, office of Wilson Sonsini Goodrich & Rosati.

Darian M. Ibrahim has joined the law faculty at the University of Arizona James E. Rogers College of Law as an associate professor. At Arizona, he will teach courses in contracts, corporations, and animal rights. He recently published articles in the Delaware Journal of Corporate Law (2005 lead article) and the Alabama Law Review. He and his wife, Jamie Heisler Ibrahim, a 2003 graduate of the University of Virginia School of Law, now live with their three dogs in Tucson, Arizona.

Alan J. Phelps and Anne S. Phelps ’01 adopted a baby girl, Marina Josephine, from Kazakhstan in May. After a long trip abroad, they were able to bring Marina home. They report that she is a “happy and busy” baby.

Malcolm LaVergne is living in Albany, New York, where he has established a solo practice, the Law Offices of Malcolm P. LaVergne, specializing in real-estate transactions and civil litigation. Mr. LaVergne looks forward to hearing from classmates and friends. He can be reached at mlavergne@lavergnelaw.com.

London Meservy has opened his own firm based in San Diego, California. He represents clients in a variety of litigation matters focusing primarily on business, employment, and personal injury disputes. Mr. Meservy also provides employment and business counseling to clients in an effort to avoid future litigation. The firm’s website is www.meservylaw.com.

Jennifer A. Minear recently joined the Immigration Practice Group of McCandlish Holton PC in Richmond, Virginia. Her practice focuses on representing foreign nationals and companies in the processing of immigrant and non-immigrant visa petitions, as well as applications for U.S. permanent residence and citizenship. Ms. Minear and her husband, Patrick R. Harrison, live in the Richmond suburbs, from which Mr. Harrison commutes to the University of Virginia in pursuit of his Ph.D. in English Literature.

Kenneth H. Park has become an associate in the New York office of Riker Danzig Scherl Hyland & Perretti LLP. He focuses his practice on insurance coverage and commercial litigation.

Juscelino F. Colares has accepted a tenure-track legal professorship with Syracuse University College of Law. He will be teaching courses related to international business transactions.

Steven E. Savage and his wife Carol welcomed their twins, Cannon and Mahalia, on January 23, 2005. Mr. Savage reports, “all are happy and well.” Mr. Savage is an associate assigned to the New Jersey office of Latham and Watkins LLP, focusing on tort and environmental litigation matters.

Editor’s Note: The alumni office receives information for the class notes section from various sources. All information is subject to editorial revision. Please be aware that the Forum is produced a few months in advance of when readers receive it. Class note information received after production has begun will be included in the next issue.

Send information you would like reviewed for possible inclusion in future issues of Forum to the alumni office at 382 Myron Taylor Hall, Ithaca, NY 14853 or via e-mail to alumni@lawschool.cornell.edu. The office can also be contacted by phone (607 255-5251) or fax (607 255-7193).

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.

In Memoriam

Abraham R. Goldman ’29
Ruth Rosenbaum Roemer ’39
Samuel Michael Schatz ’42
Ogden Reed Brown ’48
Herbert Fishbone ’49
William B. Lee Jr. ’49
Lawrence H. Schultz Jr. ’52
Robert Cantwell ’56
Melvin H. Osterman ’57
John Carter Bacot ’58

John J. Fitzgerald ’58
Donald E. Lampson ’58
Jack Lincoln Sanders ’59
Harry Stewart Chandler ’69
Peter Raymond Schlam ’69
Edward H. Fox ’71
Clayton M. Axtell ’73
Raymond J. Urbanski ’76
David A. Ailola ’85
Does your class year end in a “6” or “1”? Please contact the alumni office if you are interested in helping plan your class reunion:
607-255-5251 or alumni@postoffice.law.cornell.edu

Reunion brochures will be mailed in the spring. Look for details for online registration at www.lawschool.cornell.edu/alumni/reunion