Changing the Legal Regime:
Using Force in Iraq, Afghanistan, and Beyond ................. 1
David Wippman

Contract Lore ......................................................... 8
Robert A. Hillman

News ............................................................................. 15
President Lehman Joins Law Faculty .................................... 15
Dean Search Update ....................................................... 15
Conference on Asian Financial Markets ............................ 17
Dean Lukingbeal Elected to National Law Placement Board ....... 20
Minorities in the Law Conference .................................... 20
The Class of 2003 ......................................................... 21
New Records for Reunion Fund-Raising ............................. 22
Scholarship Established in Memory of Prof. Oberer ............... 22

Faculty Notes ..................................................................... 23

Profiles ............................................................................. 33
Leslie G. Landau ’83 ........................................................ 33
Paramjeet “Tony” Sammi ’98 ............................................. 34
Lynne Campbell Soutter ’03 ............................................ 35
James Sahngwon Yoon ’03 .............................................. 37

Alumni ............................................................................. 38
Highlights and Photos of Reunion 2003 ............................... 38
Alumni Events in NYC and Washington, D.C. ...................... 40
Class Notes ....................................................................... 41
Changing the Legal Regime: Using Force in Iraq, Afghanistan, and Beyond

David Wippman

The last few years have witnessed a dramatic and in many respects divergent transformation in the attitudes of the United States and other countries toward the use of force. Two seminal events have driven that transformation: the end of the Cold War and the September 11 attacks. The former has given the United States new freedom to use force abroad; the latter has given it new reasons to do so. Together, these events have led the United States to interpret the *jus ad bellum*, the law governing decisions to use force, and the *jus in bello*, the law governing how force is used, in ways that maximize U.S. freedom of action and correspondingly alarm many other countries, including many close U.S. allies.

The UN Charter, which governs decisions to use force in international affairs, and the Geneva Conventions of 1949, the primary treaties governing the conduct of warfare, in large part represent responses to the unbridled violence of World War II. The Charter’s rules are designed to outlaw force in international affairs except when used in the common interest as determined by the UN Security Council. The Geneva Conventions are designed to moderate some of the harshest aspects of warfare by mandating minimum standards of treatment for injured or captured combatants and for the civilian populations of states engaged in armed conflicts. Both sets of rules are based on certain assumptions about the nature of war and other threats to international peace. Perhaps most fundamentally, both are premised on the belief that war is principally a form of conflict between states (or at a minimum, between a state and an insurgent group that controls and administers territory), and that states have reciprocal interests that may induce them to forego armed conflict in most instances, and to abide by the laws of war when conflict does break out.

In this sense, the drafters of the UN Charter and the 1949 Geneva Conventions resemble the proverbial generals planning to fight the last war. The nature of armed conflict and the actors engaged in it have changed in unanticipated ways. After World War II, national liberation struggles and internal conflicts (albeit with frequent meddling from outside states) largely replaced international conflicts as the dominant source of large-scale violence in international affairs. The UN Charter rules were ill-suited to these conflicts, but no amendments were feasible. In 1977, following three years of discussion and negotiation, states did agree on two additional protocols to the
Geneva Conventions, designed in part to address the status of national liberation movements and the role of non-state actors involved in internal conflicts. But even these changes did not anticipate the contemporary threats posed by international terrorists with possible access to weapons of mass destruction. In any event, the United States refused to become a party to the Geneva protocols, fearing among other things that they went too far towards putting non-state actors (including those inclined to adopt terrorist tactics) on a par with the regular armed forces of sovereign states.

The United Nations has never functioned as its creators hoped. Cold War tensions prevented the UN Security Council from functioning as a global collective security mechanism. Indeed, only once in the 45 years from the UN’s creation until the break-up of the Soviet Union did the Security Council authorize the use of force (in Korea), and only then because the Soviet Union was temporarily boycotting the Council in a dispute over the decision to seat the representative of the Republic of China rather than the representative of the People’s Republic of China. Still, inter-state wars proved infrequent, and states at least attempted to shoehorn their actions into the Charter framework. Thus, the United States justified interventions in Grenada, Panama, Nicaragua and elsewhere as “self-defense,” and the Soviet Union claimed that it was “invited” into Afghanistan and various recalcitrant members of the Warsaw Pact.

The end of the Cold War upset this peculiar legal equilibrium. The United States emerged as the sole remaining superpower, with an unrivalled capacity to use military power abroad. Russia’s difficulties in its war with Chechnya demonstrated the relative weakness of the next greatest military power, and the Europeans, despite their continuing efforts to generate a common foreign and security policy, have continued, both individually and collectively, to fall further behind the United States in terms of military capability. Nonetheless, in the early 1990s, the United States seemed ready to work with the Europeans and through the United Nations to accomplish shared policy objectives, beginning with the use of force to deliver humanitarian assistance to a disintegrating Somalia, and proceeding episodically through the eventual imposition of peace in Bosnia in 1995. During this brief post-Cold War honeymoon, the United States found it relatively easy to generate (or block) Security Council resolutions in a way compatible with U.S. interests.

The honeymoon ended with Kosovo. The United States and its NATO allies decided that stability and humanitarian interests demanded the use of force to prevent Serb human rights abuses in Kosovo from escalating into another regional conflict. But Russia, with longstanding historical ties to the Serbs, and China, concerned about the growing willingness of western states to use force abroad in what China deemed internal matters, both made it clear that they would oppose any Security Council resolution authorizing the use of
force. NATO used force anyway—a decision that would have been unthinkable during the Cold War. Many analysts viewed NATO action as a clear breach of the UN Charter; others worked to carve out a justification for humanitarian intervention. In any event, when the bombing ended, the Security Council approved NATO’s terms for ending the conflict and the dispute was papered over relatively quickly.

But the September 11 terrorist attacks opened new fissures that cannot be so readily bridged. This time, the United States had a plausible argument that it had been the victim of an armed attack that justified a military response. No doubt the drafters of the UN Charter had not envisioned transnational non-state terrorist groups flying jetliners into buildings when they included the “inherent right of self-defense.” And it seems likely that, prior to September 11, most states would have viewed a terrorist attack of this sort as a criminal act but not as an armed attack within the meaning of the UN Charter. Indeed, many states have been critical of the United States in the past for responding to terrorism through military force rather than police action (e.g., the 1998 cruise missile strikes against Afghanistan and Sudan). Even the United States has usually treated terrorist acts as international crimes rather than armed attacks. In the case of the destruction of Pan Am 103, for example, the United States chose to pursue sanctions, extradition, and trials rather than military action. But the scale of the terrorist assaults in New York and Washington (and genuine sympathy or a desire to avoid alienating the United States) led most states to support the U.S. position that the September 11 attacks amounted to an armed attack that triggered a right of self-defense.

Ordinarily, self-defense in international law is a right exercised by one state that has been attacked by another state or its agents. Afghanistan did not attack the United States; al-Qaeda, a terrorist organization with cells in more than 60 countries (including the United States, where the September 11 hijackers received their flight training), did. The United States asserted that Afghanistan under the Taliban government supported al-Qaeda and permitted it to use parts of Afghanistan as a base of operations. According to the United States, those conditions were sufficient to render Afghanistan responsible for the September 11 attacks and, therefore, a lawful target of a defensive use of force. Prior to September 11, similar arguments were generally given short shrift. In 1985, for example,

**No doubt the drafters of the UN Charter had not envisioned transnational non-state terrorist groups flying jetliners into buildings when they included the “inherent right of self-defense.”**

Israel bombed the headquarters of the Palestinian Liberation Organization in Tunisia. Israel justified its action with the argument that Tunisia had knowingly harbored PLO terrorists who had attacked Israel. The Security Council voted 14-0 to condemn Israel’s “armed aggression” as a “flagrant violation” of international law. The United States abstained.

In general, international law holds a state responsible for the acts of non-state actors only if the state directs or controls the specific acts at issue, or at least exercises overall control over the organization that carries out those acts. Harboring or supporting such groups has not previously been sufficient to impute responsibility to a state to an extent that would render it the object of military action (although support may well violate other international norms). In the case of Afghanistan, however, most states accepted the U.S. position. For the first time in its history, NATO invoked Article 5 of its Charter, which provides for collective self-defense in the event of an armed attack on
any NATO member. The Organization of American States was even more explicit in recognizing the U.S. right of self-defense and in declaring “those responsible for aiding, supporting, or harbouring” terrorists to be “equally complicit” in terrorist acts. Most other states at least acquiesced to U.S. military action. No doubt this attitude reflected deference to U.S. power and general dislike for the Taliban, but whatever the reason, the U.S. view prevailed.

The widespread support the United States enjoyed with respect to its decision to wage war against al-Qaeda in Afghanistan did not extend to U.S. treatment of individuals captured on the battlefield there. Many of those detained were (and still are) incarcerated at a U.S. naval facility in Guantánamo Bay, Cuba. The United States initially took the position that the Geneva Conventions did not apply and that none of the detainees would be treated as prisoners of war (POWs). This decision prompted an international outcry, and both the State and Defense Departments objected to the policy, which the Bush Administration evidently based on advice from the Justice Department and the White House Counsel’s Office. The United States soon reversed itself and declared that the Geneva Conventions applied (as they do to all armed conflicts), while simultaneously denying that any of the detainees satisfied the Geneva Convention’s requirements for prisoner of war status.

This position is legally dubious. Under the Third Geneva Convention, prisoners of war include captured “members of the armed forces of a Party to the conflict,” and militias and others who meet certain criteria: that they are under responsible command; wear a “fixed distinctive sign recognizable at a distance”; carry their arms openly; and “conduct their operations in accordance with the laws and customs of war.” To all appearances, the al-Qaeda detainees do not fall into either category: they were not members of Afghanistan’s armed forces and they did not (among other things) conduct their operations in accordance with the laws of war. It is, therefore, reasonable for the United States to refuse them prisoner of war status, although Article 5 of the Convention requires a status hearing in cases of doubt. Some experts on the law of war suggest that even members of a state’s armed forces must satisfy the other criteria noted above; if that is true, one could argue that the Taliban detainees also do not qualify as POWs because they did not wear fixed distinctive signs or conduct their operations in accordance with the laws of war (both debatable points). Other experts argue that their membership in Afghanistan’s armed forces by itself qualifies them as prisoners of war (subject to prosecution as individuals for any violations of the laws of war they may have committed); the stricter interpretation might result in denial of prisoner of war treatment to U.S. special forces, who sometimes conduct their operations wearing local attire.
The Bush Administration’s reluctance to accord even the Taliban detainees prisoner of war status reflects a larger reluctance to be bound by any international treaty requirement that might hinder the war on terrorism. The Administration sees the war on terror as a global enterprise requiring enormous flexibility, which existing treaties (from the UN Charter to the Geneva Conventions) might inhibit. Treating detainees as prisoners of war, for example, would require their release when active hostilities cease (under a conventional definition, arguably they already have) and might complicate efforts to obtain information about future terrorist activities. The Administration has reason to be concerned, at least with respect to the al-Qaeda detainees. The requirement that POWs be released at the end of hostilities makes perfect sense in the context of ordinary inter-state conflicts; once those conflicts end, captured soldiers have no further incentive to wage war against their captors. But that is not true with respect to terrorists, who may well choose to engage in further terrorist attacks the moment they are let go. At the same time, it appears that the United States could have achieved its objectives by accord- ing POW status to the Taliban detainees only. As things stand, the U.S. seems to have concluded that it can hold all of the detainees indefinitely and provide only some of the protections accorded to POWs. This approach has greatly troubled many states, especially those with nationals incarcerated at Guantánamo.

The U.S. attitude toward the al-Qaeda and Taliban detainees is only the tip of the iceberg. The United States made it clear that it viewed the war in Afghanistan as part of a broader war on terror. In this greater war, President Bush warned, all states faced a decision: “Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.” The United States also warned that it would attack terrorists wherever it finds them.

On November 6, 2002, the CIA used a Predator drone equipped with Hellfire missiles to destroy a car carrying six suspected al-Qaeda operatives, including one American citizen, in Yemen. The attack was apparently conducted with Yemen’s consent but its legality is an open question. Under the laws of war, combatants are legitimate targets. But the laws of war apply only during the course of an armed conflict. It is not clear that those targeted in Yemen were connected in any way to the war in Afghanistan, and it is at best doubtful that the “war on terror” more generally qualifies as an armed conflict within the meaning of the Geneva Conventions. In the past, the United States has condemned Israel’s practice of the “targeted killing” of suspected Palestinian terrorists as a form of illegal extrajudicial killing. It appears, however, that the United States is now prepared to engage in such killing and to entrust the CIA (not just the military) with the authority to accomplish it.

The concerns of other states with the direction and tenor of U.S. activities in the war on terrorism reached a new high with the U.S. decision to go to war with Iraq. The United States pointed to Iraq’s defiance of UN Security Council resolutions mandating UN inspections in support of the elimination of all Iraqi weapons of mass destruction, and argued that Iraq would someday either use such weapons against other states or share such weapons with terrorists who would use them. The
United States warned that it would take military action against Iraq with or without UN support. The U.S. approach to the Iraq issue was consistent with the new National Security Strategy (NSS) articulated in August 2002. That document outlines a proactive approach to a new security environment in which the principal threat to U.S. security stems not from nuclear-armed states but from risk-prone rogue states intent on intimidation and aggression against their neighbors, and from terrorists who are not susceptible to deterrence and who seek to acquire and use weapons of mass destruction. The new strategy emphasizes the importance of preemptive action against such emerging threats. The NSS notes, “For centuries, international law recognized that nations need not suffer an attack before they can lawfully take action to defend themselves against forces that present an imminent danger of attack,” and goes on to state, “We must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries.”

The legality of anticipatory self-defense under the UN Charter is controversial. The language of Article 51 of the Charter permits the use of force in self-defense “if an armed attack occurs.” Read literally, this provision could require a state to await an actual attack before using force in response. But in an age of nuclear weapons, awaiting a first strike could prove suicidal. Accordingly, many international lawyers contend that anticipatory self-defense is lawful if taken to oppose an imminent armed attack with potentially catastrophic consequences for the threatened state.

Of course, no one thought that Iraq was about to attack the United States (or any other state). The danger was that, at some point in the future, Iraq might deploy weapons of mass destruction to threaten other states in the region, or might share such weapons with terrorists. The difficulty with justifying the use of force on such a speculative basis (as of this writing, no weapons of mass destruction have been found in Iraq) is that it potentially opens the door to military action for any state that plausibly feels threatened by another state.

Indeed, in a provocative recent essay in Foreign Affairs, Michael Glennon, a professor of international law at the Fletcher School of Law and Diplomacy, argues that the UN Charter’s “grand attempt to subject the use of force to the rule of law had failed, and that by 2003, the main question facing countries considering whether to use force was not whether it was lawful. Instead, as in the 19th century, they simply questioned whether it was wise.” Exhibit A in Mr. Glennon’s argument

**U.S. willingness to circumvent the United Nations in pursuit of its policy objectives itself presents a serious threat to the international legal order.**
was the recent U.S. war against Iraq. Mr. Glennon may overstate his case but he has a point. If all states felt free to take preemptive action against “emerging threats,” not much would be left of the Charter’s rules on the use of force.

Fortunately, the fact that most states insist on the continuing vitality of the UN Charter’s rules might in itself constrain the use of force in international affairs. Moreover, the United States and the United Kingdom have a more technical legal argument to justify action in Iraq. They point to a set of UN Security Council resolutions that can be read to predicate the continuation of the 1991 Gulf War cease-fire on Iraq’s destruction, under international supervision, of its weapons of mass destruction. By breaching the resolutions that mandate the destruction of those weapons, Iraq arguably violated the cease-fire terms in a way that revived the Security Council’s original 1990 authorization to use force. This argument, while plausible, seems a highly strained interpretation of the relevant resolutions; still, it at least fits within the tradition of attempting to justify any military action within the Charter framework.

However, to many states, especially France, Germany, and Russia, the evident U.S. willingness to circumvent the United Nations in pursuit of its policy objectives itself presents a serious threat to the international legal order. These nations see the world very differently than the United States does. As Robert Kagan explains, the United States sees the readiness to exercise military power as essential in an “anarchic Hobbesian world where international law and rules are unreliable.” By contrast, “Europe is turning away from power … into a self-contained world of laws and rules and transnational negotiation and cooperation.” This divergence is, in part, a reflection of different histories and capabilities; it is also a reflection of different cultural predispositions; and it is, finally, the result of a paradox: Europeans are free to focus on international law and institutions precisely because the United States is, on occasion, prepared to disregard them. Kagan acknowledges that his portrait of Europe and America is a caricature, and that Europe is far from monolithic, but he captures an important difference that plays out in issues ranging from Iraq to the International Criminal Court. Conversely, many states in the Third World see the acquisition of weapons of mass destruction as the only way to counter the military predominance of the West in general and the United States in particular. And they see asymmetric tactics (guerrilla warfare, suicide bombings, and the like) as the only options that offer any chance of success against overwhelmingly superior conventional military forces.

The net result is that the United States is increasingly at odds with countries across the political spectrum on issues involving the use of force and the laws of war. The danger to the United States is that in pursuing its current vision of security, it may alienate allies while driving adversaries to adopt the very tactics the United States opposes. A less confrontational approach might pay greater dividends over the long term.

5. Ibid.
Contract Lore

Robert A. Hillman

Editor’s Note: This article is an abridged version of an article that appeared in The Journal of Corporation Law (vol. 27-4) and appears here with permission. For the present purpose, most endnotes have been omitted.

First, let me explain the title of this essay. Folklore constitutes “the traditional beliefs, legends, customs, etc., of a people” and “represents a people’s image of themselves.” I want to write about some of the “traditional beliefs,” or principles, of contract law that “contracts people”—judges, lawyers, and scholars who apply and write about contract law—employ so routinely and confidently that the principles shed light on how we perceive contract law today. What makes these principles so interesting is that none of them is even close to true; and, when pressed, most contracts people would admit it. I want to investigate why contracts people invoke these “traditional beliefs and legends” even though they are, in reality, nothing more than contract lore.

This essay examines three examples of contract lore. First, contracts people do not hesitate to declare that the purpose of expectancy damages is to “put the injured party in as good a position as if the contract were performed.” But the injured party cannot recover prejudgment interest, attorney’s fees, unforeseeable consequential damages, uncertain losses, and so on. Consequently, expectancy damages virtually never put the injured party in as good a position as if the contract were performed. Second, contracts people maintain that the reasons for a breach, whether willful, negligent, or unavoidable, are irrelevant to the rules of performance and remedies. However, the reasons for a breach matter mightily, including in how courts determine whether a party has materially breached, the formula for determining damages, and the availability of restitutionary relief. Third, contracts people recite how contract formation and interpretation focus on the parties’ actual intentions and assent, despite the fact that contract enforcement does not depend on intention and assent at all. Instead, enforcement focuses on whether a promisee reasonably believed the promisor intended to contract, and on what constitutes a reasonable interpretation of the language of a contract.

My goal here is not to reveal these dichotomies, which constitute open secrets. Nor do I take issue with the explanations for the manner in which Mephistopheles offers a contract for total worldly knowledge in exchange for Faust’s soul. Undated color lithograph illustration from Faust (1808 and 1832) by Goethe.
which contract law actually operates, although this essay does contain some discussion and evaluation of these explanations. My principal aim is to investigate what, in the aggregate, the existence of contract lore tells us about the nature of contract law in this new century. I posit that a better understanding of contract lore leads to a clearer comprehension of contract law.

I. Examples of Contract Lore

Expectancy Damages

The stated goal of expectancy damages is to make the injured party whole. Most analysts explain the expectancy approach as the best method of creating incentives for parties to contract and to rely on their contracts. For example, under an expectancy damages regime, parties can rely on their contracts, believing either that the other party will perform or that compensation for non-performance will put the injured party in the same position as performance. Setting the damages measure any lower than expectancy would undermine this incentive to rely. Granting recoveries greater than expectancy damages, such as punitive damages, would discourage parties from entering contracts because they would fear having to pay a penalty, even for an inadvertent breach. Such a fine would also constitute an unjust windfall to the injured party.

This (and other) rationale for expectancy damages is subject to debate. Whatever the reasons behind the expectancy approach, contracts people continue to affirm that the goal of expectancy damages is to make injured parties whole. The reality is dramatically different. A large set of remedial rules limits the recovery of damages, often to well below expectancy. For example, in our legal system, parties usually must pay their own lawyers and can rarely recover prejudgment interest. These impediments, of course, are the costs of litigation and apply to all areas of the law. More specific to contract law, injured parties cannot recover unforeseeable or difficult-to-prove damages, even though these are often real and large. In addition, courts typically compute damages objectively, thereby ignoring a party’s special circumstances, including emotional distress and sentimental value.

The failure of expectancy damages to make injured parties whole is not the world’s best-kept secret; many theorists have recognized this reality and have adduced reasons to explain it. One obvious reason is that the expectancy goal runs into institutional counter-policies. We do not want to discourage parties from exercising their right to a day in court by making them liable for the other party’s legal fees. We do not want to license courts to award baseless recoveries, so we require injured parties to prove their damages with some precision.

Another reason is the existence of contradictory substantive policies. For example, we want to avoid discouraging people from making contracts because they have a fear (rational or not) of inordinate liability. We also want to encourage promisees to disclose special circumstances, so we deny them consequential damages when the breaching promisor could not foresee a particular loss and the injured promisee did not disclose its possibility.

These and other reasons undoubtedly contribute to the real failure of expectancy damages. My pur-

Injured parties cannot recover unforeseeable or difficult-to-prove damages, even though these are often real and large.

pose here is not so much to take stock of these reasons, but to figure out why so many contracts people persist in pronouncing that expectancy damages make injured parties whole when the secret is out that expectancy damages do no such thing.
CONDUCT OF THE BREACHING PARTY

Contracts people unhesitatingly proclaim that the reasons for a breach, whether willful, negligent, or unavoidable, have no bearing on determining the rights of the contracting parties. Contract liability is said to be “strict,” meaning that the reasons for a breach are irrelevant. The goal is to make the injured party whole, not to punish contract-breakers.

But a host of exceptions swallows up the rule, so much so that most theorists, if pressed, concede that the true “rule” is that the breacher’s conduct matters a lot. For example, in construction contracts, the degree of willfulness of a contractor’s breach helps courts determine whether to grant expectancy damages measured by the cost of repair, or by the diminution in value caused by the breach. Deliberateness also constitutes an express factor in determining the materiality of a promisor’s breach and whether the promisee is excused from the contract. Even after being excused from performance, a promisee might have to deal further with a contract-breaker to minimize damages, depending on a promisor’s motive for the breach. A promisor might also commit a bad-faith breach of contract and therefore trigger rights in favor of the promisee that are not expressly set forth in the contract. Finally, courts have created “independent torts” that arise in the contract setting, including when a party misrepresents facts during negotiations and recklessly performs a contract.

None of these rules should be surprising or even very controversial. Fairness principles, such as the “rule of reciprocity,” dictate that one should not try to increase one’s gains at the expense of the other party. Moreover, on moral grounds, people should keep their promises, and unintentional breaches deserve less moral approbation than intentional ones. Counting the deliberateness of a breach makes sense on instrumental grounds, as well.

Courts should deter a promisor from taking advantage of the promisee’s reliance on an expected performance or of changed circumstances that back the promisee into a corner. By deterring such “opportunistic breaches,” contract law encourages contracting and thwarts useless wealth transfers from an innocent party to a wrongdoer. Perhaps most obviously, judges and juries are human beings who cannot help but be influenced by the degree of nastiness and inconsiderateness of a breach. So it should not be a mystery why courts account for the willfulness of a breach. The enigma I want to address is not why judges pay attention to a promisor’s conduct, but why more contracts people cannot bring themselves to repudiate the dictum that the reasons for a breach do not matter.

Judges and juries are human beings who cannot help but be influenced by the degree of nastiness and inconsiderateness of a breach.

CONTRACT FORMATION AND INTERPRETATION

Judicial decisions almost inevitably contain language suggesting the primacy of the parties’ intentions and the importance of enforcing their actual agreements. This should not be surprising. The understood purpose of contract law is to facilitate people’s freely-made private exchange transactions.

In reality, however, actual intentions and agreements hardly matter in cases that get to court. Instead, courts apply an objective theory of formation and interpretation that enforces contracts based on apparent, not real, intentions. If a promisee reasonably and honestly believed the promisor intended to contract, the promisor may be bound even though the promisor did not intend to contract. Moreover, a court may enforce the reasonable meaning of a contract term even though the promisor actually understood the term.
differently. Judge Learned Hand saw this as early as the turn of the last century:

A contract has, strictly speaking, nothing to do with the personal, or individual, intent of the parties. ... If ... it were proved by twenty bishops that either party, when he used the words, intended something else than the usual meaning which the law imposes on them, he would still be held, unless there were mutual mistake, or something else of the sort.5

Notwithstanding the staying-power of Judge Hand’s prose, most decisions are chock-full of “intent of the parties” language. Most courts say one thing about individual intentions and do another.

The objective approach to contract formation and interpretation is not hard to explain. It protects a promisee’s reasonable reliance on the promisor’s manifestation of intent. If a promisor jokingly, mistakenly, or insincerely creates the impression that she intends to contract according to particular terms and her conduct induces the promisee to rely on those terms to her detriment, contract law protects the promisee.

What still needs explaining is why so many contracts people persist in presenting contract law as if subjective intentions and actual agreements matter, when they do not. We now turn to this question, as well as to why contracts people persist in pronouncing other instances of contract lore.

II. The Meaning of Contract Lore

Contract law does not make injured parties whole. It punishes deliberate contract-breakers and it enforces contracts that a party did not intend to make. Why do contracts people persist in saying otherwise?

**Contract law does not make injured parties whole. It punishes deliberate contract-breakers and it enforces contracts that a party did not intend to make.**

**UNSATISFACTORY EXPLANATIONS**

There are many unsatisfactory explanations for the existence of contract lore. First, Part I shows that we cannot explain contract lore on the basis that the pronouncements are generally true but subject to a series of exceptions. For example, expectancy damages virtually never make an injured party whole, so it would be difficult to maintain that, as a general rule, they do, and that they do not only when an exception applies. In addition, to establish liability, contract law never *requires* an actual intent to contract, so we cannot argue that contract law requires intent except in certain circumstances.

Moreover, we cannot simply say that contract lore is holdover dicta from a time when it was true, before a series of exceptions effectively swallowed up the rule. For example, I would wager that deliberate breaches have always had ramifications and expectancy damages have never made the injured party whole.

Contract lore also constitutes more than a clever use of legal fictions, at least according to the common use of that term. “Legal fiction” usually denotes a judicial assumption made consciously to facilitate the development of a legal principle designed to achieve a particular instrumental goal. Judges employ legal fictions to achieve ends in order to maintain the law’s stability and certainty.

In this sense, claims that expectancy damages make an injured party whole, that the reasons for breach do not matter, and that contract law enforces the parties’ intentions do not constitute legal fictions because these precepts do not help develop subsidiary coherent legal principles for the purpose of achieving an end. Moreover, lawmakers typically pronounce legal fictions with the under-
Standing that they are not based in reality, whereas people invoke contract lore most often with the view that it is an accurate description of current contract law.

In fact, because most contracts people appear to believe in the veracity of contract lore (at least until reminded otherwise), we can rule out another instrumental explanation for contract lore. Contracts people are not deliberately attempting to create a chasm between the perception of contracting parties of the governing rules (“I will be made whole if the other party breaches”) and judicial decision-making norms (“Judges can limit the remedy to achieve a just result”) for the purpose of achieving greater certainty in the law without sacrificing individual justice. Further, contract lore does not always lend itself to certain results and contract law is not always consistent with fairer decision-making. For example, the value of a promise is not always easy to measure, so the contract lore that injured parties can recover the value of their expectancy does not necessarily clearly guide transactors. Nor does a contract-law principle, such as denying emotional distress damages, always lead to fairer results.

Because contract lore is not always certain in application and often constitutes poor advice to contracting parties, I also doubt that we can explain it as a set of heuristics or shortcuts developed by transactional lawyers to simplify their advice to their clients. Because the reasons for breach matter, for example, lawyers advising otherwise would jeopardize their clients’ interests (recall that a willful breacher may be liable for greater damages or even an independent tort), not to mention possibly commit legal malpractice.

Finally, with respect to what contract lore is not, I do not believe it constitutes evidence of a conspiracy among contract “elites” to favor one class of contractors over another. The problem with a conspiracy explanation for contract lore is the difficulty of detecting a unitary instrumental pattern to the various pronouncements. Decisions applying the expectancy damages formula but failing to make the injured party whole, or declaring a refusal to “punish” a contract-breaker but taking into account the reasons for a breach, or calling for a “meeting of the minds” but ultimately applying an objective test of assent, do not over time uniformly appear to favor one class of parties over another. A conspiracy in these circumstances would be hard to prove.

In an ideal world of freedom and justice, a legal approach to exchange transactions would enforce parties’ actual agreements freely made by parties with equal bargaining power and information.

**A More Satisfactory Explanation**

So what is going on here? In my view, contract lore represents contracts people’s aspirations—their strong preference for how contract law should operate if realities did not preclude it. In an ideal world of freedom and justice, a legal approach to exchange transactions would enforce parties’ actual agreements freely made by parties with equal bargaining power and information. People would not inadvertently become obligated under a contract. Injured promisees of enforceable contracts would receive performance or its equivalent in damages. The reasons for breach would be irrelevant because injured parties would be made whole. Liability for expectancy damages would be a sufficient punishment for nasty contract breakers. But the real world, filled with practical and substantive hurdles, does not allow for this model of contract law.

The chasm between aspirations and reality is, of course, not unusual. Political candidates include in
their platforms many campaign pledges that the realities of governing make impossible to keep. Sales people puff their products’ quality despite the reality that the goods are less than perfect. Contracts people also portray a version of contract law that differs from reality because they are describing our aspirations for contract law, not the hard truths. But the motive for the pronouncements of politicians and sales personnel is, at least in part, personal gain, which sets them apart from the creators of contract lore. Unlike politicians and salespeople, contracts people are not trying to “sell” the system for direct or indirect personal gain by encouraging prospective contractors to place too much faith in contract law.

The psychological phenomenon most implicated in what I am describing is cognitive dissonance. People have a tendency to strive for a consistency of beliefs, which often leads them to believe things that are not true and to avoid conflicting information. This tendency may be especially strong concerning people’s “core values.” When people detect a dissonance between their values and reality, they try to suppress this inconsistency and the urge to do so is very strong.

No less a figure than Freud saw the relationship between this tendency and a people’s folklore: “In the origin of the traditions and folklore of a people, care must be taken to eliminate from memory such a motive as would be painful to the national feeling.”

Lon Fuller, in his description of the judicial construct of “apologetic or merciful fictions” (different than the “legal fiction” discussed above), also addressed the urge of people to suppress inconsistencies. He saw in the criminal-law fiction that “everyone knows the law” an effort to “apologize” for the difficult reality that the law often punishes people who do not understand they are breaking the law.

As we can see from Fuller’s criminal-law example (and is otherwise obvious), aspirational descriptions of legal principles that gain legitimacy over time are not peculiar to contract law. But cognitive dissonance may be especially strong in this realm because the ideals of freedom of contract and economic liberty are fundamental American values, and exchange constitutes the core element of our economy. The realities of implementing a contract legal system deter us from achieving these goals, but we want to believe that we have achieved them. And thinking and writing about these aspirations reinforces our belief in their truth. As a Critical Legal Studies writer once pointed out, “Once we decide … that we should ordinarily bolster a private sphere of free action … we come to believe that we will find such a sphere out in the world.” In short, contract lore, as with other folklore, constitutes an “escape mechanism” that allows legal thinkers and lawmakers to envision a better system than exists in reality.
III. Ramifications

What are the ramifications of the prevalence of contract lore? Some extant theories of contract law, such as efficient breach, must be rethought because they are based on contract lore, not contract law. According to the efficient breach theory, contract law should encourage breach when the breacher can gain enough from breaching to pay the injured party expectancy damages and still come out ahead. A fundamental premise of the efficient breach theory, however, is that the expectancy measure of recovery makes the injured party whole. If this is not true, the theory falls with it.

The chasm between contract law and lore has practical implications as well. As already noted, if the reasons for breach matter, lawyers should carefully reconsider the nature of the advice they dole out to clients concerning whether and when to breach a contract. If people can be held contractually liable without intending to contract, lawyers should also carefully explain to their clients the kinds of bargaining and negotiation tactics that might lead to contractual liability, regardless of their intent to contract. More fundamentally, lawmakers should review the efficacy of rule-of-law norms as applied to exchange transactions, such as certainty and clarity of law, to consider whether more needs to be done to ensure that contract law is not misleading.

Most important, reformers should resist the urge to believe, based on the prevalence of contract lore, that we already have an ideal contract-law system. Instead, to improve contract law, contracts people should rethink the relationship of internal contract rules and principles to each other and the relationship of contract principles to external rules. Questions such as whether injured parties should recover emotional distress damages; whether the requisites for consequential damages recoveries of certainty and foreseeability should be relaxed; whether the willfulness of breach should play a greater or lesser role in contract doctrine; whether contract damages should better reflect the objective reasons for enforcing a contract; and whether contracting parties should continue to pay their own legal fees, should not be cast aside on the misleading assumption that contract law has already satisfactorily resolved these issues. In short, the paramount danger of the complacent acceptance of contract lore is that it licenses lawmakers to escape unpleasant realities that require attention.

4. It is important to distinguish the fact that many, if not most, contracts do in fact constitute actual agreements between the parties, from the legal necessities for enforcement, which do not require actual agreement.
5. Hotchkiss v. Nat’l City Bank of New York, 200 F. 287, 293 (S.D.N.Y. 1911), aff’d, 201 F. 664 (2nd Cir. 1912, aff’d, 231 U.S. 50 [1913]).
9. Lon L. Fuller, Legal Fictions, 84 (1967).
10. Ibid.
12. Dundes, supra, note 2 at 36.
Cornell President Lehman Joins Law School Faculty
When Cornell University president Jeffrey S. Lehman took office on July 1, he also joined the faculty of Cornell Law School as a tenured professor of law. President Lehman, who served as dean of the University of Michigan Law School from 1994 until his appointment to succeed Hunter T. Rawlings III as president of Cornell University, is a Cornell undergraduate alumnus. He said, “I am delighted to be joining the faculty of Cornell Law School. It is an honor to be a colleague of such distinguished and creative scholars at a school that has been the training ground for leaders of our profession and our society.”

President Lehman earned his J.D. from the University of Michigan Law School (where he was editor in chief of Michigan Law Review), and a master’s degree in public policy from the University of Michigan Institute of Public Policy Studies. He clerked for Chief Judge Frank M. Coffin of the U.S. Court of Appeals for the First Circuit, and for Associate Justice John Paul Stevens of the U.S. Supreme Court.

A prolific legal scholar, President Lehman’s research and teaching concerns are poverty, taxation, and the American welfare state. He was named one of 40 “Rising Stars in the Law” by National Law Journal and is immediate past president of the American Law Deans Association. While at the University of Michigan, he was one of the primary architects of the successful defense of the Law School’s admissions policy in the United States Supreme Court.

Dean Search Update
The search committee has been working aggressively on their charge to identify candidates for the next Allan R. Tessler Dean of the Law School. The committee—composed of faculty members Kevin M. Clermont, Theodore Eisenberg, Stephen P. Garvey, Carol Grumbach, Sheri Lynn Johnson, Annelise Riles, Faust F. Rossi, and Barbara J. Holden-Smith; Robert Swieringa, Dean of the Johnson Graduate School of Management at Cornell University; and the Hon. Stephen G. Crane ’63, chair of the Cornell Law School Advisory Council—has been meeting weekly.

“During the past three months, members of the committee have met with potential candidates, both internal and external, for preliminary discussion, and have found the discussions informative and the potential candidates impressive,” said Carolyn A. (Biddy) Martin, Cornell University Provost and committee chair, earlier this fall. “From the list of candidates with whom we have met on a preliminary basis, we will generate a short list of finalists, all of whom will meet with faculty, staff, and students. We hope to conclude the search within the next six to eight weeks and look forward to your active participation in the next steps of the process.”

Alumnus Elected to ICC Lectures at Law School
Cornell Law School alumnus Sang Hyun Song was elected in March 2003 to serve as one of the first judges on the International Criminal Court. In April, Judge Song spoke at the Law School on “A New Court for a New World: The International Criminal Court.”

A professor of law at Seoul National University, Sang Hyun Song received his LL.B. from Seoul National University in 1963, an LL.M. from Tulane University in 1968 (as a Fulbright Fellow), a Diploma in Comparative Studies from Cambridge University in 1969, and his J.S.D. from Cornell Law School in 1970. Judge Song’s areas of academic interest include civil procedure, alternative dispute resolution, corporation law, computer software protection and copyright law, and maritime law. Among his many posts, he chairs the Korean
Law Revision Committee on Corporate Reorganization and Bankruptcy Code, and the advisory committee to the Korean Intellectual Property Office, respectively, and is a member of the arbitration consultative commission of the World Intellectual Property Organization (WIPO), the advisory committee to the Korean Minister of Justice, and the advisory committee to the Korean Supreme Court. He has published widely in English and Korean and has been on the law faculty of Seoul National University since 1972, serving as dean from 1996 to 1998. Judge Song was a visiting professor of law at Harvard Law School and has in the past held similar posts at New York University, the University of Melbourne, and Hamburg University. He has also served as an ICSID arbitrator, a conciliator, and a mediator for WIPO.

The “War on Terror” and U.S. Foreign Policy
This past academic year, Cornell Law School invited several speakers to address the domestic and international aspects of the so-called “war on terror.” In October 2002, Muzzafar Chishti, senior policy analyst at the Migration Policy Institute at New York University, spoke on “Balancing Interests: Domestic Security, Civil Liberties, and American Unity after September 11.”

In February 2003, Harold Koh, the Gerard C. and Bernice Latrobe Smith Professor of International Law at Yale Law School, gave a public lecture, “The Constitution and Guantánamo: The Rights of 9/11 Detainees.” Professor Koh, who was assistant secretary of state for democracy, human rights, and labor from 1998 to 2001, was counsel for both Haitian and Cuban refugees held at Guantánamo from 1992 to 1994. He drew on his experience with the facility and his expertise in international law to discuss the detainees’ juridical status and the rights to which they might be entitled. Also in February, George Jameson, an attorney in the Office of the General Counsel of the Director of Central Intelligence, spoke to Professor David Wippman’s international law class, and the public, on “Terrorism and Other Challenges Facing National Security Lawyers.”

That same month, Professor Wippman’s class hosted Larry Johnson, former legal advisor to the International Atomic Energy Agency, who addressed the question, “Do Nuclear Weapons Inspections Work?”

Spring International Speakers
In February, Xavier Blanc-Jouvan ’54, professor emeritus of the University of Paris I Panthéon-Sorbonne, returned to the Law School to speak to Professor Claire Germain’s Introduction to French Law class, and to the public, on “The Constitution, the Constitutional Council, and the Protection of Civil Liberties in France.”

In March, Barry Vasios of Holland & Knight’s New York office gave a luncheon talk in the Berger Atrium on “Forum Fights in Enforcing International Arbitration Awards.” Finally, Dr. Tanja Börzel, project director and senior lecturer at the Institute for Social Sciences at Humboldt University, Berlin, gave a brownbag talk on “The Politics of Enforcing European Law.”

Virada Somswasdi Lectures on Thai Women’s Movement
Professor Virada Somswasdi, LL.M. ’73, associate professor on Chiangmai University’s law faculty and chair of its graduate program in Women’s Studies, returned to Cornell in April to present a lecture on “The Women’s Movement and Legal Reform in Thailand.”
Topics of discussion included Islamic banking, Chinese family firms and global financial markets, Korean venture capitalists, symbolic uses of money in Vietnam, and finance theory as an ethnographic object. The conference was marked by stimulating exchanges among participants from law, anthropology, economics, geography, government, and sociology. For more information on the panelists and papers presented, please see the Clarke Program Web site at lawschool.cornell.edu/international/asianlaw/conferencespring2003.asp.

Clarke Program in East Asian Law and Culture
The Clarke Program in East Asian Law and Culture began its inaugural year with a number of activities and events for the Law School and Cornell University communities. Under the direction of Dr. Annelise Riles, who holds a dual appointment in the Law School and in Cornell’s Department of Anthropology, the program brings a broad interdisciplinary and humanistic focus to the study of law.

The Clarke Program co-sponsored several talks over the course of the year, including a presentation (co-sponsored with the Berger International Program) by Dr. Laura Nader of the Department of Anthropology at the University of California. The Clarke Program also hosted two conferences during the spring: “Pragmatism, Law and Governmentality” and “Cultural Approaches to Asian Financial Markets.” It also co-sponsored (with Cornell’s Center for the Study of Economy & Society and the East Asia Program) “Institutional Change in East Asia.” Strong interdisciplinary participation and innovative scholarship have already become hallmarks of the program’s conferences and lectures.

The program’s weekly Colloquium Series presented new research on both legal and cultural topics of interest to Asia scholars. This year’s presentations included “Gender Neutrality or Gender Blindness?—Examining the Process of Becoming Female Professionals in Taiwan,” by Grace Kuo, doctoral candidate, Northwestern University School of Law; “Coerced to Cooperate? Development of a Cooperative Distribution Strategy in Japan” by Dr. Jim Hagen, Department of Applied Economics & Management, Cornell University; and “Future Active: Palestine, Solidarity Activism and Anthropology” by Dr. Iris Professor Virada is a founding member of the Asia Pacific Forum on Women, Law, and Development, a leading non-governmental regional organization that was established in 1986 and has worked since then for gender equality and justice. She is also president of the Foundation for Women, Law and Rural Development, and of the Association of Women, Law, and Development in Asia-Pacific, which she established in 1998 and 2002, respectively.

Conference on Asian Financial Markets
A day-long conference on “Cultural Approaches to Asian Financial Markets” was held at Myron Taylor Hall on April 26. Jointly sponsored by the Law School’s Clarke Program in East Asian Law and Culture and Cornell University’s East Asia Program, the conference brought together ethnographers working inside Asian financial and regulatory institutions, specialists in Asian regulatory regimes, and theorists from the humanities and social sciences working on conceptions of finance and financial crisis in Asia.

The conference was the first of its kind to apply research in the social studies of financial markets to the Asian context.
Jean-Klein, Department of Social Anthropology, University of Edinburgh. Dr. Jean-Klein’s talk was co-sponsored by the Clarke Middle East Fund.

The program also welcomed its first visiting researcher. Dr. Wai Kum Leong, associate professor at National University of Singapore, visited Cornell for two weeks in November. Dr. Leong gave two presentations and met individually with graduate students during her stay.

Dr. Jae Won Kim, associate professor of law at Dong-A University College of Law in Busan, Korea, and one of Asia’s leading scholars in critical legal studies, arrived in January as the first Clarke Program Fellow. He is pursing a J.S.D degree at the Law School. Dr. Kim gave the inaugural Colloquium Series talk with a presentation on “The Legal Profession and Legal Culture during Korea’s Transition to Democracy and a Market Economy.”

The Law School has established an exchange program with Waseda University Graduate School of Law in Tokyo. Daniel Freed ’04 will be the Clarke Program’s first ambassador to Waseda in the fall of 2003. In cooperation with Cornell University’s Department of Asian Studies, the Law School has developed an advanced language course on Japanese law. The program hopes to offer similar opportunities in the near future to students who wish to study in China and Korea.

The winner of the first Clarke Program Student Essay Prize is Matt Erie, a graduate student in Anthropology. His paper,
“Through Culture and Disciplines: Human Rights and the Institutionalization of Law in China,” brings together debates in law, cultural studies, and anthropology in a theoretically sophisticated account of the human rights debates in China. In the fall Mr. Erie will receive a prize of $300 and an invitation to present his paper in a Clarke Program forum.

Next year promises an even greater variety of activities and opportunities for faculty and students with an interest in Asian law. More information about the program is available at lawschool.cornell.edu/international/asianlaw/.

Library Collaboration on Asian Law Materials
The Cornell Law Library and the Kroch Library have pooled funds to purchase East Asian law materials for the Kroch Library. This new collaboration, initiated by Professor Claire M. Germain, Edward Cornell Law Librarian and Professor of Law, and Charlotte L. Bynum, reference librarian, will benefit both the Law School’s new Clarke Program in East Asian Law & Culture, as well as enhance Cornell University’s general East Asia collection.

Professor Annelise Riles, director of the Clarke Program, said, “this new partnership with the central library attests to the vision of Claire Germain and Charlotte Bynum and their commitment to support faculty initiatives in order to keep Cornell Law School at the cutting edge of research on global topics. I am profoundly grateful to them both for the support and guidance they have given me as we established this new program at the Law School.”

“It is a pleasure to bring the vision of Jack Clarke and the faculty to fruition, and foster legal scholarship in East Asian law by building a strong collection,” said Prof. Germain.

The Kroch Library, which contains one of the largest and most significant collections of Asian historical and literary materials in North America, will house law-related materials in Japanese and English for interdisciplinary and general audiences. These materials will be included in the Charles W. Wason Collection on East Asia. Charlotte Bynum will work with Kroch Library subject bibliographers Thomas Hahn and Fred Kotas to select materials for the Kroch.

The Cornell Law Library is also expanding its own collection of East Asian law materials. It is in the process of gathering English-language versions of statutes, constitutions, and law journals from East Asian countries. It also maintains a collection of technical legal materials, such as Japanese court decisions and law journals, in their original languages.

Charlotte Bynum has prepared several Web guides on researching the laws of Korea, Japan, the People’s Republic of China, and Taiwan, respectively. These are available at the Clarke Program Web site at lawschool.cornell.edu/international/asianlaw/.

Feminism & Legal Theory Project Joins Forces with Keele University
The Feminism and Legal Theory Project, under the direction of Martha L.A. Fineman, and Keele University (in the U.K.) will work together to present a series of five cross-legal cultural workshops on issues of interest to scholars from both jurisdictions. Each of these workshops will take a particular problem or concept as its focal point, and all will interrogate points of conflict, consistency, and contradiction in feminist legal theory and methodology in the two national contexts. Funded in part by a grant from the British Academy, the workshops will center on the following four general issues, which are particularly pressing for feminist legal theory:

• changing conceptions of the state, governance, and citizenship relations;
• the role and importance of race and ethnicity in the two national contexts and their implications for feminist work;
• feminism and post-colonialism and their meaning and importance in the U.K. and U.S., respectively;
• the family as a key concept: its different and evolving meaning in the two contexts.

The two groups also hope to examine how key concepts are understood in the two major legal systems, which will require them to question the assumption that work developed in one country can be easily translated into another context, yet retain the belief that it is possible to learn from each other.
The first session was held on September 5 and 6 at Cornell Law School on the role and importance of race and ethnicity and its implications for feminist work. This session explored the following issues identified by the Keele participants:

• To what extent have feminist scholars taken account of race and ethnicity in their writing?
• Why is critical race work so much further advanced in the U.S. and what can U.K. feminists learn from this?
• How has intersectional analysis developed in the two jurisdictions?

Any comments or questions should be directed to Professor Martha L.A. Fineman: 607 255-2622; mlf22@cornell.edu

Dean Lukingbeal Elected to National Law Placement Board

Anne Lukingbeal, the Law School’s associate dean and dean of students, has been elected to a two-year term as northeast regional director on the board of directors of the National Association for Law Placement (NALP). Dean Lukingbeal joins a board of 13 voting members of the national organization, which has nearly 1,200 members representing 190 American and 13 Canadian law schools, and more than 900 of the nation’s largest, top-tier law firms. NALP was established in 1971 to provide leadership and direction in the career planning and development of law school students and graduates.

As dean of students, Dean Lukingbeal has administrative responsibility for student affairs, the registrar’s office, and career planning and placement, which she has overseen since 1990. Dean Lukingbeal said, “I am honored by this appointment to serve on the board of NALP. It will be a privilege to contribute to the association’s goals in bringing together lawyers and legal employers.”

Having received a B.A. from Stanford University in 1972 and a J.D. from the University of California, Davis, in 1975, Dean Lukingbeal joined the Law School as assistant dean and director of admissions in 1978. She served as a trial attorney in the Los Angeles County public defender’s office for three years before turning to academia. She has been the Law School’s associate dean and dean of students since 1984 and has served on the ABA standing committee on lawyer competence, the board of trustees of the Law School Admissions Council, and on the bar admissions committee of the ABA section on legal education and admission to the bar.

Minorities in the Law Conference

The annual Minorities in the Law Conference was held this year from April 3 to April 5. The conference was organized by a committee composed of members of the Law School’s Asian-American, Black, Latino and Native American, and Lambda Student Associations, and chaired by Assistant Dean John DeRosa.

Featured guests included Gitanjali S. Gutierrez ’01, adjunct professor, Cornell Law School and formerly law clerk to the Hon. Guido Calebresi, United States Court of Appeals for the Second Circuit; Jan D. Kum ’99, assistant district attorney, Bronx, NY; Michele F. Mitchell ’99, attorney, Native American Rights Fund; and Christina M. Velez ’02, law clerk to the Hon. Denny Chin, United States District Court, Southern New York. Also in attendance were 24 minority students who had been accepted as part of the incoming Law School class of 2006.

The conference culminated in a banquet held in the Carrier Ballroom of the Statler Hotel on the evening of Saturday, April 5. In attendance were Dean Teitelbaum and more than 125 other guests, including deans, administrators, and members of the faculty. The keynote speaker was Mitsuru Claire Chino ’91. Ms. Chino serves as in-house counsel for Itochu Corporation in Japan and also serves on the Law School’s Advisory Council.

Participants in April’s annual Minorities in the Law Conference included Paul T. Sub ’04, Gabriel A. Ristorucci ’04, Sarah M. Brady ’04, Shameka L. Gainey ’04, keynote speaker Mitsuru Claire Chino ’91, and Dean DeRosa
On May 11, 173 Juris Doctorate (J.D.) candidates, 47 Master of Laws (LL.M.) candidates, two Doctor of the Science of Law (J.S.D.) candidates, and four candidates in joint degree programs attended a convocation ceremony that marked the end of their tenure as Cornell Law School students. They became the class of 2003. Two of the joint degree candidates received the J.D.-LL.M. degree, one received the J.D.-Maîtrise en Droit joint degree (with the University of Paris I), and one received the J.D.-M.LL.P. (Master of German and European Law and Practice, with Humboldt University in Berlin).

The class of 2003 chose Peter A. Riesen ’03, Christian Sutter LL.M. ’03, and Professor Winnie Taylor to speak at the ceremony, which was held in Bailey Hall. After the speeches, Assistant Dean John DeRosa called each graduate to the stage to receive Dean Teitelbaum’s personal congratulations.

The 226 members of the Law School’s 116th graduating class formally graduated from Cornell University on Sunday, May 25. By that date, approximately 98 percent of the J.D. graduates were employed, with the majority having secured lucrative jobs with large firms. Approximately one-third of the class will be in New York City and about 10 percent will go to the West Coast.

Twenty students from the class have judicial clerkships, and public interest and government jobs have attracted graduates to district attorney offices in Manhattan and the Bronx, the federal public defender in Alabama (death penalty representation), a Native American rights organization, and federal spots with the U.S. Department of Justice, the CIA, and the Judge Advocate General Corps in the U.S. Army and U.S. Navy, respectively.

Graduates of the J.D. Class of ’03 represent 32 American states and eight foreign countries, with most students coming from New York, California, New Jersey, Massachusetts, and Pennsylvania. They came to the Law School from 96 different undergraduate institutions, chiefly Cornell, Dartmouth, Harvard, NYU, UC Berkeley, UCLA, University of Minnesota, the College of William and Mary, and Yale, where they majored in more than 40 different undergraduate subjects, the most popular being political science/government, English, philosophy, and history. Ten percent majored in engineering or sciences. Twenty percent entered law school already holding advanced degrees, and less than 35 percent came to Cornell Law immediately after undergraduate study. More than half had full-time employment experience.

The rigors of final exams did not end the long hours of study for this class. After a short breather, most graduates began preparing for state bar examinations.

Student Prizes

At the end of the 2002–03 academic year, selected Cornell Law students received prestigious prizes. John R. Palmer ’03 won the first Fraser prize and Lyubomir G. Georgiev ’03 received the second. The Fraser prizes are the gift of William Metcalf Jr., LL.B. 1901, in memory of Alexander Hugh Ross Fraser, former librarian of the Law School. The prizes are awarded early each fall to third-year students whose law study through the end of the second year has been taken entirely at Cornell Law School and who have most fully demonstrated high qualities of mind and character by superior scholastic achievement and by attributes that earn the commendation of teachers and fellow students. The prizes are awarded on the recommendation of the third-year class by vote, from a list of candidates submitted by the faculty as eligible by reason of superior scholarship.

The Freeman Award for Civil-Human Rights 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 Meghan M. Brosnahan ’03 and Daniel R. Walworth ’03.

The Stanley E. Gould Prize for Public Interest Law is awarded each spring to a third-year student or students who have shown outstanding dedication to serving public interest law and public interest groups. This year’s co-winners are Yvette Lopez ’03 and Jennifer Schultz ’03.

The Seymour Herzog Memorial Prize is awarded each year to a student who demonstrates excellence in the law and commitment to public interest law, combined with a love of sports. This year’s winner is Shane D. Cooper ’03.

The Law School community offers congratulations to the winners and to all nominees.
**New Records for Reunion Fund-Raising**

Thanks to the combined efforts of our volunteers, several new records were set this year for Reunion 2002–2003. With over three weeks remaining in the Annual Fund year, Reunion volunteers raised almost $925,000 in gifts and pledges, which set a new record for total funds raised in a Reunion year, shattering the record of almost $780,000 set the previous year.

The classes of 1988 (15th Year), 1973 (30th Year), 1968 (35th Year), and 1948 (55th Year) all set new Reunion fund-raising records for their respective class campaigns. In addition, the class of 1953 raised 117% of its goal, and three classes raised more than 75% of their very aggressive goals. Donors also seem to be giving larger gifts—a pleasant surprise, given the state of the economy.

Under the leadership of Charles M. Adelman ’73, the class of 1973 raised an amazing $243,470 (156% of its goal) in gifts and pledges by the time Reunion weekend arrived, breaking the previous all-time record of $236,778 set by the class of 1977.

Of course, Reunion does not work without alumni volunteers. Volunteers are the key to a successful program and fundraising campaign. Some of the volunteers who made this year’s record-breaking Reunion such a success include the following chairs:

- 1998: Ruth A. Keene; Donald P. Breese; Michelle Gill; John F. Greco; Anita J. Lee; Mark E. Papadopoulos
- 1993: Jeffery T. LaRosa; Pilar S. Parducho; Julie B. Friedman
- 1988: Scott H. Blackman; Charles N. Schilke
- 1983: Toni M. Sutliff; Deborah A. Skakel; Katherine Ward Feld
- 1978: Kevin J. Arquit; Margaret Joan Finerty; Neil V. Getnick; William F. Murphy II
- 1973: Sally Anne Levine; Charles M. Adelman
- 1968: Don D. Buchwald
- 1963: Duncan W. O’Dwyer; Fredrick D. Turner
- 1958: Gerald Kleinbaum; Vincent S. Rospond
- 1953: John D. Killian; Robert D. Taisey; John L. Kirschner
- 1948: George H. Getman

A final update for Reunion will be available in the *Annual Report of Giving*, which will appear as an insert in the next issue of the *Forum*. The Law School owes all volunteers and donors its deepest appreciation and gratitude for the success of this year’s efforts.

**Planned Giving**

Many alumni and friends have thought about the future by establishing a bequest or planned gift to benefit the Law School. Planned giving can be both a source of personal satisfaction and financial benefit. In today’s economic environment, gift annuities, life estate agreements, charitable lead trusts, charitable bequests, and many other gift plans are appealing. For Cornell Law School, such gifts can provide a stable source of funding even in difficult economic times. Planned gifts can:

- provide a generous gift for the Law School
- pay you and your beneficiaries income for life
- convert low-yielding securities and real estate into a meaningful income stream
- generate substantial current income tax deductions
- reduce or eliminate federal estate taxes
- complement your financial and retirement planning

We would be pleased to assist with designing a personalized charitable giving program to complement your needs. Your support helps ensure that our students continue to receive the finest legal education, by our world-class faculty, in excellent facilities.

We would also like to recognize those who “self-identify,” as well as current members of the Cayuga Society, by publishing an article and roster of donors in the Spring 2004 issue of *Cornell Law Forum*. If you wish to be identified in the *Forum*, please send a note or call the Development Office at 607 255-3373.

**New Scholarship Established**

In memory of former professor Walter E. Oberer, the class of 1968 endowed the Class of 1968 Walter E. Oberer Scholarship Fund as a result of their class fundraising efforts for Reunion. The scholarship will be awarded when it reaches the base endowment level of $50,000.

For information on supporting the Oberer Scholarship, please call the Development Office at 607 255–3373. You may also make a gift to the scholarship online at lawschool.cornell.edu/giving/onlinegiving.asp
Gregory S. Alexander, the A. Robert Noll Professor of Law, was appointed to the board of advisors for the Restatement Third of Trusts. He attended a meeting of the advisors in San Francisco in June. Prof. Alexander was also appointed chair of the committee on honors of the American Society for Legal History. In January, he completed his term as chair of the Association of American Law Schools’ section on donative transfers.

Prof. Alexander’s article, “Property as a Fundamental Right? The German Example,” was published in May. He also published a paper titled, “Propriety as Commodity: Why Legal Environmentalists Have Embraced Market Solutions” in a collection of essays published by Edward Elgar Press. During the 2003-04 academic year, Prof. Alexander will be on leave and in residence as a Fellow at the Center for Advanced Study in the Behavioral Sciences, in Palo Alto, California.

Harry B. Ash, associate dean for external relations, attended the mid-winter Law School Advisory Council meeting, Dean’s Special Leadership Committee, and the executive committee meeting of the Cornell Law Association, all in New York City. He and Dean Teitelbaum met with alumni in California in February to advance the mission of the Law School. In early spring, Dean Ash traveled to Washington, D.C., Philadelphia, Wilmington, Boston, and New York to attend luncheons, meetings, and receptions, where he discussed with alumni the Law School’s needs for faculty positions, student aid, and program support. He was in New York in May to introduce Seth Peacock ’01, director of alumni relations, and Brian Harper, director of leadership gifts and annual fund, to the Dean’s Special Leadership Committee and several members of the Law School Advisory Council.

Dean Ash attended the biennial ABA Jackson Hole VII, a conference on law school development for deans and administrators, where he moderated two panels and led a plenary session on the professional relationships between deans and development officers. He continues to serve on the ABA Law School Development Committee and as secretary for the Association of American Law Schools’ institutional advancement section.


John J. Barceló, the William Nelson Cromwell Professor of International and Comparative Law and Elizabeth and Arthur Reich Director of the Leo and Arvilla Berger International Legal Studies Program, was a panelist at a conference on international commercial arbitration at Vanderbilt Law School on March 14 and 15. His presentation on “Separability and Kompetenz-Kompetenz—A Transnational Perspective” will be published in a forthcoming issue of Vanderbilt Journal of Transnational Law.

In late April and early May, Prof. Barceló was a visiting professor at the Central European University in Budapest. He gave a short course on WTO-GATT Law. Also in May, Prof. Barceló was an invited participant at a symposium, “Judicial Cooperation between the United States and Europe,” held at the Association of the Bar of the City of New York. The symposium was jointly sponsored by the European Commission and Columbia Law School.

As Reich Director of the Berger International Legal Studies Program, Prof. Barceló organized lectures and luncheon programs during the spring semester that featured guest speakers on international and comparative law subjects. He served on the steering committee of the Einaudi Center for International Studies and on the search committee for a new director of the Einaudi Center.
John H. Blume, director of the Cornell Death Penalty Project and a newly-appointed associate professor at the Law School, assisted in the development and implementation of Continuing Legal Education (CLE) programs (in Philadelphia and Atlanta) designed to inform attorneys about mental retardation in the wake of the U. S. Supreme Court’s recent decision (in *Atkins v. Virginia*) holding that executions of mentally retarded persons violates the Eighth Amendment.

Prof. Blume, along with Professor Anthony Amsterdam of New York University Law School, recently hosted the “Persuasion Institute,” a roundtable discussion that brought together academics, authors, and attorneys representing indigent death-sentenced inmates to discuss more effective narrative and persuasion strategies for capital post-conviction cases.

In January, Charles D. Cramton, assistant dean for graduate legal studies, was re-elected to the executive committee of the Association of American Law Schools’ section on graduate programs for foreign lawyers during the AALS’s annual meeting in Washington, D.C. At the New York State Bar Association’s annual meeting in NYC in January, he coordinated and moderated a CLE panel on “Multi-Jurisdictional Practice: Should New York Get On Board?” on behalf of the committee on legal education and admission to the bar, and attended several meetings of this committee during the spring. The January panel considered the legal ethics issues involved in contemporary multi-jurisdictional practices.

During the spring, Dean Cramton continued to serve on the New York State Continuing Legal Education Board, where he is a member of the accredited jurisdiction subcommittee and the appeals review committee, and participated in provider revocation proceedings. In March, he spoke on a panel on updates in New York winery law as part of the New York Wine & Grape Foundation’s annual meeting in Geneva, New York. In April, he attended the annual meeting of the National Association of Law Placement, and in June represented the Law School at the northeast regional conference on “Meeting Our Responsibilities: Substance Abuse and Law Schools,” sponsored by the New York State Lawyers Assistance Trust and numerous bar associations in the northeast.

During the first four months of 2003, Roger C. Cramton, the Robert S. Stevens Professor of Law Emeritus, was primarily engaged in writing and speaking on the role of lawyers in the massive corporate failures and frauds that have disturbed the economy and the public trust in the integrity of securities markets. He spoke at the 30th annual National Securities Regulation Conference in San Diego on January 30 on this topic. With two co-authors, Susan Koniak and George Cohen, Prof. Cramton prepared and submitted extensive comments to the SEC criticizing some of the agency’s proposed regulations to govern lawyers who are engaged in securities practice. The SEC’s final regulations, issued in January 2003, adopted a number of changes that they, supported by more than 50 distinguished law teachers, had presented. A second round of comments was submitted in April on the “noisy withdrawal” regulation that had been held over.

In March, at Victoria University, Wellington, New Zealand, Prof. Cramton delivered two lectures on corporate responsibility issues. Also in March, he was appointed one of the reporters for a major reevaluation and revision of New York’s Code of Professional Responsibility. He will be working with a subcommittee of the New York State Bar Association’s committee on standards of attorney conduct (COSAC) on this project, which is expected to last several years.

Prof. Cramton prepared a paper on lawyer ethics in asbestos litigation for a national conference held in April at Pepperdine University Law School.

Theodore Eisenberg, the Henry Allen Mark Professor of Law, with Professors John H. Blume and Martin T. Wells, completed work on “Explaining Death Row’s Population and Racial Composition,” which will be published in the first issue of *Journal of Empirical Legal Studies* in 2004. The study analyzes the size of states’ death row populations as a function of the number of murders in the state.

In January, Prof. Eisenberg presented “The Reliability of the Administrative Office of the U.S. Courts Database: An Empirical Analysis,” (co-authored with Professor Margo Schlanger of Harvard Law School) at the annual meeting of the Association of American Law Schools. The study, which will be published in *Notre Dame Law Review* later this year, provides the first systematic check on the important database maintained by the Administrative Office.
Prof. Eisenberg, with Elizabeth Hill, completed an article, “Employment Arbitration and Litigation: An Empirical Comparison,” which studies the relation between trial outcomes and arbitration outcomes in employment cases. Prof. Eisenberg and his co-author presented the results at a conference on arbitration at New York University Law School.

In the spring, Prof. Eisenberg’s article (with Professor Henry Farber of Princeton University), “The Government as Litigant: Further Tests of the Case Selection Model,” was published in American Law and Economics Review. It is a study of the government’s behavior in litigation, including its win rate at trial and its settlement rate.


With Geoffrey Miller of NYU Law School, Prof. Eisenberg continued work on an empirical study of attorney fees in class action litigation. The study covers ten years of reported cases involving such fees. With Professor Kevin Clermont, Prof. Eisenberg implemented a grant from Cornell University to promote innovation in teaching. They prepared law-related instructional materials on statistics for use in first-year courses. In the winter, Prof. Eisenberg presented (with Prof. Martin T. Wells) “Analyzing Large Punitive Damages Awards” at a Brooklyn Law School faculty workshop. The paper shows that traditional statistical methods are inadequate to analyze extremely large trial awards and that the methods suitable for extreme values should be used instead.

Prof. Eisenberg, with Cornell Law School professors Clermont, Garvey, Heise, Macey, Rachlinski, Schwab, and Wells, worked on founding the new Journal of Empirical Legal Studies, which will be edited by Law School professors and published by Blackwell Publishers. It is one of the few peer-edited journals in legal academia and is the only journal dedicated to empirical studies of the legal system.

Glenn G. Galbreath, senior lecturer and staff attorney in the legal aid clinic, and Justice of the Village of Cayuga Heights, attended the New York Unified Court System’s advanced certification training program for town and village justices. In May, he attended the Association of American Law Schools’ clinical conference in Vancouver, B.C. He continues to lecture and do demonstrations (through the Center for Development of Human Services at SUNY Buffalo) for child abuse investigators regarding their presentation of courtroom testimony.

Prof. Galbreath and his wife, Sandy, finished their third year as the Faculty in Residence in the Gothics residence halls on West Campus. They plan to travel with their daughters (one of whom is with the Peace Corps in Togo, West Africa) in South Africa this summer.

At the April meeting of the Law School Admission Council, Richard D. Geiger, associate dean of admissions and financial aid, reported on the work of the LSAC’s alternative score reporting work group, which he chairs. The work group has recommended new, more effective ways of reporting LSAT results so that they are less likely to be misused in the admissions process. Closer to home, he is pleased to report the completion of the admission and financial aid processes for a record-breaking 4,700 J.D. and 1,000 LL.M. applicants, respectively.

At the annual meeting of LSAC in May, Dean Geiger officially assumed his new role as chair of the board of trustees, as well as serving as a panelist on the topic of “What’s Next for the LSAT” and giving a talk on the importance of synergy in admissions.

Claire M. Germain, Edward Cornell Law Librarian and Professor of Law, attended the annual meeting of the Association of American Law Schools, in Washington, D.C., in January, where she served on the executive committee of the section on law libraries. With Professors Clermont and Eisenberg, she received a Cornell University Faculty Innovation in Teaching grant, dedicated to the improvement of teaching through the use of technology and focused on “Extending Borders in Teaching Law.” Prof. Germain plans to develop “French Law in Action,” a multi-media exploration of legal realities via case studies, judge and lawyer interviews, and interactive distance learning opportunities, to use in her course, Introduction to French Law.
At a by-invitation-only conference at Georgetown Law School in March, Prof. Germain delivered, “Preserving Legal Information for the 21st Century: Toward a National Agenda,” in which she addressed international law concerns of law librarians. In June, she participated in the Law School’s Summer Institute of International and Comparative Law in Paris.

George A. Hay, Edward Cornell Professor of Law and Professor of Economics, appeared on a panel at the ABA antitrust section spring meeting in Washington, D.C., where he discussed “Ethical Issues Relating to Economic Experts.” His article, “Boral: Free at Last,” was published in the April issue of The Competition & Consumer Law Journal. The article deals with a recent decision by the High Court of Australia in an antitrust case in which Prof. Hay was the expert witness for the defendant. The decision effectively imports the U.S. law on predatory pricing to Australia, as Prof. Hay had recommended in his expert testimony.

At Cornell, Prof. Hay served on the University Hearing Board.

Robert A. Hillman, Edwin H. Woodruff Professor of Law, continued work on his new book, Principles of Contract Law, due from West Publishing Company in 2004. Prof. Hillman is also preparing a book review of Dimensions of Private Law: Categories and Concepts in Anglo-American Legal Reasoning (2003), by Stephen Waddams. Prof. Hillman will present his review at a workshop at the University of Toronto. His own The Richness of Contract Law was translated into Chinese and published by the University of Peking Press this spring.

In June, the American Law Institute invited Professor Hillman to attend a special meeting for the purpose of deciding whether ALI should begin a new restatement project concerning the law applicable to digital information. He also continued his work as chair of the Association of American Law Schools’ professional development committee.


Prof. Kysar organized a panel of scholars considering “Feminist Theory, Corporations and Capitalism” for the 20th anniversary summer conference of Professor Martha Fineman’s Feminism and Legal Theory Project. As part of the panel, Prof. Kysar presented a paper, “Feminism and Eutrophic Methodologies,” which will be published as a chapter in Feminism Confronts Homo Economicus (forthcoming), edited by Prof. Fineman.

Anne Lukingbeal, associate dean and dean of students, attended the Association of American Law Schools’ annual meeting in Washington, D.C., in January. Later that month, she represented the Law School at the special “End of Season” program sponsored by the National Association of Law Placement (NALP) in New York City. Also in January, Dean Lukingbeal spoke at the Cornell Law School Advisory Council meeting, in New York, on the effect of the sluggish economy on the placement of Law School graduates. In February, Dean Lukingbeal attended the dean of students annual meeting with a small group of similar law schools. The meeting was held at Duke Law School in Durham.
In April, Dean Lukingbeal was elected to a two-year term on the NALP Board of Directors. Her first full board meeting was in Washington, D.C., in May. Also in April, Dean Lukingbeal spoke at the plenary session of the National Conference of Bar Examiners and Bar Admissions Directors annual joint meeting in Phoenix. With Justice Sam Hanson from Minnesota and Dean Mary Kay Kane of Hastings College of Law, Dean Lukingbeal discussed developments in relationships between bar admissions and law schools. In May, in Jackson Hole, Wyoming, Dean Lukingbeal spoke on “Synergies Between Admissions, Alumni, Student Affairs and Career Services.” The conference was sponsored by the AALS and attended primarily by development officers from law schools around the country.


In March, Prof. Macey spoke on “Corporate Governance, Enron and Sarbanes-Oxley” at seminars held in Barcelona and Madrid and sponsored by the ESADE School of Management. Also in March, Prof. Macey attended regular meetings of the legal advisory committee to the board of directors of the New York Stock Exchange. Prof. Macey is a member of both the legal advisory committee and of its subcommittee on market structure. In April, Prof. Macey presented his paper (co-authored with Maureen O’Hara), “The Corporate Governance of Banks,” which was published that month in 9 Economic Policy Review 91, a publication of the Federal Reserve Board of New York.

Also in April, Prof. Macey lectured in Boston on corporate law topics, ranging from agency law and piercing the corporate veil to predatory lending, to enforcement-division attorneys of the United States Department of Housing and Urban Development (HUD). In May, Prof. Macey spoke to the Associazione Internazionale Giruisti Lingua Italiana (AIGLI) in Lecce, Italy, on, “La Tutela dei creditori e degli azionisti nell’esperienza nordamericana nella Società Europa” (“The Protection of Creditors and Shareholders From an American and a European Perspective”).

During this period, Prof. Macey saw the publication of Corporations Including Partnerships and Limited Liability Companies (8th ed.), his corporation law casebook (with Robert W. Hamilton), as well as the Statutory Supplement and Teacher’s Manual to that book. In addition, Prof. Macey published “Solving the Corporate Governance Problems of Banks: A Proposal” (with Maureen O’Hara), 120 The Banking Law Journal 309 (2003); and “Displacing Delaware: Can the Feds Do a Better Job Than the States in Regulating Takeovers?” 57 The Business Lawyer 1025 (2002).

As a member of a University Intellectual Property Committee, Peter W. Martin, Jane M.G. Foster Professor of Law, helped draft a report recommending changes in Cornell’s copyright policy that was submitted to the Faculty Senate and Provost in May. Prof. Martin also continued his work on the American Bar Association’s Out of the Box Committee. His essay on technology and legal education, prepared for that committee, was published in 52 Journal of Legal Education 506 (2003). In March he participated in a planning session for an all-day Association of American Law Schools workshop on technology and pedagogy scheduled for the AALS’s 2004 annual meeting.
In May, Prof. Martin delivered an invited lecture at the Research Centre in Intellectual Property and Technology Law of the University of Edinburgh. His topic was “A Seven-Year Experiment in Distance Legal Education: Key Preliminary Findings.” In the lecture, as well as in an earlier workshop at the Centre and a subsequent meeting with faculty of the Glasgow Graduate School of Law, Prof. Martin discussed the components, pedagogical design and strategy, technology infrastructure, administrative arrangements, and educational outcomes of his on-line courses. He illustrated the lecture with elements drawn from his on-line Social Security course, which was offered last spring term to 65 students enrolled at five different law schools.

In the spring, JoAnne M. Miner, director, senior lecturer, and staff attorney in the Cornell Legal Aid Clinic, established a close working relationship between her Women and the Law Clinic and the Advocacy Center; the latter, formerly the Task Force for Battered Women, provides a variety of services to victims and survivors of domestic violence, whom it now refers to the Women and the Law Clinic for representation. Students interview the women at the Advocacy Center, give them information and advice, and represent them in court actions. Early in the semester, the students attended a training session at which staff from the Center led a discussion of issues pertinent to the representation of domestic-violence survivors. These sessions complemented the students’ work in the seminar component of the Clinic, which included readings and other activities. Both the students and the Advocacy Center staff enthusiastically embraced the collaborative work and discussed how to improve the program in the future.

In addition to teaching the Women and the Law Clinic, Ms. Miner also taught in the Public Interest clinic and the Law Guardian Externship. In July, she became the new director of the Cornell Legal Aid Clinic. She also presented an overview of custody and support issues to the participants in the Tompkins County parent education program, Parents Apart, which Ms. Miner helped design and implement.

Ms. Miner continues to serve on the board of directors of Chemung County Neighborhood Legal Services, Inc., a local federally-funded legal services provider.

The commissioner of the New York State Office of Children and Family Services (OCFS) has asked Andrea J. Mooney, lecturer in the legal methods program, to serve on a statewide team investigating the relationship between child welfare services and the courts in New York State. The team is headed by OCFS deputy commissioner and general counsel, Gail H. Gordon ’74.

Ms. Mooney has also been invited to serve on a national task force on behavior management training guidelines, convened by the Child Welfare League of America. This task force will be publishing guidelines for residential childcare agencies seeking to reduce the use of restraint and seclusion in their programs.

In January, Muna B. Ndulo, professor of law and director of Cornell’s Institute for African Development, was a panelist of the joint program of sections on Africa and minority groups at the annual meeting of the Association of American Law Schools, where he spoke on “Prospects for Democratization in Africa and Economic Development.” Prof. Ndulo explained that the development challenges facing Africa are daunting, and that there is a strong link between good governance and development. Prof. Ndulo welcomed the New Partnership for Africa’s Development (NEPAD) but emphasized that it, too, will fail unless good governance is established to facilitate investments and development.

Prof. Ndulo also spoke at the AALS program sections on Africa, law school deans, graduate programs for foreign lawyers, international legal exchange and North American cooperation. In his presentation he spoke about legal education in Africa, its development, its current organization, and the progress being made, if any, in internationalizing legal education to meet the challenges of the 21st century. Prof. Ndulo noted, among other sad developments, that there are today far fewer legal education
In April, Prof. Rachlinski delivered a paper at a symposium on environmental philosophy at the University of California-Davis. The paper, “Environmental Heuristics,” describes how environmentalists construct ways of thinking about environmental problems for the general public. Prof. Rachlinski argues that catch-phrases such as “polluter pays” or “sustainable development” are meant to be handy mental shortcuts for assessing public environmental issues. Public-interest environmental groups deliberately arrange such phrases to focus public attention on particular issues and channel public opinion in particular directions.

Also in April, Prof. Rachlinski spoke at the University of Houston Law Center on ongoing work on the cognitive strategies that judges use to make law and decide cases. The talk included a presentation of recent evidence that Prof. Rachlinski has collected, which demonstrates that judges have difficulty ignoring privileged or inadmissible evidence. Prof. Rachlinski’s work suggests that, in some contexts, when judges rule evidence inadmissible, the evidence nevertheless affects their decisions.

Annelise Riles, professor of law and anthropology, completed a number of major articles this spring. “Making White Things White: An Ethnography of Legal Knowledge” will appear in Ethnos (a special issue in the anthropology of knowledge) and concerns debates surrounding financial law reforms in Tokyo. “Failure as an Endpoint” (co-authored with Hirokazu Miyazaki) will appear next year in Oikos/Anthropos: Rationality, Technology, Infrastructure (Aihwa Ong and Stephen Collier, eds.), and concerns the uses of economic theory among traders and regulators involved in the derivatives markets in Tokyo. “The Empty Place” will appear in The Place of Law (Austin Sarat ed.), University of Michigan Press (forthcoming) and concerns the uses and unintended consequences of legal formalities in property law. “Law as Object” will appear next year in Legal Legacies, Current Crises: Fiji and Hawaii (Sally Merry and Don Brenneis, eds., forthcoming SAR Press, 2004) and concerns the instrumental and expressive functions of law, as evident in colonial land policy.

Prof. Riles served as editor of Political and Legal Anthropology Review, the premier journal in the anthropology of law, which currently is based at Cornell Law School. As director of the Clarke Program in East Asian Law and Culture, she also organized three major conferences this spring and co-sponsored a fourth.
In addition, Prof. Riles presented the following papers at Cornell: “Making White Things White,” presented to the anthropology department in February; “Real Time,” presented at the annual conference of Science and Technology Studies in April; “Means and Ends,” presented at the Pragmatism, Law and Governmentality conference in March; “Making White Things White,” presented at Cultural Approaches to the Asian Financial Markets in April. Prof. Riles also presented her work at the following conferences and public lectures: American Law and Society Association annual meeting, in June; conference on the Language of Law, University of Milan, in May; University of Lancaster, in May (as visiting professor of social science); Social Studies of Finance conference, University of Konstanz, in May; keynote lecture, European Society of Economic Geographers, Nottingham, in April. At the Law, Culture, and Humanities conference in New York City in March, Prof. Riles presented two papers: “Legal Studies as Science Studies” and “Means and Ends.”

E.F. Roberts, the Edwin H. Woodruff Professor of Law Emeritus, has continued to follow developments in England. Fans of land use planning will recall that “Red Ken” Livingstone, Mayor of London, pushed through a plan to impose large daily fees on persons who insist upon driving their cars in the congested commercial parts of that city. Notwithstanding the genesis of the scheme, an article in The New York Times Magazine (20/4/03) gave it a rave review, citing it as a “global precedent.” Meanwhile, the Lord Chancellor has raised a mini-firestorm by questioning the relevance of wigs and robes in 21st-century courtrooms. Given that there seems to be no end in sight to wasting petroleum resources and that courtroom robes are descended from clerical garb, Prof. Roberts wonders whether kamikaze environmentalists and separationists here will at least perk up their ears if not pick up their pens.

The supplement to the lawyer’s edition of McCormick on Evidence hit the newsstands in April while the student version is still somewhere in the production process.

Faust F. Rossi, the Samuel S. Leibowitz Professor of Trial Techniques, was in residence but on leave during the spring term. He was appointed by the Provost to serve on the Law School Dean Search Committee.

During January, Prof. Rossi gave a series of evidence lectures in Los Angeles, San Francisco, and San Diego. In April he prepared materials for a one-day legal education program at the firm of Howney and Simon on recent developments in advocacy and evidence. At this session, Prof. Rossi discussed recent cases on experts and privilege. He also continued his practice of writing articles on famous trials for Cornell Law Forum. The most recent, “The First Scottsboro Trials: A Legal Lynching,” appeared in two parts in the Winter 2002 and Spring 2003 issues, respectively.

During the spring semester, Stewart J. Schwab was the Harvey and Susan Perlman Distinguished Visiting Professor of Law at the University of Nebraska College of Law. This honor entailed four trips to Nebraska, where Prof. Schwab co-taught an employment law class and gave two faculty workshops. Prof. Schwab also made a presentation in Omaha to a group of 8th Circuit district and circuit judges on litigation trends in Nebraska. Using data from the Administrative Office of the U.S. Courts, Prof. Schwab emphasized the dramatic decline in federal civil trials over the last two decades, both in Nebraska and nationwide.

At the employment discrimination section of the Association of American Law Schools’ annual meeting in January, Prof. Schwab presented joint work with colleagues Kevin Clermont and Ted Eisenberg on success rates of employment discrimination cases. Later in the semester, Prof. Schwab presented an expanded version as the 2003 Duvin Cahn and Hutton Employment/Labor Law Lecturer, at Cleveland-Marshall College of Law. Prof. Schwab and his colleagues find that employment discrimination plaintiffs have lower success rates at trial than other federal plaintiffs, are reversed more frequently on appeal than other plaintiffs, and are less likely on appeal to get defendant trial victories reversed.

A group of Cornell Law School students has created an organization called Discourses that is designed to give them an
opportunity to discuss legal theory among themselves and with faculty. In April, the group invited Prof. Schwab to present a Discourses Roundtable on “The Law and Economics Approach to Employment Law.”

In March, his article “Reasonable Accommodation of Workplace Disabilities” appeared in William & Mary Law Review. Co-authored with Steven Willborn, Dean of the University of Nebraska College of Law, the article provides a law-and-economics framework for thinking about the reasonable accommodation requirement of the Americans with Disabilities Act.

As in past years, Prof. Schwab posed as an expert witness in a wrongful-death case in Glenn Galbreath’s trial advocacy class, where he (barely) withstood fierce cross-examinations by Brian Haussmann ’04 and Bruce Gorman ’03, having been ably prepared by Ellen Eagen ’03. Earlier in the semester, three of Prof. Schwab’s children, Zachary (13), Quintin (10), and Soren (7), posed as child witnesses in the trial advocacy class, matching wits with the students.

In March, at the request of Ithaca High School government teacher Heather Tallman, Prof. Schwab lectured to three senior classes on the Supreme Court. Part of the show-and-tell was his 20-year-old picture of himself with Justice Sandra Day O’Connor, with the question being, “Who has changed more?”

At semester’s end, Prof. Schwab teamed with Dean Lee Teitelbaum in a rousing tennis match against Terry McGuire ’03 and R.D. Kohut ’03. Terry and R.D. had placed the winning bid at the Public Interest Fund Cabaret to participate in the match, which the Teitelbaum-Schwab duo won.

Steven H. Shiffrin’s article, “The First Amendment and the Socialization of Children: Compulsory Public Education and Vouchers,” 11 Cornell Journal of Law and Public Policy 503 (2002), appeared in February. He also presented a work-in-progress, “Religion and Equality,” to the conference on Religion and Fundamentalisms at Cornell in March, and to the Cornell campus ministers in early May. Later in May, he presented a substantially revised version of this article to the Conference on Philosophy and the Social Sciences in Prague. When completed, the paper will address the relationship between political theory and freedom of religion, and the differing views about freedom of religion between the United States and most of Europe.


Katherine Van Wezel Stone, professor of law and the Anne Evans Estabrook Professor of Dispute Resolution, completed her book, From Widgets to Digits: Employment Regulation for the Changing Workplace, which will be published in 2004 by Cambridge University Press. The book describes the major changes in the workplace during the 20th century, documenting the creation of hierarchically organized, internal labor markets in the first two-thirds of the century and the rise of more flexible models of employment at the end. Prof. Stone discusses the implications of these changes for labor and employment law, with particular emphasis on employment discrimination law, ownership of intellectual property, employee representation, and employee benefits. She also considers the implications of the changing nature of employment for income inequality.

In February, Prof. Stone gave a series of lectures in the United Kingdom. One lecture, on the “Legal Regulation of the Changing Contract of Employment,” was presented at the Program in Comparative and International Law, Oxford University. She also lectured on “Employee Representation in a
Boundaryless Workplace” at the Judge Institute of Management and Law Faculty, Cambridge University.

In March, at the UCLA School of Law, Prof. Stone gave a workshop on “Sex Discrimination in the Changing Workplace.” In June, she gave a paper on “Globalization and Flexibilization in Labor Relations” at the annual meeting of the Law and Society Association in Pittsburgh. Also in June, Prof. Stone organized a panel, titled “Employee Representation in an Era of Globalization and Flexibilization,” at the annual meeting of the Society for the Advancement of Socio-Economics, in Aix-en-Provence. As part of the panel, Prof. Stone presented a paper, “From Globalism to Regionalism: Protecting Labor Rights in a Post-National Era,” in which she argued that new forms of collective representation and new systems of labor regulation are necessary if unions are to survive the dual assault of globaliza-
tion and flexibilization.

Robert S. Summers, William G. McRoberts Research Professor in the Administration of Law, gave two lectures in April at the University of Oregon School of Law. One lecture was for students on the subject, “Law As More Than A Livelihood.” The other was for faculty and dealt with themes in Prof. Summers’s nearly-completed book, On Giving Form Its Due: A Study in Legal Theory. In May, Prof. Summers presented a seminar on legal form to the law faculty at the University of Bristol, in England, and in June lectured on the nature and importance of legal form at Queen’s College, University of Oxford.

Prof. Summers completed four articles for publication. Two of these are contributions to festschrifts, one for Professor Werner Krawietz of the University of Münster in Germany, and the other for Professor Alice Tay of the University of Sydney in Australia. Prof. Summers also completed “On Giving Form Its Due: A Study in Legal Theory,” which is a sketch of the central themes of his book on this subject. The article will appear in the 2003 Proceedings of the World Congress of Social and Legal Philosophy. Prof. Summers gave a plenary lecture on this topic at the Congress held in Lund, Sweden, this August.

Prof. Summers continued to work on the 5th edition of his four-volume treatise, The Uniform Commercial Code, which he co-authors with Professor James J. White of the University of Michigan Law School.

Books by Cornell Law School Professors Published in Chinese

The well-known book by P.S. Atiyah and Robert S. Summers, Form and Substance in Anglo-American Law, is being translated into Chinese. The book was first published in hardback by Oxford University Press in 1987. It was widely reviewed, with one reviewer in Cambridge Law Journal remarking, “Not since Holmes and Pollock exchanged their letters has there been such an absorbing communion of American and English legal minds.” The book has since appeared in paperback (with revisions) and gone through several re-printings.

A second book, The Richness of Contract Law, by Professor Robert A. Hillman, was also translated into Chinese and published by the University of Peking Press earlier this year. The book was originally printed by Kluwer in 1997, with a paperback version published in 1998. One reviewer wrote that the book “is written in a lively and engaging fashion, and brings together in an accessible format a wide variety of theoretical issues in contract law. It is an excellent introduction to the student or newcomer in this area and offers new and original insights to the more advanced scholar.”
Leslie G. Landau ’83

Twenty years after receiving her J.D., Leslie G. Landau still says, “I love what I do.” As co-chair of Bingham McCutchen’s appellate group (and managing partner of the megafirm’s San Francisco office), Ms. Landau enjoys a nationwide practice in which she has argued before many Circuits of the U.S. Court of Appeals, the Texas Supreme Court, and the California Supreme Court, as well as intermediate state appellate courts around the country. Ms. Landau has represented major corporate clients like General Motors, Hyundai, Nissan, Cargill, American Honda, and large accounting firms, and has advocated pro bono on behalf of illegal immigrants fighting deportation, Planned Parenthood clinics seeking protection from aggressive protesters, and the defendant in the California death penalty case, People v. Clair. She has submitted amicus briefs in support of the Jane Goodall Institute and the American Academy of Pediatrics. Overall, Ms. Landau’s career as an appellate lawyer has been demanding, exciting, rewarding—and unanticipated.

Far from planning to do high-profile appellate work at a large firm, Ms. Landau came to Cornell Law School with the intention of practicing public interest law. She was chair of the Women’s Law Coalition and served as student counsel in the Legal Aid Clinic, and during the summers worked at public interest firms. She also studied advanced civil procedure with Professor Kevin Clermont, whom she describes as “the best teacher at any school, in any subject, anywhere, ever,” and federal courts with Bob Kent, whom she recalls as “a wonderful teacher and a delightful person.” Her primary motive, however, was to deepen her understanding of how the law affected the lives of ordinary people and how a public interest lawyer could use the law to improve those lives.

After graduation, Ms. Landau clerked for the Hon. William E. Doyle on the Tenth Circuit Court of Appeals. Clerking at the appellate level was, in Ms. Landau’s estimation, “tremendously important” to the development of her legal career: “It taught me that I liked appellate work. The cases were important, the attorneys were well-prepared, the arguments were interesting. Also, the clerkship gave me important insights into how the legal system worked, and I would not have gotten those particular insights elsewhere.”

After her clerkship, Ms. Landau felt reality intervene: “I needed a job and I needed to pay back loans. So I joined McCutchen, Doyle, a big firm in San Francisco, thinking I’d stay two or three years, make some money, pay off my loans, and go back to public interest. But I discovered I loved appellate work, and that being at a large firm in a progressive legal community gave me tremendous resources to serve public interest causes.” In the death penalty appeal in People v. Clair, which Ms. Landau handled from 1989 through 1992, McCutchen, Doyle committed more than one million dollars’ worth of attorneys’ time and staff resources to a pro bono representation for which, given the low hourly rate the State provided, it would receive minimal reimbursement. Still, Ms. Landau and her firm pursued the appeal with the thoughtfulness, intensity, and zeal they devoted to every client. Similarly, the firm’s ongoing representation of Planned Parenthood is completely gratis and has helped the organization gain relief from the abusive tactics of aggressive anti-abortion protesters through the creation of buffer zones, which attempt to balance the protesters’ First Amendment rights against the personal safety of Planned Parenthood clients who choose to exercise their reproductive rights by using services that remain legal.

Besides extensive pro bono work, Ms. Landau is proud of her thriving appellate practice, which took some 15 years to establish. “In the main, appellate work is a procedural specialty,” she points out, “it’s not substantive,” so clients used to working with outside counsel based on substantive knowledge “often do not know whom to call when they need appellate
counsel.” Although Ms. Landau has substantive expertise in some areas, like punitive damages, product liability, and federal preemption, clients choose her based mainly on results: “I am pleased to have developed a reputation for winning tough cases, so that clients come to me when they have problem cases, and trust me to argue their cases in the highest courts.” Although she has been pleasantly surprised by the satisfactions of appellate law and the opportunities to work for the community within the context of a large firm, Ms. Landau concedes that she has been disheartened by some lawyers’ mutual incivility: “Some people are just hostile and difficult for no apparent reason. Not all lawyers are like this, but some definitely go out of their way to make opposing counsel’s life miserable.” On the other side of the ledger are the “brilliant, well-prepared lawyers,” the “cutting-edge interesting cases,” and the “lively oral arguments with well-prepared judges” that vouchsafe Ms. Landau a constant source of renewal in the prime of her career.

She is also heartened by the legal profession’s general improvement, during the last 20 years, in addressing the needs of women attorneys and affording a place to minorities. “Bingham McCutchen is absolutely committed to excellence and diversity. We want to be on the forefront of creating opportunities for women and minority lawyers, and in fact we have had one of the best diversity records in the nation.” Ms. Landau’s personal experience bears out these claims: “The firm has bent over backwards to make it as easy as possible for me to practice law while having two young sons. Our maternity and part-time policies are progressive and generous, to the point that Bingham McCutchen is the best place for women lawyers, hands down.” Still, no job is perfect and the law does not indulge the personal lives of its practitioners: “It’s a struggle for women in the legal profession generally,” Ms. Landau allows, “and there’s a limit to what any firm can do to accommodate family life. But certainly, the conflicts I’ve encountered—for example, oral arguments in Los Angeles, Texas, and Boston in ten days last June, when all the end-of-school events were scheduled—were not firm-created; they were part and parcel of the profession’s unavoidable demands.”

In addition to her practice at Bingham McCutchen (McCutchen, Doyle having merged with Bingham, Dana on July 1, 2002), Ms. Landau is a member of the California Academy of Appellate Lawyers, and of the litigation committee of Equal Rights Advocates. She also serves on the board of governors of California Women Lawyers (where she is chair of the Amicus Committee), on the board of the Ninth Circuit Historical Society, and has recently served as a lawyer representative to the Ninth Circuit Judicial Conference, and as co-chair of the Northern District of California Judicial Conference.

As this issue was going to press, Ms. Landau was appointed to the bench of the Contra Costa Superior Court.

—John A. Lauricella

Paramjeet “Tony” Sammi ’98

As an electrical engineering and physics major at the University of Maryland, Paramjeet “Tony” Sammi was voted “Most Likely to Succeed in Liberal Arts” by his classmates. This may seem a dubious honor to be bestowed upon him by his fellow engineering students, but it was intended as a compliment. It meant, says Mr. Sammi, that “I didn’t fit the traditional engineer profile—I liked people too much.”

With an electrical engineering degree in hand, the self-professed “gadget freak” decided to parlay his remarked-upon social skills into a career that favored people over gadgets, and human interaction over solitary pursuits. “As an engineer, you oftentimes pursue a project by yourself, working to overcome scientific barriers. Law interested me because it seemed like a career where you could work directly with people, resolving human disputes,” says Mr. Sammi.

Nonetheless, he had some misgivings about changing course. “I was very apprehensive about law school. I thought everyone would have a liberal arts background, like political science or philosophy, and I thought they’d run circles around a guy who had worked with computers and circuits for five years. How was I going to compete?” To his relief, he found that his background worked in his favor. “The study of law is really a very analytical process, closely related to the kind of problem-solving I’d done,” he says. “It turned out that I was very well-suited to law because of my technical degree.”

Mr. Sammi is now an associate in the New York firm of Skadden, Arps, Slate, Meagher & Flom, practicing in patent litigation and the still-evolving field of intellectual property. His training in law and technical disciplines makes him a passionate and effective advocate for the “people with ideas” who
are his clients. “Few people know what inventors really do,” he explains. “They’re misunderstood by laypeople, who often think of them as just geeks. But inventors are so vital to human progress! They’re very idealistic about their scientific pursuits and don’t necessarily think to utilize the law to protect themselves and their commercial interests. I like having the opportunity to represent those people.”

The busy life of a young associate at a major urban law firm agrees with Mr. Sammi, who says his guiding principle is “being judged by, and recognized for, my contributions and skills.” He knew there was no place he’d rather work than in the high-profile, high-stakes, high-challenge New York City market. “Here, you have to be at the top of your game, and you’re surrounded by others who are as well, so you’re constantly pushing to learn new things and meet new challenges.”

Outside the office, he is involved with national and state-level intellectual property associations, and is a founding board member of the South Asian Bar Association of New York.

It was the positive memories of his years at the Law School that prompted Mr. Sammi to make room in his already-demanding schedule for one more commitment: he was a charter member and co-chair (with John J. Dieffenbach ’92) of the Young Alumni Committee. “In many ways, my years at Cornell [Law School] were better than my undergrad experience, so I’ve always wanted to keep up with what’s happening on campus. I attended some alumni functions, and I heard there was a need for younger alumni to connect with the school and with each other.” The Young Alumni Committee’s charge is to engage recent graduates with programming and initiatives targeted to the needs, tastes, and interests of attorneys whose careers are just getting underway. Committee members serve as conduits, providing representation and feedback to the school and disseminating information and outreach from campus and between fellow alumni.

Both roles make use of Mr. Sammi’s people skills. “Young alumni should have representation in issues that directly affect students,” he says. “One of Cornell’s greatest strengths is that so many of us made lifelong friends at school. I’ve spoken with a number of colleagues who attended other schools, and it seems they didn’t have that kind of closeness. I wanted to translate that camaraderie into New York City and into the work experience by lending support to our fellows in the same age range. Especially now, in the tight job market, so that recent grads aren’t just thrown to the wolves.”

Mr. Sammi believes the Young Alumni Committee could play a particularly beneficial role in helping to attract greater numbers of qualified applicants, and in mentoring admitted students and recent graduates. “We could serve as a sounding board, or give advice. Our experience might be particularly relevant—and we have a lot of good things to say.”

And what advice might he give an aspiring attorney with a newly-minted law degree? “Don’t think that law school, or the legal profession, is all that defines you. There’s a lot of pressure to pick a specialty,” he explains, “but one of the most meaningless questions asked in a job interview is, ‘What type of law do you want to practice?’ You just don’t know, right out of school; you’re not equipped. It can take years, or even a lifetime, to answer that question. And you can always change your answer—nothing is set in stone. A law degree is one of the most versatile degrees you can have.”

~Robinne Gray

Lynne Campbell Soutter ’03

“I work best when my time is full,” says Lynne Campbell Soutter ’03. Coursework, studying, and exams would seem to keep the life of a law student full enough, but in her years at the Law School, Ms. Soutter also served as vice president of the Cornell Law Students Association (CLSA), student representative on the Faculty Curriculum Committee, and an articles editor for Cornell International Law Journal.

She also played on a women’s ice hockey team. And she graduated cum laude. “When I’m busy, I’m more efficient with my time,” she says simply. “Otherwise I’ll just rent movies and read magazines.”

It is difficult to imagine Ms. Soutter enjoying such sedentary pursuits. Always a strong athlete, she was a competitive skier and swimmer in high school, and played “a heck of a lot of rugby” during her undergraduate years at Dartmouth. After college she continued playing as a member of the inaugural U.S. National Under-23 team, known as the Baby Eagles. “Rugby was a big part of my identity for many years, and a source of pride for me,” she says. “It’s a very challenging, full-tackle sport. Even though it looks like chaos, it’s mentally complex. The game has a lot of contact—and a lot of camaraderie.”
Challenge, complexity, and camaraderie have figured prominently in her career path, as well. At Dartmouth she majored in geography because of the field’s interdisciplinary nature: “It was a wonderful way not to have to eliminate anything.” She chose to focus on human rather than physical geography, and in 1996 spent a semester abroad in Prague, studying how the changing geopolitical axes manifested in everything “from highways to diplomatic ties.” Later, she took a class in free speech from Lee Bollinger, then provost at Dartmouth, later president of the University of Michigan, and now president of Columbia University. Mr. Bollinger conducted the class in a “soft Socratic” manner. “I loved that class,” she recalls. “If law school was like that, I knew I would enjoy it. But I didn’t know whether I’d enjoy being a lawyer!”

After Dartmouth, Ms. Soutter moved to Boston, taking a job as a paralegal at Hale and Dorr to help her answer that question. In that capacity, she frequently made trips to the old Federal Courthouse. She recalls how the elegant and imposing building inspired her: “I loved to go there. There was a sign on the door that read, ‘U.S. Attorney, Division of Organized Crime and Racketeering,’ and I would picture someone like Bobby Kennedy walking out that door.”

Ultimately, it was the attorneys she worked with who helped solidify her decision to attend law school. “Their minds were constantly engaged in their work, and clearly they were not bored. Every case involves entirely new subject matter, with new industries and legal issues to learn. As a generalist, I found that appealing. The attorneys were very intelligent, very sharp. They seemed like people I’d want to have for colleagues.”

Having made her decision, Ms. Soutter took time off before applying to schools. “I wanted to experience a variety of things I knew I wouldn’t have time for after law school.” She traveled throughout Latin America, spent time as a self-described ski bum in Stowe, Vermont, and volunteered at the New England aquarium in order to fulfill her childhood dream: swimming with and feeding the penguins. She also did a stint as a waitress. “I’m certain I’ll be a better lawyer than I was a waitress.”

Ms. Soutter was attracted to Cornell Law School by its small size: “I wanted a place where I could have a sense of ownership.” To that end, she decided to run for a position in the Cornell Law Students Association, and was elected 1L class representative and later senior vice president. “CLSA got me involved with the administration, faculty, and students. That was deliberate on my part—I didn’t want just to take classes and learn the law.” Her CLSA position led to her involvement as student representative on the Faculty Curriculum Committee, which approves the entire curriculum and debates any proposed changes to it each year. She enjoyed the insider’s view that her extracurricular work afforded her. “It was really nice to know what was going on ‘behind the scenes’ at the Law School. It’s a good sign that Cornell has student representation. So many decisions affect students directly, so they need a voice.”

After graduation, Ms. Soutter returned to Boston and to Hale & Dorr, where she also worked as a summer associate after her second year. “They do more pro bono work than any other firm in Boston, and that’s a big part of why I chose them. It’s a thoughtful and well-managed firm that encourages its people to pursue their own legal interests.” The young woman who wasn’t certain she would enjoy being a lawyer is now committed to practice. “Information and access to representation are so important for people,” she says. “Clients have problems that need a resolution; some may not even realize their problem has a legal remedy. I wanted to learn law so I could be a resource, and a source of confidence for my clients. That is something I really look forward to.”

--Robinne Gray

James Sahngwon Yoon ’03
A polite, modest, thoughtful young man like James Sahngwon Yoon doesn’t seem like the type to be investigated by the FBI. But it’s a job requirement: starting this October, he’ll be working for the antitrust division in the U.S. Department of Justice, where he interned the summer after his first year at the Law School. “My friends keep teasing me about how they’ll tell
them about my ‘secret plans to overthrow the government,’” he says, amused. “I have to keep telling them to cut it out!”

Mr. Yoon was born in Chicago to Korean parents. After 19 years in the United States, his parents returned to South Korea, taking 12-year-old James, their youngest, with them. He recalls the culture shock he experienced as a pre-teen: “Adjusting was definitely a challenge—new language, new school, new country.” Noting that South Korea has changed a great deal since those years, he says, “At the time I went back, there were many things I didn’t like.” Corporal punishment and humiliation were widely used as disciplinary measures by schools, and the young Mr. Yoon was not spared. “I couldn’t speak Korean well enough to explain why I was doing poorly on tests … and the pressure for the Korean college entrance exam was, at times, suffocating.” Looking back, he says the “incredible growth experience” taught him a lot about perseverance, humility, and the importance of God in his life.

After seven years, returning to the United States for college required Mr. Yoon to make a second cross-cultural transition. He attended Yale, where he majored in political science with an emphasis in international relations. He took classes in constitutional law and international human rights issues, and decided to attend Cornell Law School when two of his friends from the Christian fellowship also chose to enroll. “I had a really good time when I visited the school, too. I stayed with a student who became one of my really good friends. He almost single-handedly recruited me,” Mr. Yoon says, adding that the same student recruited four or five others as well. “Perhaps the Admissions Office was paying him a commission,” he jokes.

Once admitted, Mr. Yoon again experienced intense academic pressure during the grind of first-year classes. “There were many times during 1L when life felt very empty and dark. I couldn’t cope with the stress, and just wanted to drop out. Many things were clouding my thoughts—obsessions over grades, jobs, prestige.” While some people stress self-reliance in difficult situations, Mr. Yoon takes a different view. For him, the experience reinforced the importance of not trying to go it alone, and the need to take a bigger perspective. Again, he turned to Christ, friends, and family for support, and made it through.

Having conquered the difficulty and doubt of the first year, Mr. Yoon took on new challenges. He became treasurer of the Cornell Law Student Association and threw himself into the demanding yet fun work of the Legal Aid Clinic. “I remember how crazy it was prepping for a disability benefits hearing with my fellow intern and clinic attorney. We spent hours and hours writing and re-writing our arguments, preparing our witness, reciting opening and closing statements,” he says.

Mr. Yoon continued his coursework in global affairs by enrolling in a number of international law courses. But he really hit his stride when he became editor in chief of Cornell International Law Journal. The responsibility was great, and the publication became his priority. “We [the staff] tried to do a lot of innovative things. We moved our production process entirely to the Web. We created an alumni database and listserv [an electronic mailing list]. We tried to alleviate the stress placed on associate editors. There are always ways to improve the Journal.”

The International Law Journal also drafted a 38-page report documenting the academic credit policies at peer schools, proposing that Cornell grant credit for Journal work. The student proposal was subsequently voted down but, credit or no credit, Mr. Yoon says, “I loved my experience on the ILJ and would definitely do it again. It’s been hard just to walk away from the job … now that I’ve been retired. I often creep back into the office and tidy things up; I still feel a sense of ownership and responsibility for the job … I also miss the power and money,” he quips.

Recently engaged to his college sweetheart, Michelle Wu, Mr. Yoon will be joining her in Washington, D.C., this fall. He will carry with him the friendships he made at the Law School: “Study group buddies, small section friends, the Christian fellowship, board members in the student government, the Journal … I’ll definitely miss the people I’ve met and the friendships I’ve been able to make at Cornell.

“I can’t really say I came to law school with a vision of what kind of lawyer I wanted to be. Being here, though, I’ve been able to see how much good—and bad—one can do with a law degree. Recently, I’ve been thinking more about how to use my legal education in accordance with my faith. I know it sounds corny,” he says, “but ideally I’d like to help people and countries understand each other better.”

~Robinne Gray
Reunion 2003

Approximately 350 alumni and guests returned to Myron Taylor Hall this past June for the annual Law School Reunion. This year’s Reunion brought back Cornell Law School graduates from years ending in “3” and “8,” with attendees from the class of 1948 to the class of 1998. To enhance their Reunion experience, the Ithaca weather served up a full sampling, from warm and sunny to cold and rainy. Perhaps for next year’s Reunion we will arrange for a little snow. Fortunately, the rain did not last long and the tents kept everyone dry.

This year’s Reunion began on Thursday, June 5, with the Dean’s Welcome Cocktail Reception held in the Berger Atrium. The Dean’s Welcome Cocktail Reception is where classmates reconnect for the first time since returning to Ithaca. Often, classmates meet old friends and head out to one of Ithaca’s fine restaurants to enjoy each other’s company and catch up on each other’s lives. At this year’s Welcome Reception, returning alumni were particularly pleased to have the opportunity to thank Dean Teitelbaum personally for his service as dean and to wish him well in the future.

Friday, June 6, was the first full day of Reunion programming. The day began with the University-sponsored golf tournament, in which several Law School alumni participated. Later that morning, several alumni attended educational programs presented by Claire Germain, Edward Cornell Law Librarian and Professor of Law; Patricia Court, the Law Library’s assistant director for administration and public services; and the entire Law Library staff. Ms. Court presented the CLE program, “Solutions in Cyberspace: Using the Internet to Answer Professional Responsibilities Questions.” Prof. Germain conducted the tour of the Law Library, including the Edwin S. Dawson Rare Book Room, which contains, among other treasures, the Donovan Archive of Nürnberg trial transcripts and related documents, and the Scottsboro Trials exhibits. The Law Library has presented these programs during Reunion for several years and it continues to receive the highest praise from alumni.

At lunch time on Friday, alumni had two wonderful opportunities to enjoy the sunny skies and 80-degree weather. Some alumni boarded the M/V Manhattan for a catered cruise around scenic Lake Cayuga. Others chose to take a guided tour of the Cornell Plantations, led by Donald Rakow, the E.N. Wilds Director of Cornell Plantations.

On Friday afternoon, numerous alumni gathered in the Harriet Stein Mancuso ’73 Amphitheater in Myron Taylor Hall to attend the CLE program, “Corporate Counsel/Outside Counsel Relationship.” The program was moderated by the Hon. Stephen G. Crane ’63, with panelists Robert A. Dupuy ’73, president and chief operating officer, Major League Baseball; Joseph T. McLaughlin ’68, chair, Heller Ehrman White & McAuliffe LLP, and former executive vice president of legal and regulatory affairs, Credit Suisse First Boston; and Katherine P. Ward Feld ’83, vice president and senior counsel, Oppenheimerfunds, Inc. The participants discussed the ethical dilemmas created when corporations conduct internal investigations; provisions of the Sarbanes-Oxley Act addressing qualified legal compliance committees; and the SEC’s implementation of standards of professional conduct for attorneys as required by the Sarbanes-Oxley Act.
Immediately after the CLE presentation, Dr. Elaine Forman Crane discussed her book, *Killed Strangely: The Death of Rebecca Cornell*. Dr. Forman Crane’s book deals with the mysterious death of Rebecca Cornell, a direct ancestor of Cornell University’s co-founder, Ezra Cornell. Dr. Forman Crane’s presentation examined the interaction of 17th century New England’s superstitious beliefs, social norms, and legal system, and the role each played in the conviction of Rebecca Cornell’s own son for her murder. Dr. Forman Crane also participated in a book signing at the Cornell Campus Bookstore.

The Friday night class dinners were a hit, as usual. The classes of ’33, ’38, ’43, ’48, ’53 and ’73 gathered for dinner at the Statler Hotel. Professor of Law Emeritus W. David Curtiss joined the class of ’53 and E. F. Roberts, the Edwin H. Woodruff Professor of Law Emeritus, joined the class of ’73. The class of ’58 ate at Turback’s while the classes of ’63 reminisced at Taughannock Farms Inn with Associate Dean Emeritus Albert C. Neimeth ’52. The class of ’68 shared dinner at the Heights Café & Grill. On campus, the class of ’78 caught up at the A.D. White House with former dean Peter W. Martin, the Jane M.G. Foster Professor of Law. The class of ’83 dined at La Tourelle, where they were joined by Professor of Law Emeritus Robert B. Kent. The class of ’88 celebrated at Centinis’s with Professor Sheri Lynn Johnson. The class of ’93 and James A. Henderson Jr., the Frank B. Ingersoll Professor of Law, re-united at the Lost Dog Tavern. Finally, the class of ’98 partied at the Tavern at Maxie’s.

On Saturday morning, with rain and cooler temperatures, alumni gathered for the Volunteer Recognition Breakfast, at which volunteers were individually recognized by Dean Teitelbaum, Jay Waks ’71, national chair of the annual fund, and Deborah Skakel ’83 for their efforts related to this year’s Reunion. Afterward, Dean Teitelbaum reviewed recent noteworthy events at the Law School and discussed emerging priorities during his “State of the Law School” address.

Immediately before this year’s Reunion BBQ, Professor David Wippman gave a talk on “Force, Terrorism, and International Law,” which examined the legal issues raised by the post-9/11 actions of the United States in Afghanistan and Iraq. Prof. Wippman’s presentation was particularly interesting because it related to current events and came from his unique perspective as a political insider who served in the Clinton White House as director of the National Security Council’s Office of Multilateral and Humanitarian Affairs.

As the rain eased and the sun fought to break through the clouds, alumni gathered under the tent in Purcell Courtyard to enjoy Dinosaur BBQ’s ribs, chicken, and delicious sides. During the BBQ lunch, outgoing president of the Cornell Law Association (CLA), Sally Anne Levine ’73, led the CLA meeting. Ms. Levine thanked outgoing members of the CLA Executive Committee: Andrew Berger ’69, John B. Denning ’64, and Julie F. Rosenbaum Skolnick ’96 and introduced this year’s new members: the Hon. Karen Gren Johnson ’82, Joseph J. Iarocci ’84, and Christina S. Pak ’92. Ms. Levine also introduced Charles M. Adelman ’73 as the incoming president of the CLA. Ms. Levine herself was recognized for her years of service as CLA president and her general commitment and efforts in working for the benefit of Cornell Law School. To honor and thank her, the new director of alumni relations, Seth J. Peacock ’01, presented Ms. Levine with a framed picture of the Law School’s arches.

Reunion 2003 ended with the All-Class Cocktail Reception and Dinner. During the Cocktail Reception many alumni gathered around the television in Saperston Student Lounge to watch the Belmont Stakes, hoping to witness Funny Cide win the Triple Crown. Unfortunately, Funny Cide did not win but everyone enjoyed the excitement. This year’s guest dinner speaker was Isaac Kramnick, vice provost for undergraduate
education, who gave an interesting and provocative speech on religion and government.

We have already begun planning for Reunion ’04 and look forward to seeing you there. More photos from this year’s Reunion are available at www.lawschool.cornell.edu/alumni/reunion.asp

Professor Kysar Conducts CLE Program for NYC Young Alumni

In January 2003, the Cornell Law School Young Alumni committee presented Professor Douglas A. Kysar in a CLE program titled, “Lawyer-Client Privacy in a Post-9/11, Post-Enron World.” Proskauer Rose graciously hosted the program at their impressive New York office. Over 95 young alumni attended.

Prof. Kysar discussed Model Rule 1.13, the SEC’s Standards of Professional Conduct for Attorneys, and Section 307 of the Sarbanes-Oxley Act. Numerous attendees expressed their appreciation at having the opportunity to receive CLE ethics credits at no charge. Alumni interested in planning young alumni events in their area should contact the director of alumni relations, Seth J. Peacock ’01.

D.C. Alumni Host Admitted Students

In March 2003, D.C.-area alumni and admitted students gathered at the trendy Sports Club/LA in downtown Washington, D.C., whose members include Michael Jordan and George Stephanopoulos. Over 45 hearty alumni and admitted students braved the worst of D.C.’s monsoon season to attend.

Harry Ash, associate dean for external relations, welcomed the attendees, gave an update on Law School happenings, and introduced the newly-hired directors: Seth J. Peacock ’01, director of alumni relations, and Brian Harper, director of the annual fund and leadership gifts.

Young Alumni Bid Farewell to Dean Teitelbaum

In April 2003, the Young Alumni Committee of NYC hosted an evening cocktail reception for alumni and admitted students at Café Centro in the Met Life Building. The good company, open bar, hot and cold hors d’oeuvres, and pleasant venue attracted over 110 alumni and admitted students.

Dean Teitelbaum welcomed the guests and expressed how fortunate he felt to have been dean to so many of the alumni in attendance. He thanked them for having enriched his experience at Cornell Law School. Everyone was having such a good time that the planned two-hour event turned into a three-hour event. In fact, at least four groups went out after the reception for a late-night dinner with friends and classmates. Overall it was a great success and a fitting way for the young alumni to say goodbye to Dean Teitelbaum.

Law School Welcomes New Assistant Director of Alumni Relations

On August 25, Kari Seeber-Williams joined Cornell Law School as the assistant director of alumni relations. Ms. Seeber-Williams comes to Cornell from Fordham University, where she held a similar position. She is also a graduate of Fordham, having received her B.A. in psychology and religious studies in 1998. Ms. Seeber-Williams grew up in Syracuse and will be living with her husband in Skaneateles.

Ms. Seeber-Williams brings to Cornell Law School her valuable experience in alumni relations. While at Fordham, among other notable achievements, she planned, implemented, and managed a 20-city farewell tour honoring Fordham University’s president, who was retiring after 19 years. She also recruited, managed, and supported more than 75,000 alumni volunteers for Fordham’s 25 regional clubs. Ms. Seeber-Williams’s strong alumni relations background, organizational skills, energetic personality, and proven abilities are certain to enhance Cornell Law School’s alumni program.
Class Notes

29 Abraham R. Goldman is retired and living in College Harbor retirement home. Mr. Goldman still actively follows the Law School’s activities through the Forum and Law Review.

50 Two Cornell lawyers faced off in a New York State constitutional showdown over the balance of power between the New York State governor’s office and the legislature. The Hon. Stewart F. Hancock Jr. of Hancock & Easterbrook in Syracuse represented the New York State Senate’s position that the legislature is not subservient to the executive branch in budgetary matters. James M. McGuire ’80, chief counsel to Governor George E. Pataki, argued that a 1926 constitutional revision granted the executive branch broad power over state spending. The case is pending before the Appellate Division, Third Department.

Gerald F. Phillips’s legal practice continues to thrive. During the first part of his career Mr. Phillips held various distinguished positions, including vice president and counsel for United Artists, and legal advisor to the Motion Picture Association of America. Instead of retiring, Mr. Phillips embarked on a second career of mediating and arbitrating commercial disputes in the entertainment industry. He also teaches an alternative dispute resolution course at Pepperdine University School of Law. Mr. Phillips invites fellow alumni involved in alternative dispute resolution to contact him at gphillips@plllaw.com.

62 Stuart L. Gastwirth and his wife, Norma, moved to Manhasset, New York, only three doors away from his classmate, Sigmund S. Semon. Mr. and Mrs. Gastwirth enjoy their new Manhasset home while spending time with their three children and four grandchildren.

David C. Lane continues to serve as president and chief executive officer of the St. Cloud, Florida, chamber of commerce.

Michael T. Tomaino rejoined the firm of Nixon Peabody as senior counsel. Mr. Tomaino originally joined Nixon Peabody in 1964 and was a partner from 1971 to 1995. Most recently, he was senior vice president and general counsel of RGS Energy Group, Inc. Mr. Tomaino will focus his practice on utilities, telecommunications, fiduciaries, and families.

67 Donald J. Myers has been appointed adjunct professor at Georgetown University Law Center in Washington, D.C., where he will teach a seminar on employee benefits. Mr. Myers is a senior partner at Reed Smith LLP, and specializes in employee benefits and the investment aspects of ERISA regulation.

Intellectual property attorney Robert A. Schroeder joined the firm of Bingham McCutchen as a partner in the firm’s Los Angeles office. Prior to joining Bingham McCutchen, Mr. Schroeder was with the boutique intellectual property firm of Christie, Parker, & Hale.

68 After 25 years of private practice, David B. Jacobssohn is again in federal public service with the Commodity Futures Trading Commission.

69 Frank E. Lawatsch Jr. is currently of counsel to Pitney Herchin Kipp & Squich in Morristown, NJ, and a consultant to Deutsche Bank in connection with their 9/11 insurance claims.

70 A. Bruce Campbell has left private practice and is now an U.S. bankruptcy judge for the District of Colorado.

Richard D. Davidson and his wife, Judy, became grandparents with the birth of their son Scott’s first child. Mr. and Mrs. Davidson live in Orlando, Florida, where Mr. Davidson labor disputes, including the 1995 Major League Baseball strike. Most recently, Mr. Gould published a book, Diary of Contraband: The Civil War Passage of a Black Sailor, based on his grandfather’s diary, which describes his escape from slavery and his service in the United States Navy during the Civil War.
continues to practice corporate law with the firm of Lowndes, Drosdick, Doster, Kantor & Reed, PA.

Sheppard, Mullin, Richter & Hampton LLP announced that it is opening a Washington, D.C., office. The office will be headed by Robert L. Magielnicki and Edward F. Schiff. Mr. Magielnicki is a veteran antitrust and trade regulation attorney. The new office will specialize in regulatory areas, including antitrust and trade regulation, government contracts, aviation, environmental and health care.

Professor Sang Hyun Song of Seoul National University (SNU) was elected one of the first judges of the International Criminal Court. Ahn Kyong-whan, dean of SNU, commented that “it is an epoch-making case for one to be selected for a prominent court like the ICC.” Professor Song worked for the Wall Street firm of Haight, Gardner, Poor & Havins. He is also well-known for his position as mediator for the World Intellectual Property Organization.

Bradley R. Tabach-Bank has been named chair of the Vista Del Mar Child and Family Services board. Vista Del Mar (www.vistadelmar.org) is one of the nation’s preeminent mental health agencies, providing comprehensive therapeutic care for abused, neglected and abandoned youngsters. Mr. Tabach-Bank has been affiliated with Vista Del Mar since 1992, when he was introduced to the nearly 100-year-old organization.

This year, after building a thriving real estate and business law practice over the past 30 years, Mr. Tabach-Bank joined the law firm of Reish, Luftman, McDaniel & Reicher in order to have more time to dedicate to his philanthropic interests. Mr. Tabach-Bank is married to Jean Zimmelman, owner of Beverly Loan Company, the famous Rodeo Drive “pawn shop to the stars,” which her family has operated for 65 years. Their daughter, Lauren, lives in New York and works at Vanity Fair magazine as an associate editor; their son, Jordan, attends Loyola Law School.

Melvin Ditman’s firm has merged with a London-based firm and is now known as Withers Bergman LLP.

Kramer Levin Naftalis & Frankel LLP announced that Richard H. Gilden, formerly of Brobeck, joined their corporate department. Kramer’s managing partner, Paul Pearlman, said, “Rich Gilden’s breadth of knowledge and experience with companies in the technology sector will enhance the depth of our corporate practice.” Mr. Gilden has a significant international practice, concentrating on representing foreign technology companies wishing to raise capital in the United States, and U.S. companies in international joint ventures.

Joan I. Oppenheimer received a cash award for her contributions to the government’s victory in United States v. Craft, 535 U.S. 274 (2002). Ms. Oppenheimer has been practicing appellate litigation for the tax division of the United States Department of Justice for 25 years.

Doris L. Provine has become director of the School of Justice Studies at Arizona State University.

Wolf, Block, Schoor and Solis-Cohen LLP announced that Robert J. Fettweis has been elected partner. Mr. Fettwies is a member of the business litigation practice group in the firm’s Newark, New Jersey office. He focuses his practice on white collar criminal defense, NASD arbitration, and commercial litigation.

Anne H. McNamara, the first woman to head a legal department of a major airline when she took over as general counsel of American Airlines, retired in January. Influencing Ms. McNamara’s decision to retire from American was the fact that she turned 55 in October, making her eligible for American’s pension plan. For her next move, Ms. McNamara is considering a position related to corporate compliance and governance issues or investigations because they have become particularly relevant with the passage of the Sarbanes-Oxley Act.

Vernon C. Miller Jr. has joined HudsonTrident, the leading global maritime security firm, as president and CEO. HudsonTrident helps clients meet the strict security requirements of the International Maritime Organization’s recently-promulgated International Ship and Port Facility Security Code by the July 2004 deadline. Mr. Miller will be working at the company’s headquarters in Camden, NJ. For more information on HudsonTrident visit www.hudsontrident.com or e-mail Mr. Miller at Vernon.miller@hudsontrident.com.

James H. Rosenblatt was named dean of Mississippi College School of Law. Colonel Rosenblatt, who will soon retire from the U.S. Army, will take over the law school on August 4. Mississippi College president Lee Royce commented, “[Colonel Rosenblatt] combines a fine formal education from Vanderbilt and Cornell universities and an exemplary career in the U.S. Army with longtime Mississippi connections.” Col. Rosenblatt is currently stationed in Fort Monroe, Virginia, and he most recently served as chief counsel of the Army’s Training and Doctrine Command.

Westchester County Court judge Thomas A. Dickerson was elected to the New York State Supreme Court in White Plains, NY. Judge Dickerson continues to write extensively about consumer law and his consumer
law decisions can be found at members.aol.com/judgetad/index.html. His other writings can be found at www.classactionlitigation.com/articles_of_interest.htm.

**Thomas E. Gillespie** has been listed in *Chambers USA: America’s Leading Lawyers*. Mr. Gillespie has practiced corporate and commercial law in New York, London, and Dallas. He specializes in the representation of financial institutions and corporations in complex financial transactions, including commercial loan facilities, project financing, ESOP loans, and competitive bid facilities.

**Richard A. Levao**, a partner at the law firm Drinker Biddle & Reath LLP, was named the 16th president of Bloomfield College. The board of trustees’ chair, Adrian A. Shelby, said, “Mr. Levao is certain to lift this outstanding institution to even greater heights.” Bloomfield College, founded in 1868, is an independent, four-year, co-educational institution offering programs in the liberal arts and professional studies. Mr. Levao has practiced law for 29 years and has served on the respective faculties of Rutgers University and Cornell Law School, where he taught environmental law.

**Andrew H. Lynette** is president of Realty Management Concepts, Inc. (RMC), of Parsippany, NJ, which made its fifth apartment complex purchase in New York since 1997. Most recently, RMC purchased the 53,250 square-foot Creekwood Apartments for $875,000. The Creekwood Apartments are located on Route 13 on the border of Ithaca and Dryden. Mr. Lynette says that RMC is “looking at additional properties in our target market … from Binghamton to Syracuse across to Albany and back to the Hudson Valley.”

**Professor Edward D. Cavanagh**, who has been a law professor at St. John’s University School of Law since 1982, visited Columbia Law School and taught anti-trust during the spring 2003 semester.

**Matthew H. Dwyer** received an award from the New York State Bar Association for his 25 years of service as president of the board of North Country Legal Services in Plattsburgh, NY. His wife, Barbara, is serving a three-year term on the board of directors of the New York State Society of CPA’s. The Dwyer’s eldest daughter, Elisabeth, is a sophomore at Syracuse University; their other children, Olivia, Anna, and Peter, are making plans to attend college.

**William H. Sorrell**, attorney general of Vermont, who was appointed by former governor and current presidential hopeful Howard Dean, has been named treasurer of the board of directors of the American Legacy Foundation. The American Legacy Foundation is a national independent public health foundation dedicated to “building a world where young people reject tobacco and anyone can quit.” Mr. Sorrell said, “Tobacco addiction is the greatest avoidable public health problem we face … we need to redouble our efforts to help current smokers to quit, to reduce America’s exposure to second-hand smoke, and to convince the young not to take up this deadly habit.”

**75** After being nominated by New Hampshire governor Craig Benson, **Peter W. Heed** was confirmed as the state’s attorney general by the executive council. Mr. Heed said, “I am looking forward to the challenge of being the state’s chief law enforcement officer.” Prior to his successful nomination, Mr. Heed was the Cheshire County attorney.

**Diane B. Kunz** and her husband, **C. Thomas Kunz ’75**, adopted Sarah Meihui from China. Sarah joins her sister, Eleanor Meining, and her brothers, Charles, James, William, and Edward. Ms. Kunz is executive director of the
Center of Adoption Policy Studies, a think-tank devoted to international and domestic adoption policy. Ms. Kunz invites any alumni interested in this subject to contact her at dianekunz@msn.com.

Arthur J. Rynearson, deputy legislative counsel to the U.S. Senate, will step down after more than 28 years of service. During his tenure Mr. Rynearson was involved in numerous projects, including drafting Senate reservations, understandings, and treaty amendments during the debate over the Panama Canal treaties. After leaving the Senate, Mr. Rynearson plans to write part-time and teach at local law schools.

Scott L. Spitzer was selected as chair of the planning board in Bernards Township (Basking Ridge), NJ. Mr. Spitzer is vice president, associate general counsel, and corporate secretary of Browne & Co., Inc., in New York City.

Charles S. Unfug has been appointed Weld County (Colorado) Court judge in the 19th judicial district. Prior to his appointment he was a magistrate in the 19th judicial district. Mr. Unfug has received the Weld County Bar Association pro bono award six times and has been awarded the Melvin Jones Fellowship, which is the highest award given by the Lions Club International for humanitarian services.

Ellen M. Yacknin was appointed to the Rochester City Court. Of her appointment, U.S. district court judge Michael A. Telesca said, “She brings to the bench compassion and a brilliant mind. I hope this is the first of many appointments for this very capable individual.” Prior to her appointment, Judge Yacknin was the managing attorney for Prisoners Legal Services of Buffalo and worked with the Greater Upstate Law Project.

W. Penn Hackney was named acting federal public defender for the western district of Pennsylvania. Mr. Hackney was formerly an investigator with the Federal Public Defender Office, an assistant public defender, and in private practice. Mr. Hackney lives in Pittsburgh with his wife, Katherine Robshaw, and their two teenage sons.

Hawaii governor Linda Lingle appointed and the Hawaii State Senate unanimously confirmed Mark J. Bennett to a four-year term as attorney general for the state of Hawaii. As Hawaii’s chief legal and law enforcement officer, Mr. Bennett heads a department of over 700 persons. Prior to his appointment, Mr. Bennett was a partner of the Honolulu firm McCrornston Miller Mukai MacKinnon, served as special prosecutor in several Hawaii murder cases, and spent nine years as an assistant U.S. attorney in Honolulu and Washington, D.C. Gov. Lingle said: “Mark’s experience and understanding of legal issues at the federal, state, and county levels make him ideally suited to carry out the duties of the state attorney general. I admire his honesty, his judgment, and his integrity.” Mr. Bennett lives in Honolulu with his wife of 19 years, Patricia Tomi Ohara. When not working, Mr. Bennett enjoys running and tournament bridge.


After eleven years as a workers’ compensation law judge in the Binghamton district, Andrew B. Mair is currently the supervising attorney at the Office of Adjudication for the New York State Workers’ Compensation Board located in Albany. In addition, Mr. Mair is the alternative dispute resolution director and the employee claim resolution administrator.

Mark J. Bennett ’79, the new attorney general for the State of Hawaii, with his wife, Patricia Tomi Ohara
New York governor George E. Pataki announced that his chief counsel, James M. McGuire, is leaving his position to pursue an opportunity in the private sector. Mr. McGuire has been with Governor Pataki since 1997 and has been one of his most trusted and longest-serving cabinet members.

Terence J. Pell, president of the Washington, D.C.-based Center for Individual Rights, was a key player in the recently decided Michigan affirmative action case. The Center for Individual Rights is a conservative organization leading the efforts to end affirmative action. Mr. Pell joined the Center in 1997 and was involved in the suit against Michigan from the earliest stages.

Charles R. Wunsch was promoted to vice president for Sprint Corporation. Mr. Wunsch will be responsible for mergers and acquisitions, real estate, international procurement, and intellectual property. He is also happy to say that Amy, his wife of 25 years, is in her second year of teaching seventh and eighth graders; Ben, his eldest son, has graduated from Arizona State and plans to study nanotechnology; and Evan, his youngest, will be co-editor of his high school yearbook.

Robert F. Bakemeier, formerly a partner in the Seattle office of Perkins Coie, has established a law firm on Mercer Island in Washington. His practice will continue to focus on litigation and alternative dispute resolution, with emphasis on environmental and natural resource matters. Mr. Bakemeier will also continue his involvement with the American Red Cross and the United Way.

Carolyn J. Kubota has become a partner at O’Melveny & Myers. Ms. Kubota, who previously served as an assistant U.S. attorney in Los Angeles, will practice white-collar criminal defense and regulatory defense in O’Melveny’s Los Angeles office.

Michael L. Marsh has been promoted to general manager of digital output for the Health Imaging group of the Eastman Kodak Company. Mr. Marsh will be responsible for the development and manufacture of Health Imaging’s Dryview laser imagers, which are the number-one imagers on the market. Mr. Marsh and his family will relocate from Rochester, NY, to Oakdale, Minnesota.

Christopher Massaroni, Glen P. Doherty ’89, and Scott C. Paton ’94 joined the Albany, New York, law firm of McNamee, Lochner, Titus & Williams PC as principals. Both Mr. Massaroni and Mr. Paton practice commercial, personal injury, and employment litigation. Mr. Doherty focuses his practice on representing management in all areas of labor and employment law.


Dr. Hyun Kim became chair of the Korea Committee of the Cornell Alumni Admissions Ambassador Network. Mr. Kim will serve until 2004.

Leslie A. Wheelock has opened her own practice—MyTechCounsel.com. Ms. Wheelock provides temporary part-time legal services to companies and law firms, primarily in the areas of technologies and telecommunications.

Michael G. Wooldridge, a partner in the Grand Rapids office of Varnum Riddering Schmidt & Howlett LLP, has been elected to the firm’s policy committee. The policy committee provides overall direction and leadership for the firm. Mr. Wooldridge’s practice focuses on corporate governance, securities, and mergers and acquisitions.

Connecticut governor John Roland re-appointed Eve S. Kessler to the Connecticut Council on Developmental Disabilities. Ms. Kessler’s role on the council is to represent parents of children with developmental disabilities. Ms. Kessler is a criminal appellate attorney with the Legal Aid Society in New York City. Ms. Kessler is also the co-founder of the Special Education Network of Wilton, Ltd, which offers education and support to parents (www.spednet.org).

The dean of the University of Pennsylvania’s law school, Michael A. Fitts, named Diana C. Liu as the I. Grant Irey Lecturer. The Irey Lectureship was established to honor outstanding lecturers in the fields of business and corpo-
rate law. Since 1998, Ms. Liu has been an adjunct lecturer teaching a seminar titled, “Advanced Commercial Real Estate.”

James C. Oschal is a litigation partner at Rosenn Jenkins & Greenwald LLP, in Wilkes-Barre, Pennsylvania. He is a member of the firm’s executive committee and chair of the firm’s litigation department. Mr. Oschal resides in Shavertown, PA, with his wife, Janet, and children, Krysti (8) and James Jr. (4).

Jean-Charles Gardetto has been elected to a five-year term in Monaco’s parliamentary body, the National Council. Mr. Gardetto’s party won control from the old majority, which had held power for more than 40 years. The National Council votes on legislation proposed by Prince Rainier III, who has ruled Monaco for more than 40 years.

White & Case promoted Stephen R. Payne from associate to counsel. Mr. Payne specializes in international project finance and other cross-boarder transactions, including bank financing, joint venture, and sovereign borrowing transactions.

Cecil S. Chung was promoted to partner at the law firm of Pillsbury Winthrop. Mr. Chung works in the firm’s D.C. office and focuses his practice on antitrust and trade regulation.

Carolyn Elefant, a solo practitioner specializing in energy law, was featured in the cover story of Legal Times, which is the main legal newspaper in the Washington, D.C., area. Ms. Elefant has also started a Web site for solo practitioners, www.myshingle.com.

Michele A. Whitham was elected president of Shelter, Inc., a leading nonprofit organization serving the homeless of the greater Boston area. Ms. Whitham is the co-managing partner of the Boston firm of Foley Hoag LLP. In addition to her duties as the co-managing partner, Ms. Whitham maintains an active labor and employment practice.

Christopher D. Bowers and his wife, Veronica, celebrated the birth of their first child, Kathryn Sofia, on January 7.

Michael D. Chartock was promoted to principal of Gordon Brothers Group, LLC, a Boston-based retail finance and asset management firm. Prior to joining the Gordon Brothers Group, Mr. Chartock practiced corporate law for more than 10 years and was senior counsel at Harcourt General/Neiman Marcus Group.

David W. Feeney, former partner at Thaler & Thaler, has joined the Ithaca office of Harris Beach LLP. Mr. Feeney and his wife, Alice, have two boys, Wesley (8) and Stephen (6).
Assistant city attorney Peter H. Smiley was named Bellingham municipal court commissioner. In his new post, Mr. Smiley will serve on the bench to assist with the heavy caseload of the Bellingham court system.

Juan Suárez III and Michelle Lea White Suárez are happy to announce the birth of their son, Samuel Crawford Suárez, on February 8. Big sister Anden (3), joined in celebrating the news of her new brother. Mr. Suárez is a senior lawyer in labor law for Southwest Airlines, while Mrs. Suárez is a partner in corporate finance for Patton Boggs LLP.

Joshua E. Swift and his wife, Sonali, welcomed their second daughter, Zoe Weerackody Swift, on February 20, 2003.

Sujata Yalamanchili has been named a partner at the firm of Hodgson Russ. Ms. Yalamanchili practices in the areas of real-estate and commercial leasing. Ms. Yalamanchili has represented national retailers, franchisees, and Fortune 500 firms.

The firm of Winston & Strawn announced that Lori A. Bean was elected partner. Ms. Bean is a corporate partner in Winston’s Washington, D.C., office and concentrates her practice on international project finance.

Brian C. Cannon was named partner at the Palo Alto office of Fish & Neave. Mr. Cannon is a litigation partner specializing in patent, trade secret, and unfair competition law related to medical devices, biotechnology, semiconductor processing, electronics, and scientific instruments.

Darrel R. Davison is teaching real estate law at Columbus State in Ohio. Mr. Davison is a real estate, banking, and finance attorney in the Columbus office of Schottenstein Zox & Dunn. Mr. Davison and his wife, Cindy, are also happy to announce that a new baby, Erin Elizabeth, joined the family on February 23.

Christopher H. Findley was elevated to partner at the firm of Luce Forward Hamilton & Scripps. Mr. Findley is a member of the firm’s real estate litigation group in San Diego.


Deborah B. Goldman and Howard W. Levine welcome their second son, Joshua Seth Levine, who joins his big brother, Jared Adam Levine.

Olympic gold medalist and 1992 honoree (by the U.S. Olympic Committee) as Male Athlete of the Year, P. Pablo Morales is currently in the process of rebuilding the University of Nebraska’s swimming program. Prior to joining Nebraska, Mr. Morales rebuilt the swimming program at San Jose State University and led the team to the NCAA Championships. Nebraska will certainly benefit from his “demanding, yet positive, approach to coaching.”

From his home in Lahore, Pakistan, Taffazul H. Rizvi is pleased to report that his oldest son, Jamil (7), is in third grade and his 18-month-old son, Mohib, is a “total hurricane.” His wife, Shireen, has resumed her miniature painting work from her home studio. Mr. Rizvi’s firm, Rizvi & Rizvi, handles litigation for international clients such as Pepsi Cola.

Susan A. Woolf and her husband, Sidney M. McCrackin, announce the birth of their daughter, Katherine Adair McCrackin, on March 1, 2002. Susan continues to practice civil litigation at Shell Fleming Davis & Menge in Pensacola, Florida.

Marcus V. Freitas is presiding over Global Trader International (GTI), a full-service import/export trading company. GTI is a market leader in the areas of market consulting, product trading, and the procurement of goods and services between Latin America and the United States.

Former prosecutor Hollis S. French was elected to the Alaskan State Senate as the representative of West Anchorage. Sen. French unseated the 16-year incumbent, Dave Donley. After his victory, Sen. French said, “I think it’s a good day to be alive.” Sen. French shares his victory with his wife, Peggy, and son, Chris.
Alex J. Grant married Ashley E. Martin in her hometown of Birmingham, Alabama, on July 6, 2002. His classmate, Brian A. Pomper, joined their celebration. Mr. Grant is an assistant U.S. attorney with the U.S. Attorney’s office in the District of Columbia, where he serves in the domestic violence section.

Craig M. Gustafson recently completed a temporary appointment as a judge for the Minnesota Department of Economic Security. He is currently a senior staff attorney for the Minnesota Legislature.

Thomas D. Lynn, director of hockey administration and legal affairs for the NHL’s Minnesota Wild, was instrumental in leading the Wild to the NHL’s Western Conference finals. Mr. Lynn was a “vital cog on the operations and personnel side.” Of his success, Mr. Lynn said, “I wanted to play in the NHL. I made it to the NHL but not in the way I expected.”

Since winning Michigan’s Pick 5 lottery last year, Gregg Reed has traveled extensively, including a three-month tour of post-war Afghanistan, where he taught English to Afghani women and children and donated $500,000 to sustain the school. Mr. Reed has since returned to practice trademark law at the New York office of Proskauer Rose LLP.

William E. Reynolds and his wife, Ingrid Sorensen ’94, are pleased to announce the arrival of their “bright-eyed and delightful” daughter, Margaret Ella, born on August 1, 2002. Mr. Reynolds and Ms. Sorensen are still living and practicing in the Boston area.

Michael J. Feldman, formerly with Reed Smith LLP in Newark, has formed his own firm, Olender Feldman LLP, located in Union, NJ. The new firm specializes in complex commercial litigation, corporate law, and intellectual property. Mr. Feldman looks forward to hearing from other Cornellians who have settled in New Jersey. He can be reached at mfeldman@olenderfeldman.com.

On February 8, 2003, Ariane M. Schreiber Horn and her husband, Jeffery Horn, welcomed their first child, Elena Michelle. Following her maternity leave, Mrs. Schreiber Horn will return to work as associate general counsel at Celanese International Corp. in Summit, NJ.


In January, Jeffrey A. Goldstein married Ruth Andrea First at the Ritz-Carlton in Philadelphia. Their relationship began with karaoke, was maintained with guitar lessons, and became committed with the help of a three-legged cat (contact Mr. Goldstein for an explanation of the three-legged cat). Mr. Goldstein is an associate in the New York office of Loeb & Loeb, and Mrs. Goldstein is a media relations manager for the American Society for the Prevention of Cruelty to Animals.

Vinod S. Surana was elected the first president of the Cornell Law School Alumni Association of India. He was also elected secretary of the Bar Association of the Indian State of Tamil Nadu. In addition, Mr. Surana was appointed secretary general of the alumni association of 115-year-old Madras Law College, which is the premier legal educational institution in India. Mr. Surana recently visited Kabul, Afghanistan, to set up a branch office for his firm, Surana & Surana.

Tamara H. Kassabian accepted a position with the United States Department of Justice as a trial attorney for the civil rights division, educational opportunities section. Formerly, Ms. Kassabian worked at the Washington, D.C., firm of Jones Day.

On September 27, 2002, E. Alexander Troise married Carolyn J. Baer in the New York Botanical Gardens. Mr. Troise is assistant general counsel to EPIX, a human resources outsourcing company.

Zev J. Eigen is teaching arbitration and labor law at the Thomas Jefferson School of Law in San Diego. Ms. Eigen will also be working for 20th Century Fox as their senior labor relations counsel.
Steven D. Greenblatt has joined the New York City office of Loeb & Loeb LLC as an associate in the litigation department. Mr. Greenblatt was formerly an associate with Debevoise & Plimpton.

Adrianna M. Alty completed her NAPIL/Equal Justice Works Fellowship at probono.net and has accepted a position at the City University of New York Law School’s Community Lawyering Resource Network (CLRN) as associate program director and director of legal resources. The CLRN is an innovative program developed to support the public interest careers of newly graduated, community-based, solo and small-firm practitioners who have committed to provide low-cost legal services.

The Hon. Fernando G. Bernardes is a senior judge of the 9th Trial Labor Court of Brasilia-DF (Federal District) in Brazil. Susan M. Betzlitolmir, professor of law, economics, and finance at Alfred State College in Alfred, NY, has been elected vice president of the Schuyler County Bar Association.

Adam C. Dembrow joined the New York office of Wilmer Cutler & Pickering, where he focuses his practice on bankruptcy matters.

Meghan Frei and Carl F. Berglind were married in February at the Four Seasons Resort in Scottsdale, Arizona. Mrs. Berglind is a litigation associate in the New York office of Kirkland & Ellis. Mr. Berglind is a corporate associate with the New York office of Morrison Foerster.

Francisco J. Mirkow joined Hale & Doar’s Washington, D.C., office in their international trade group.

Andres Florez-Villegas LL.M was appointed by the president of Colombia to the position of Superintendent Delegado para Emisores (Superintendent Delegate of Issuers) at the Superintendencia de Valores (SEC equivalent).

Ingrid Houghton and her husband, J. Carter Houghton, are pleased to announce the birth of their daughter, Amelia Lyle. Amelia was born on St. Patrick’s Day, March 17, 2003, and weighed 7 pounds, 12 ounces. Mrs. Houghton and her family are living in Boston in the Wellesley area on a street with seven other Cornell grads.

Adam J. Siegel was selected for a position in the Attorney General’s Honor Program at the U.S. Department of Justice. Mr. Siegel will work in the natural resources division. Mr. Siegel is currently clerking for the Hon. Patricia A. Seitz of the U.S. district court for the southern district of Florida.

Alfonso Bolio Barajas LL.M. and his wife, Gabriela, are pleased to announce the birth of their twin sons, Agustin and Alfonso.

Pablo Barraquer LL.M. has left private practice to work for the Colombian government. Mr. Barraquer was appointed as an advisor to Colombia’s superintendent of companies.

Sheryl M. Didget and Jason Minnix were married in Hawaii on October 1, 2002.

Alessandro Macri LL.M. spoke on the topic of “International Title Insurance” at the October meeting, in Rome, of the New York State Bar Association’s international law and practice section. Mr. Marci is an attorney with Bonelli Erede Pappalardo, one of the leading corporate firms in Italy.

Thomas D. Roddenberry has joined the Miami office of Akerman Senterfitt as an associate in the corporate department.

Alyson C. Bruns was married to Chad Andrew Sitzman on May 17, 2003. Ms. Bruns is an associate at Liddle & Robinson LLP in New York City.

In Memoriam

Theodore S. Hochstim ’51
Jack Marcy Thomas ’53
Edward K. Halperin ’03

John E. Adamson Jr. ’40
Richard W. Cooney ’43
William L. Brach ’49
Theodore S. Hochstim ’51
Jack Marcy Thomas ’53
Edward K. Halperin ’03

Editor’s note: Personal items, newspaper clippings, and other notes are welcome for possible publication in Cornell Law Forum. Please address correspondence to the attention of Seth Peacock ’01, Director of Alumni Relations, at Cornell Law School, Myron Taylor Hall, Ithaca, New York 14853-4901 (607 255-5251; fax, 607 255-7193; sjp18@cornell.edu). The alumni office may also be reached at alumni@postoffice.law.cornell.edu.

The Career Office prepares a monthly newsletter of job opportunities for experienced attorneys. Alumni interested in listing opportunities or seeking new positions may contact Judy Mather at 607 255-5873 for further information.
Join us next year for Reunion 2004 on June 10–12. Plans are already underway...

Reunion 2003 Campaign Chairs: Vincent S. Rospond ’58, Frederick D. Turner ’63, Gerald M. Kleinbaum ’58, Dean Teitelbaum, Charles M. Adelman ’73, Don D. Buchwald ’68, Katherine Ward Feld ’83, Deborah A. Skakel ’83, Julie B. Friedman ’93, and Robert D. Taisey ’53 with Jay W. Waks, ’71, the National Annual Fund Chair