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Notre Dame Lawyer - Fall 2004

Notre Dame Law School

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LAWYER



Fall 2004



UNIVERSITY OF
NOTRE DAME

The Law School



Dear Notre Dame Lawyer,

Welcome to my first issue of the Notre Dame Lawyer!

By the time you read this, I will have been Director of External Relations for six months. In this short time, I have traveled to several cities—Raleigh, Buffalo, Newark, Kansas City, Atlanta, Cincinnati, and San Diego—and have met many alumni. I look forward to meeting many, many more people who have walked through the hall beyond my office door as students.

I am quickly learning what it means to be a “Notre Dame lawyer”: a commitment to the highest of ethical standards as well as a commitment to service. And I learn this through meeting the wonderful people who are Notre Dame lawyers.

In the short time I have been on campus, the Golden Dome has glowed for me as I turn onto Notre Dame Avenue, and the light from the Grotto has reflected onto the surrounding trees as I run by it. I have met incredible people who share both a love for this physical place and a love for its spirituality. And I have learned that people everywhere know about Notre Dame.

I look forward to the coming years as I will have the opportunity to meet many more of you. I am pleased to now be able to say, “Go Irish!”

Yours in Notre Dame,

Carol Jambor-Smith

Calendar of Upcoming Events

September 23-24Symposium: The SEC at 70

September 24Fall meeting of the NDLA Board of Directors

September 25CLE program: “Zoning of Cell Phone Towers”
by Associate Dean and Professor John Nagle and
“The Model Rules, Confidentiality and Conflict of Interests”
by Professor of Law Rev. John Coughlin.*

October 2CLE program: “My Client the Situation”
by Professor of Law Thomas Shaffer and
“Retribution: The Forgotten Aim of Punishment”
by Professor Gerard V. Bradley.

October 4Oral argument, Indiana Court of Appeals
2:00 p.m., courtroom

October 7-8Tax and Estate Planning Institute
Century Center, South Bend

October 9CLE program: “Confidentiality Today: A New Paradigm for a New Century”
by Professor of Law John Robinson and “What Lawyers Should Know About Reading
Financial Statements and Annual Reports” by Professor of Law Matthew Barrett.

October 13“Law and...”
Truth, Reality, and Advocacy: *Fahrenheit 9/11* and *The Passion of the Christ*
Ted Mandell, Department of Film, Television, and Theatre
James Seckinger, The Law School
4:00 – 6:00 p.m., courtroom

October 22Fall meeting of Law School Advisory Council

October 23CLE program: “Ethics 2000: What Changes Has the ABA Wrought? Are the
States Signing On?” by Legal Aid Clinic Director and Professional Specialist
Robert Jones.

November 4Symposium: “The Role of Religion, Morality, and Tradition in Our
Constitutional Democracy”: Plenary lecture by Jeffery Stout, Professor of
Religion at Princeton University.

November 5Symposium: “The Role of Religion, Morality, and Tradition in Our Constitutional
Democracy”: 10:00 a.m. – 3:00 p.m., courtroom.

Topics of presentations:

- Theological Issues, opening comments by Associate Professor of Theology
Gerald McKenny
- Philosophical Issues, opening comments by John A. O'Brien Chair and
Professor of Philosophy Philip Quinn
- Issues of Law and Public Policy, opening comments by Professor of Law
Vincent Rougeau

November 13CLE program: “*Blakely v. Washington*: The Demise of the Federal Sentencing
Guidelines” by Professor of Law Jimmy Gurulé and “Law & Ethics of Antenuptial
Agreements” by Professor of Law J. Eric Smithburn.

November 17“Law and...”
Fighting for “Caucasian Rights”: Mexicans, Mexican-Americans, and Civil
Rights Legislation in World War II Texas
Thomas Guglielmo, Department of American Studies
Jimmy Gurulé, The Law School
4:00 – 6:00 p.m., courtroom

December 1“Law and...”
Universal Jurisdiction Over Gross Human Rights Violations:
Back to Square Zero?
Luc Reydam, Department of Political Science
Theresa Godwin Phelps, The Law School
4:00 – 6:00 p.m., courtroom

February 9“Law and...”
The Effects of Welfare and Tax Reform: The Material Well-Being of Single
Mothers in the 1980s and 1990s
James X. Sullivan, Department of Economics and Econometrics
Michael Kirsch, The Law School

Did you know:

There is a post-game reception in the student lounge of the Law School for members of the NDLA and their guests after every home football game?

You can access alumni information through “Irish Online,” the ND Alumni Association’s electronic alumni directory? Learn how to access the database at irishonline@nd.edu.

*For detailed information about CLE programs, please visit www.nd.edu/~ndlaw/alumni/cle.html.

NOTRE DAME LAWYER



FALL 2004

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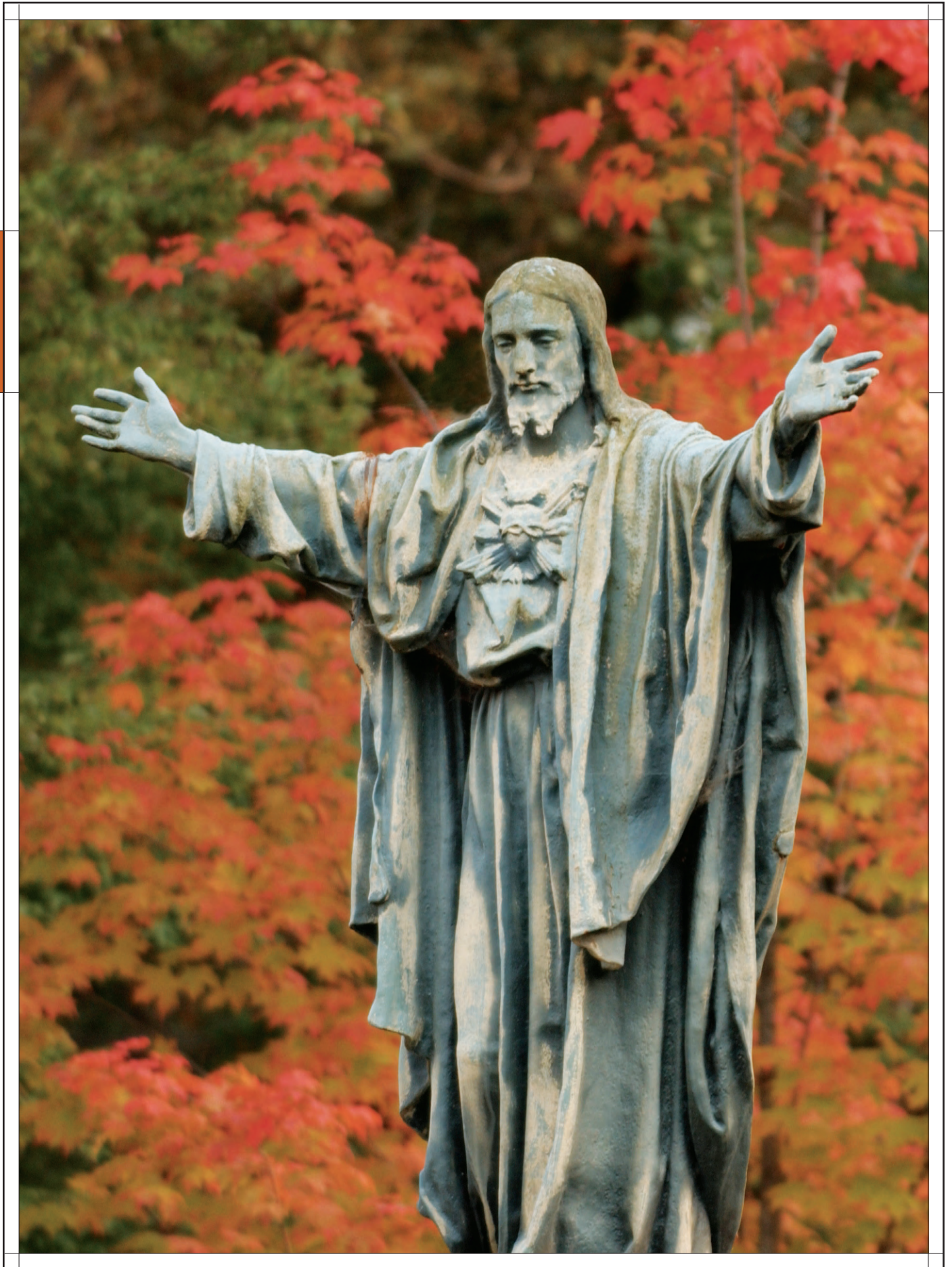
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FROM THE DEAN

This issue of the magazine coincides with the start of my sixth year as Dean. Quite fittingly, the content of the issue captures much of what has been striking about the past five years—in particular, the way in which 135 years of alumni, whose lifeblood is in these bricks, create a legacy as the oldest Catholic law school in the United States that we are charged to both preserve and take to new heights.

If I needed any reminder of the guardianship with which we are entrusted, it came to life vividly in the person of Kenneth Konop '29,'31 J.D., with whom I visited this summer in Kansas City. I was deeply moved by Mr. Konop's note to me when I became dean, recounting memories of his father, Thomas Konop, who served as the third dean of the Law School from 1924-1941. Meeting him in person, however, was one of the most memorable moments in my 30 years of association with the Law School.

A spry 96, Mr. Konop shared memories of his time as a law student during his father's tenure as dean—memories populated by legendary figures such as Knute Rockne, his undergraduate track coach, and Colonel Hoynes, our first dean, who was still alive during Mr. Konop's days as a law student. Mr. Konop's stories regarding construction of our current building at a cost of \$400,000 to house a still-fledgling faculty, library and student body brought home how far we have come, while reinforcing the imperative need for our planned expansion. Most importantly, however, his unbridled enthusiasm for the Law School underscored our charge to build on our faith-filled past to serve the future.

This issue also profiles a few of the many stimulating lectures and conferences that enlivened the Law School last spring. Some of the topics that we explored were the subject of conferences at many law schools: a 50-year retrospective on *Brown v. Board of Education* by Jack Greenberg, one of the attorneys who argued the case before the United States Supreme Court, and a timely panel discussion on mandatory minimum sentences. But we were also proud to host a conference that spoke to our distinctive mission, as faculty from a wide cross-section of religiously-affiliated schools gathered to discuss the challenges of integrating issues of religion into law school curricula.

Two other articles exemplify how members of our faculty are contributing to the shape of the future of the legal order not just within the United States, but also abroad. Both Jimmy Gurulé and Jim Seckinger were called to serve the reforming legal communities of two of the world's most recent troublespots, Iraq and Sierra Leone. Jimmy's service in the Treasury Department and his expertise in international criminal law made him an ideal person to work with the Iraqi judges. Jim's work with NITA was likewise a natural background for undertaking the challenging task of creating a legal system out of the chaos of civil war.

As we begin this new academic year, I am mindful that we owe such successes to the deep generosity of our alumni and friends. As Glenn Rosswurm, Director of Law School Advancement, reports, we enjoyed a record year in contributions. With \$31 million in gifts and pledges, we are more than halfway towards our building goal. Mindful, however, that alumni contribute in many different ways, we hope that you will enjoy meeting Carol Jambor-Smith, our new Director of External Relations, who makes her debut as editor in this issue.

Our past is rich, our future filled with high hopes. I cannot close, however, without mentioning the death at age 85 of Professor Emeritus Charles Crutchfield. A member of the Indiana Bar and of our faculty for many years, Crutch chose to sit for the Texas bar examination in 1988 at the age of 69, three years after his retirement from the Law School. Writing Dean Link with news of his success on the exam, Crutch noted that he would "continue providing legal assistance to those who cannot afford to pay a lawyer and those with credible unpopular causes." His lifetime of service is another of the themes that bridges our past and our future. May our continuing efforts to be an academically excellent and distinctively faith-based law school always be worthy of those who came before us.

Patricia A. O'Hara
The Joseph A. Matson Dean and Professor of Law

NEWS BRIEFS

Commemorating 50 years after *Brown*

On February 27, Professor Jack Greenberg, Columbia University Law School, spoke to the Law School community to mark the 50th anniversary of *Brown v. Board of Education*.

In 1954, Greenberg, then a 28-year-old attorney, served as co-counsel to Thurgood Marshall for *Brown*. At the time, he was assistant counsel (1949-1961) for the NAACP Legal Defense and Educational Fund; from 1961 until 1984, he served as director counsel, succeeding Thurgood Marshall.

In 2001, Greenberg was honored by President Bill Clinton with a Presidential Citizens Medal; during the White House ceremony, Clinton said of him, "In the courtroom and the classroom, Jack Greenberg has been a crusader for freedom and equality for more than half a century."



Jack Greenberg

Law School Hosts Conference of Religiously Affiliated Law Schools

On March 25-27, the Law School hosted a conference that brought together administrators and faculty from law schools across the country to discuss the challenges of integrating issues of religion into law school curricula. Sessions included discussions of "Religion in the Public Law Courses" and "Religion Across the Curriculum."

Law School faculty who served as moderators were Dean Patricia O'Hara, Associate Dean Jack Pratt, Professor John Robinson, Professor Bob Rodes, Associate Dean and Professor John Nagle, and Associate Professor Paolo Carozza. Law School faculty who made presentations were Professor Matt Barrett and Professor John Coughlin.



Journals Host Symposia

On April 1, 2004, the *Notre Dame Journal of Law, Ethics and Public Policy* hosted the symposium “Mandatory Minimums and the Curtailment of Judicial Discretion.” After an introduction by John Patelli, the journal’s editor-in-chief, Notre Dame Law School Professor Jimmy Gurulé introduced the three distinguished speakers. Professor Gurulé also served as the symposium’s moderator.

One panelist, Judge John Martin, United States District Court for the Southern District of New York, retired from the bench over frustration with mandatory minimums, contending that judicial opposition to mandatory minimums stems not from judges being “power hungry” but from the sentencing inflexibility that result from such strict sentencing guidelines. Martin declared mandatory minimums to be cruel, unfair, a waste of resources, and bad law enforcement policy.

Another panelist, William Mateja, Senior Counsel to the Deputy General of the U.S. Department of Justice, contended that the pre-mandatory minimums sentencing system was marred by inconsistency and uncertainty. He believes that Congress enacted mandatory minimum statutes and sentencing guidelines so that similar crimes would be punished similarly and so that the public would be better protected from offenders released too soon. Mateja attributed the current nationwide low in violent crimes to the system.

Panelist and Notre Dame Professor G. Robert Blakey addressed the philosophical challenges faced by Congress to construct sentencing guidelines in the face of “tough-on-crime” public sentiment. Blakey believes that while mandatory minimums may be justified in principle, they are inexcusable when they result in “mindlessly high” sentences.

On April 23, 2004, the *Journal of Legislation* presented the symposium “The Supreme Court and Election Law



Left to right: William Mateja, Robert Blakey, Jimmy Gurulé, John Martin.

From *Baker v. Carr* to *Bush v. Gore*,” which featured four distinguished panelists: Professor Richard Hasen from Loyola Law School in Los Angeles, Professor Guy-Uriel Charles from the University of Minnesota, Professor Luis Fuentes-Rohwer, and NDLS’s Associate Dean and Professor John Nagle. Each panelist commented on Professor Hasen’s recently published book by the same title.

The symposium drew an audience of approximately 75 participants throughout the day’s presentations. The presentations were followed by an open and lively discussion among the panelists, who shared their contrasting perspectives on the growing national debate surrounding election law and campaign finance reform. The panel then opened the floor for questions, answering numerous inquiries regarding the application of *Baker v. Carr* to the current political landscape. The symposium concluded with a luncheon held in honor of the panelists.





Hispanic Law Students Association Alumni Weekend



J. Robert Flores

The Hispanic Law Students Association Alumni Weekend was held April 3, 2004. The Graciela Olivarez Award, given in honor of the first Hispanic and first female to graduate from Notre Dame Law School, is given each year to a Hispanic lawyer or judge who best exemplifies Graciela Olivarez's commitment to community service, demonstration of the highest ethical and moral standards, and dedication to justice. This year's recipient was J. Robert Flores, Administrator of the Office of Juvenile Justice & Delinquency Prevention, U.S. Department of Justice. An estimated 60 people attended, including students, faculty, and alumni.



Left to right: Myra Michail, Melissa Garcia, J. Robert Flores, Jordan Cortez.

Journals Elect Editors-in-Chief

For the 2004-05 academic year, the editors-in-chief for the respective law journals are: *Journal of College and University Law* – Kurt Mathas; *Journal of Law, Ethics and Public Policy* – Robert Dunikoski; *Journal of Legislation* – Juan Castaneda; *Notre Dame Law Review* – Jason Prince.

Black Law Students Association Alumni Weekend

The Notre Dame Law School Black Law Students Association (BLSA) chapter hosted the 31st Annual BLSA Alumni Weekend April 2-4, 2004. The weekend is the final event of the academic year for BLSA as well as an annual reunion for BLSA members. It features a movie presentation, a roundtable discussion, the Annual BLSA Awards Banquet, and a brunch.

This year's recipient of the Alvin McKenna Alumnus of the Year Award was Thomas McGill '75, who practices law in Philadelphia. McGill was selected because of his outstanding



Patti Ogden



Thomas McGill

career and work with the BLSA Fellowship Project. The Professor of the Year Award went to Patti Ogden, a member of the library faculty, for her dedication to students. Several other awards were presented to faculty, staff, and students.

The annual weekend event allows third-year BLSA members to say goodbye, prospective BLSA members to say hello, and BLSA alumni to reconnect with each other and NDLS. The event continues to grow as current membership in BLSA grows and more alumni return for the annual event.

2004 Bengal Bouts – “Strong Bodies Fight, That Weak Bodies May Be Nourished”

The 2004 Notre Dame Bengal Bouts were a huge success and, once again, included a strong contingent from Notre Dame Law School. This unique athletic phenomenon raised approximately \$45,000 for the Bengal Missions in Bangladesh. With roots dating back to Knute Rockne, the 74th edition of the Bouts saw first-year law students Bill Hederman, Jeff Robinson, Matt Smith, and Brian Nicholson each box their first bout at Notre Dame. Matt “Touch Me and I’ll Sue” Smith advanced to the semifinals of the 170-pound division before losing a split decision to the eventual division champion. Brian Nicholson, meanwhile, advanced to the finals of the same division and made a surge in the final

seconds, only to run out of time and lose a close decision. Nevertheless, Nicholson was a finalist in his first year and won the Daniel J. Adam Award as the top Law School boxer.

The Bengal Bouts coaching staff included several law students, with former Bengal Bouts champions and first-year law students Tom Biolchini and Jeff Dobosh returning to the boxing room to help coach the fighters. Also returning to the ring for another year of character-building was law school professor emeritus Charles Rice.



FROM SOUTH BEND TO THE WORLD:

The Road to Justice

In two international courtrooms far from South Bend—Bagdad, Iraq, and Freeport, Sierra Leone—justice is being sought in war crimes trials. In many ways, dreams of a democratic future are pinned on the outcomes of these cases.

Because the judicial systems in Iraq and Sierra Leone were, in effect, shut down by the very people on trial, judges and prosecutors within these systems were isolated from the practice of the law. Prior to the trials beginning, they felt themselves to be in need of trial advocacy training on modern courtroom procedures and invited groups of jurists, advocates, and legal scholars to conduct such training.

Included among these groups were two members of the Notre Dame Law School faculty: Jimmy Gurulé for the Central Criminal Court of Iraq and Jim Seckinger for the Special Court of Sierra Leone.

The two stories that follow reflect Gurulé's and Seckinger's hopes for both trials.

Reinstating the Rule of Law

This past May, Notre Dame Professor of Law Jimmy Gurulé was a member of a group of international jurists and legal scholars invited to The Hague to provide advice and guidance to members of the Iraqi Special Tribunal, the governing body charged with bringing Saddam Hussein to justice.

To say that the eyes of the world have been turned to Iraq recently would be something of an understatement. The international media, world leaders, and citizens from every country have watched the United States' military engagement in Iraq.

No one aspect of this battle has received more attention than the capture of Saddam Hussein, Iraq's erstwhile self-declared dictator. After his capture, Hussein was held by the Coalition Provisional Authority. When the United States turned over sovereignty to a newly formed Iraqi governing council on June 28, 2004, it also turned over legal authority of Hussein to the newly formed Central Criminal Court of Iraq. Once again, the international community was watching.

The judicial proceedings surrounding the prosecution of Hussein and other leaders of his former government will be closely scrutinized by lawyers, judges, academics, and the international media. Ironically, members of the very judicial body from which Hussein withdrew independence more



Notre Dame Law Professor Jimmy Gurulé

than 35 years ago will form the Iraqi Special Tribunal. These men and women, whose judicial autonomy had been severely restricted by Hussein, must be guided by the highest of standards to assure the world that justice, not revenge, is being sought.

That this trial will be held in Iraq, perceived by some to be a lawless country, is not such an apparent paradox, as Iraq's rule of law may be traced to the ancient Middle East. Called the Code of Hammurabi, it is believed to have been written around 2500 B.C. by Hammurabi, the sixth king of the Amorite Dynasty of Old Babylon. According to Charles Horne, a noted Hammurabi scholar, Hammurabi's most remarkable achievement was his "code of laws, the earliest-known example of rules proclaiming publicly to his people an entire body of laws."

Yet Iraqi judges, having suffered 35 years of isolation from any legal tradition, much less contact with the world's legal community, needed guidance before entering the international spotlight. To help them prepare for the legal proceedings that would first charge Hussein and his codefendants and then try them, the Coalition Provisional Authority developed a "Rule of Law Training Program," the inaugural workshop of which was held at The Hague on May 5-7, 2004.



The Hague Conference on Rule of Law in Iraq focused on three substantive areas: judicial independence, which focused on the need for the judiciary to act independently from governmental interference; due process, which considered fundamental rights afforded to any defendant;

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and prosecutorial responsibility, which explored the role the prosecutor plays in both assuring that laws are upheld and that the judicial proceedings are fair.

Invited presenters at the conference included international jurists, such as President of the International Criminal Tribunal for the Former Yugoslavia Judge Theodor Meron, Lord Chief Justice of England and Wales Henry Kenneth Woolf, and United States Supreme Court Justices Sandra Day O'Connor and Anthony M. Kennedy, as well as legal scholars. Included among this prestigious group was Notre Dame Law School Professor Jimmy Gurulé.

Professor Gurulé is uniquely suited to present a lecture on terrorism to conference participants. A member of the Law School faculty since 1989, he took a leave of absence from the faculty to serve in a variety of high-profile public law enforcement positions, including serving as Under Secretary

for Enforcement in the U.S. Department of the Treasury, from 2001-2003. There, he had oversight responsibilities for the U.S. Secret Service; the U.S. Customs Service; the Bureau of Alcohol, Tobacco, and Firearms; the Financial Crimes Enforcement Network; the Office of Foreign Assets Control; and the Federal Law Enforcement Training Center. While with the U.S. Treasury Department, Professor Gurulé developed and implemented a departmental global strategy to combat terrorist financing.

That the world will be watching the upcoming trial is not lost on Gurulé, who believes that many in the international legal community may be skeptical of the Iraqi Special Tribunal's efficacy. He explains, "Some members of the international legal community may expect to see revenge justice." Such an expectation makes it even more important that the basic tenet of any judicial system is upheld: Hussein must receive a fair trial. But, Gurulé cautions, this trial must exceed the bounds of fairness: If convicted, the defendants' convictions must be beyond a shadow of a doubt. If there is a conviction, it must be a "slam dunk."

In addition to the worldwide expectation that the tribunal will not mete out justice, the tribunal members face other challenges, according to Gurulé. Despite having endured 35 years of a dysfunctional judiciary under Hussein's rule, the council members will not have the benefit of a long period of time in which to prepare themselves for the rigorous trial proceedings. "I participated in the training session in the beginning of May, the Coalition Provisional Authority turned ruling power over to the Iraqi Governing Council on June 28, and Hussein was arraigned on criminal charges the beginning of July. That's a terribly fast track for a judiciary that is, arguably, taking on the 'trial of the century'."

I participated in the training session in the beginning of May, the Coalition Provisional Authority turned ruling power over to the Iraqi Governing Council on June 28, and Hussein was arraigned on criminal charges the beginning of July. That's a terribly fast track for a judiciary that is, arguably, taking on the 'trial of the century'. – Jimmy Gurulé

Another challenge facing the court is the need to ensure that the trial does not become a circus, as has become the case in the war crimes trial of Slobodan Milosevic. Gurulé believes that Hussein could use the proceedings to enflame the sentiments of his followers, conveying indirect messages to them through his statements. However, there is a delicate balance that must be maintained, one that carefully reconciles due process and the rule of law with Hussein's ability to spout political diatribes during cross-examination.

And, Gurulé warns, those accustomed to a Western style of trial proceedings may be surprised by the differences between American courtrooms and those under the direction of international law. To illustrate his point, Gurulé gives the example of a jury trial in Moscow he observed shortly after a new constitution there created provisions for such judicial proceedings.

When he entered the Moscow courtroom, Gurulé was surprised to see the defendant sitting in a jail cell that was in the middle of the courtroom. Armed guards surrounded the celled defendant. During the trial, when the defense counsel conferred with the defendant, the conference took place between the bars of the cell, in full view of the jury.

To someone accustomed to American courtroom proceedings, such a spectacle would appear highly inflammatory and prejudicial. But to those who had been without access to justice for more than 80 years, the trial embodied the miracle of democracy.

A final challenge is more personal, less theoretical: the members of the Tribunal will have their lives held in jeopardy during the trial. These committed judges, who face what Gurulé calls a "monumental task," will function with full knowledge that Iraqi insurgents would like nothing more than to halt the proceedings; killing or kidnapping a judge

would certainly accomplish that. Indeed, the July 9, 2004, edition of *The Wall Street Journal* featured an article about the dangers facing the judges. Describing the danger one judge faces, the article said, "He now has four Iraqi bodyguards and deliberately keeps irregular office hours."

Other challenges to the proceedings include a legal system that is so antiquated that fingerprinting technology does not exist, much less the ability to conduct DNA testing. There is speculation that Hussein's family is mounting an international team of at least 20 defense attorneys, a foreign "dream team" as it were. Funds for this defense will come from the \$6 billion to \$10 billion that Hussein is suspected of skimming from Iraq during his reign.

Still, Gurulé has full confidence in the tribunal judges, who never lost belief in the country's centuries-old rule of law, even for the 35 years in which it was abolished by Hussein. For Gurulé, Hussein's appearance in a courtroom represents a "victory for the rule of law."



Visitors to Freeport, where the trials are being held, often fly by U.N. helicopter from the Sierra Leone airport to avoid an arduous seven-hour drive on a rutted and potholed dirt road. Although noisy and unpleasant and not without risk (a U.N. helicopter went down with no survivors two months after Seckinger's departure), the flight gives passengers a breathtaking view of the Sierra Leone coastline (inset).



Supporting the Cause of Justice

As preparations were made to undertake the arduous and complex task of prosecuting war criminals after Sierra Leone's savage 10-year civil war, Notre Dame Law Professor Jim Seckinger and a team of trial advocacy experts were on hand to conduct training that would, he hoped, further the cause of justice in this war-torn nation.

On July 5, 2004, the trial of members of Sierra Leone's Revolutionary United Force (RUF), who have been charged with crimes against humanity, began in the \$85 million courthouse built in Freeport by Sierra Leone's newly elected government, a construction project funded primarily by the United States. An earlier trial of the pro-government Civil Defense Forces militia has been adjourned until September.

That both revolutionary-backed and government-sanctioned groups are being tried is significant for this war-ravaged segment of Africa. For more than 10 years, both groups brutalized citizenry and both have been charged for their crimes. It is hoped that these trials will finally bring a full and lasting peace to this West African state that remains mired in poverty, despite international relief aid.

RUF rebels fought the Sierra Leone government for 10 years, from 1991 until 2001. As a result of this civil war, tens of thousands of civilians were killed, thousands more were injured —men had limbs cut off and women and children were raped and/or enslaved. More than 2 million people—over one-third of the population —were displaced from their homes and forced into refugee camps.



Notre Dame Law Professor Jim Seckinger '68 J.D.

These ultimately successful efforts to establish peace in the country began in 2001, sponsored by both the United Nations and individual countries, including the United States. While an initial peace accord was signed in 1999, it was repeatedly broken by various rebel groups who sometimes took U.N. peacekeepers as hostages. However, these hostilities began declining in 2000, and by August of that year, the RUF and the rebel group with which it had joined forces, the Armed Forces Revolutionary Council, surrendered to U.N. peacekeepers in Kabala.

In January of 2002, Sierra Leone's civil war was declared over and national elections were held to establish a new government. The newly elected government requested that the tribunal be held as a means of reconciliation. To demonstrate that all who participated in the civil war would be held accountable, both rebel and government soldiers were indicted.

The Sierra Leone trials will be different from the war crimes trials established for the former Yugoslavia and Rwanda in several ways: they will sit in the country in which the crimes were committed, they will have a limited budget, and they will adhere to a tight time-line of three years.

The Special Court was jointly established by the United Nations and the government and has as its mandate the prosecution of those who bear the most responsibility for violations of international humanitarian law and Sierra Leonean law since November 30, 1996. This prosecution will

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The courthouse in Freeport where the war crimes trials will take place.

be uniquely complicated by the combination of international and national law that will be used in these trials. When the Special Courts work is done, the Freeport courthouse will become the seat of the Sierra Leone Supreme Court, serving as a beacon for justice and the power of an independent judiciary.

The prosecution staff for the Special Court, many of whom will act as volunteers, have come from various parts of Sierra Leone as well as from other countries. That they needed advocacy training was immediately apparent to Luc Côté, chief of prosecutions at the Special Court. To meet this need, he contacted Louise Arbour, who was appointed the U.N. High Commissioner for War Crimes by U.N. Secretary-General Kofi Annan. Prior to this appointment, Arbour was the First Prosecutor for the International War Crimes Tribunal at The Hague, prosecuting those on trial for crimes committed in Yugoslavia and Rwanda, a position she held until becoming a Justice for the Canadian Supreme Court. Arbour requested that the trial advocacy team who conducted the Intensive Trial Advocacy Workshop in 1996 for the Rwandan prosecution staff be used again.

Members of this team included Garry Watson, York University, Toronto; Sheila Block, a noted Canadian trial lawyer; Leona Dorrian, Queen's Counsel, Faculty of Advocates, Edinburgh, Scotland; and Notre Dame Law School Professor Jim Seckinger. Of Seckinger, Watson said, "Jim is one of the best-known trial advocacy teachers in the U.S."

The inclusion of Seckinger in the group is a natural extension of his teaching and research experience. He joined the Notre Dame Law School faculty in 1974; he has been a member of the faculty of the National Institute for Trial Advocacy (NITA), which is headquartered at Notre Dame, since 1973, serving as its director from 1979 to 1994. He teaches and writes in the areas of deposition techniques, evidence, professional responsibility, and trial advocacy and has given workshops on trial advocacy techniques to law firms and legal organizations throughout North America and in England, Scotland, Australia, New Zealand, France, Rwanda, and El Salvador.

Seckinger believes that these trials will be especially complex for two reasons. First, witnesses will testify to the atrocities they both suffered and observed; while the courtroom proceedings will be conducted in English, such testimony will be gathered in multiple native dialects. Additionally, these witnesses have been terrorized and continue to suffer trauma from their experiences and fear that they may suffer repercussions for their testimony from rebels who remain free. In an attempt to address this fear of reprisal, the court has granted name changes to all witnesses.

Second, the proceedings will incorporate basic principles of English common law, a system that incorporates adversarial court proceedings with witness examinations, including cross-examination, in open court before an independent judiciary that decides each case on the evidence presented with an automatic right of appeal. These fundamental common law rights of witness examinations and transparent decision-making are new to the African civil law tradition as well as to the African lawyers and judges working with the Special Court for Sierra Leone.



A heavily armed gun tower sits at the entrance to the compound which houses the tribunal and all the offices of the prosecutors and administrative staff.



Sheila Block surveys the countryside with a guide.

This fundamental difference between the English common law and African civil law traditions necessitated substantial training on witness examination skills, so that the prosecutors could establish admissible witness testimony and exhibits sufficient to sustain a conviction. This training took place in Freeport, Sierra Leone, April 16-23, 2004, with the team offering training on advocacy skills, including opening and closing statements and direct examination techniques.

Throughout the workshop, the team had to remain sensitive to the vast difficulties that faced the prosecutors, respectful of the cultures and traditions from which each came and mindful of the need to provide a feedback mechanism that was effective yet not condescending.

Reflecting on her experiences during the training, Shelia Block said, “The challenges for the prosecution in these cases are enormous. It is very difficult to prepare witnesses—many of them both victims and perpetrators of war crimes (such as child soldiers)—to testify in these complex criminal cases. The child soldiers have been brutalized, at a young age, against their will. To ready them for cross-examination by the British barristers who have been hired to defend the accused is a daunting task.” Much



This tank sits at the ready within the compound.

We were asked to help, a tremendous honor for us, while at the same time, a strong indication of the seriousness with which these trials are being held. We are better lawyers and teachers for the experience, and we’re hopeful the Special Court for Sierra Leone, the citizens of Sierra Leone, and the cause of justice have also benefited from our being there. – Jim Seckinger

of the innovative witness preparation training used by the team was developed by Seckinger.

About the training, Seckinger said, “We were asked to help, a tremendous honor for us, while at the same time, a strong indication of the seriousness with which these trials are being held. We are better lawyers and teachers for the experience, and we’re hopeful the Special Court for Sierra Leone, the citizens of Sierra Leone, and the cause of justice have also benefited from our being there.”



SEEING UGANDA

Law School staffer visits Uganda to find poverty and primitive conditions but also beauty and an irrepressible spirit of love and goodwill.

When Chandra Johnson, assistant to University President Reverend Edward Malloy, began planning her trip to Uganda, she knew she needed to take along someone to record the trip's visual images. And she knew just the right person for the job: Susan Good, technical support consultant for the Kresge Law Library.

Susan was the videographer of Chandra's travel to the sites she hoped would benefit from a service project for young African-American alumni of Notre Dame that she had created, a project she had named "Return to the Source." Alumni would be asked to raise funds for the Holy Cross parishes, missions, and schools in Uganda through the Holy Cross Mission Center.



A basketball tournament at Holy Cross-sponsored Lakeview Senior Secondary School drew a big crowd.



Reverend Gibson '66 and Susan Good '85.

This was Susan's first trip to a country that had resided in her heart for years, as it had figured prominently in the lives of family members: her grandmother was married there, and in 1970, her uncle, Reverend Steve Gibson, C.S.C., became the first Holy Cross priest to be ordained in Uganda. Gibson had fled the country in 1977, escaping the violence of Idi Amin and his guerrillas by walking from Uganda to Kenya. Twenty-seven years later, he was returning with Susan to rediscover the country he had left so hastily.

The school's food was cooked in huge pots over open fires. In the midst of these primitive conditions, a cell phone would ring. The smallest of cities had Internet cafés.

Susan found Uganda to be a country of startling contrasts. At Lakeview Senior Secondary School, a Holy Cross school in Jinja, the country's second-largest urban center, she found log cabins used for school buildings. The school's food was cooked in huge pots over open fires. In the midst of these primitive conditions, a cell phone would ring. The smallest of cities had Internet cafés.



Reverend Gibson and local schoolboys.

During her stay, the school hosted a basketball tournament, its own team coached by an undergraduate Notre Dame student volunteering for the summer. The sight of this tournament alone was disconcerting: in the midst of the school's rural African setting, teams dressed in Western uniforms, some of which featured L.A. Lakers or Saint Mary's College logos. Play was accompanied by music blasting from boom boxes, the same music that teenagers listen to in South Bend.

To Susan, the need for "Return to the Source" was apparent everywhere she looked. Students taking computer classes could only learn theory during weekday classes as there were more students than computers. Over the weekends, students stood in line to take a turn at one of the eight worn computers that had been donated by a local Internet café.

Electrical service was sporadic, with blackouts a daily occurrence. The female dormitory at the school had no running water, so girls carried water from the school's main spigot back to the dorm in big yellow jugs. While the boys' dorm had its own spigot, water had to be collected in buckets for use as there were no sinks within the building.

While the poverty and primitive conditions she found initially shocked her, Susan quickly began to "see" Uganda differently, discovering its beauty in both the horizons and the people. And she believes it to be the perfect spot for the service work in which Notre Dame believes so strongly. As with the best of such projects, those who participate receive countless blessings, as reflected in a final letter written by the Notre Dame student upon his departure: "I can scarcely find the words to express

While the poverty and primitive conditions she found initially shocked her, Susan quickly began to "see" Uganda differently, discovering its beauty in both the horizons and the people.

how much these African friends have taught me of love. Everywhere I walk someone will hold my hand, it does not matter if it is a young child or a full-grown man. Halfway around the world, among the intensely green villages of Africa with a people of a different language, culture, and color, I have loved and been loved by my neighbor."



Susan Good (left) and Tonya Boyd '03.

A large, faded, sepia-toned portrait of a man with a mustache, identified as Kenneth Konop, serves as the background for the page. He is wearing a suit and tie, looking directly at the camera with a slight smile.

BRIDGE TO THE PAST: KENNETH KONOP '29, '31 J.D.

Imagine having been at Notre Dame when it enrolled its first freshman class of 1,000. Imagine listening to radio broadcasts of the 1924 Democratic Convention with professors and priests in one of the cornfields that surrounded the campus. Imagine being at Notre Dame for the legendary Notre Dame-Ohio State football game of 1935, which Notre Dame won, 18-13. Imagine having Knute Rockne as your track coach. And imagine being a member of the Law School class of 1931, the first to graduate from the present Law School building.

Now imagine having the opportunity to share the memories and stories you have of all these experiences at Notre Dame with Dean Patricia O'Hara, whose office is the same office that was your father's, Thomas Konop, when he was Dean of the Law School from 1923 until 1941.

Early in his career, he worked 44-hour weeks, including Saturday mornings, for \$30 a week. When the mandatory Saturday time was dropped, his salary was cut by \$2.50 a week.

Such is the experience of Kenneth Konop '29, '31 J.D., who is possibly the Law School's oldest living alumnus. In many ways, Mr. Konop serves as a bridge between the past and the future of the law school, a bridge embodied by the present Law School building, designed and completed under the direction of Mr. Konop's father, Law School Dean Thomas Konop.

On June 8, 2004, Dean Patricia O'Hara, Director of Law School Advancement Glenn Rosswurm, and Director of External Relations Carol Jambor-Smith traveled to Kansas City, Missouri, to meet, speak, and reminisce with Mr. Konop, a visit prompted by the congratulatory letter he sent to Dean O'Hara upon her appointment as the Law School's ninth dean.

Mr. Konop is a gracious host who lives independently and who admits to enjoying a glass of wine every day. He clearly relished the opportunity to share his Notre Dame stories.

The majority of Mr. Konop's legal career was spent at AT&T, beginning with work for Indiana Bell in Indianapolis. With a twinkle in his eye, he said he worked for 38 years and has been retired for 35 years: "I guess I've benefited from their retirement plan!"

Early in his career, he worked 44-hour weeks, including Saturday mornings, for \$30 a week. When the mandatory Saturday time was dropped, his salary was cut by \$2.50 a week. His work took him from Indianapolis to Cleveland, Ohio, to Kansas City, Missouri, and involved buying land rights for the company's open wire lines. For a few years following his retirement from AT&T, Mr. Konop practiced aviation and admiralty law in Kansas City.

The stories he told were many and varied. He revealed some information about the first Dean of the Law School, Colonel Hoynes, about whom not much is known. "I remember old Hoynes," he said. Evidently, both the Colonel and Dean Konop were wine aficionados, difficult in the days of Prohibition. The two men would drive out to Cleveland Road in a buggy and buy jugs of wine from a bootlegger, the Colonel allegedly purchasing the larger, three-gallon jug. Colonel Hoynes lived on the main floor of the Main Building and ate with "high-toned priests." Mr. Konop remembers a time when the Colonel had to be pulled away from such a meal to attend a banquet that was being held in honor of the Law School.

Because Dean Konop had had an illustrious political career before his academic career, Mr. Konop had wonderful stories to tell about the political events he remembered. Dean Konop won his 1910 congressional race by 10 votes, a victory that was certified by the Wisconsin Supreme Court. In part because his district included two Indian reservations, Dean Konop eventually became Chair of the Congressional Committee



Clockwise from left: Dean Thomas, William, Phillip, and Kenneth Konop.

on Indian Affairs and received occasional Washington, D.C. visits from members of the Oneida and Menominee tribes, who would sleep on the living room floor of the Konops' home.

The Congressman took his young five-year-old son to the White House to say goodbye to President Taft at the end of the President's term. Mr. Konop remembers being lifted by Taft, a "huge man," and placed in the big, black chair that sat behind the presidential desk.

While he was dean, Thomas Konop brought many changes to the Law School. During his tenure, the Law School was admitted to the American Association of Law Schools and accredited by the American Bar Association. He increased the academic requirements for admission to the Law School twice: in 1925, requiring a high school diploma plus two years of college work and in 1928, increasing the requirement to three years of college work. Under Dean Konop, the first issue of the *Lawyer* was published in 1925, the size of the faculty was increased, and the curriculum was expanded to include

elective course work.

The most visible accomplishment of Dean Konop was the construction of the present Law School building, which was completed in 1930. Mr. Konop believes the building cost \$400,000 and took one year to complete; he also remembers that an attorney from Fort Wayne, Indiana, provided the lead gift. Archbishop Patrick Joseph Cardinal Hayes of New York traveled to South Bend to participate in the building's dedication.

Mr. Konop's days at Notre Dame, in many ways, seem far removed from 2004: buggies with runners were used for

Mr. Konop's days at Notre Dame, in many ways, seem far removed from 2004: buggies with runners were used for transportation; cornfields surrounded the campus; a round-trip train ride to a football game against Minnesota cost \$14.25, including the price of a ticket.

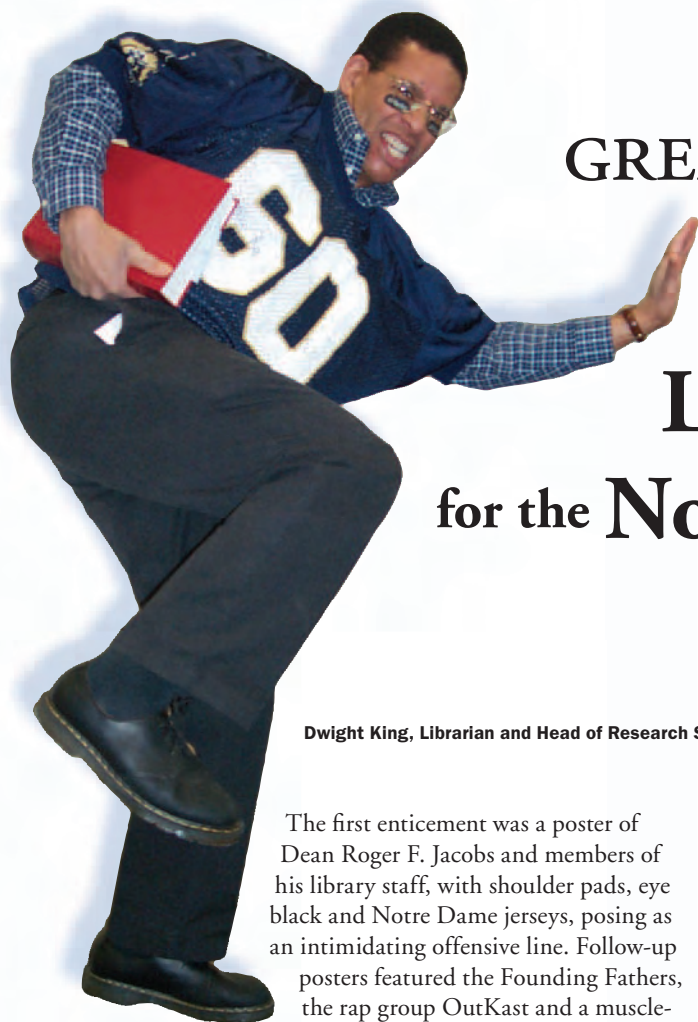
transportation; cornfields surrounded the campus; a round-trip train ride to a football game against Minnesota cost \$14.25, including the price of a ticket; legends like Rockne and the Four Horsemen were on campus. The Law School was quieter, with "five or six" professors, one part-time student assistant who worked for the dean, and a class with 115 members (only 44 of whom graduated).

But the study and aspirations of those people echo in the same halls as the study and aspirations of today's Law School faculty, staff, and students. The vision of Dean Konop for the Law School has carried through the intervening years to merge with the visions of Dean O'Hara for a new, larger Law School building that will meet today's demands of a legal education.

We all look forward to greeting Mr. Konop on his 75th Reunion, which we are confident he will attend in 2006.



Dean Patricia O'Hara and Kenneth Konop.



Dwight King, Librarian and Head of Research Services

GREEN IS GOOD, RED IS BAD: LibQUAL Ratings for the Notre Dame Law Library

The first enticement was a poster of Dean Roger F. Jacobs and members of his library staff, with shoulder pads, eye black and Notre Dame jerseys, posing as an intimidating offensive line. Follow-up posters featured the Founding Fathers, the rap group OutKast and a muscle-bound Warren Rees, research librarian.

Using the graphic design talents of Beth Klein, Notre Dame LibQUAL coordinators Jessica Kayongo, Carmela Kinslow, and I hoped that lighthearted publicity would prompt law students and faculty to complete the 2004 LibQUAL survey conducted during February of this year.

The LibQUAL survey, offered to the library community by the Association of Research Libraries (ARL), is a Web-based questionnaire that measures user satisfaction with library service. Most surveys measure only a user's perceived level of library service (very good, good, poor, very poor). LibQUAL adds context to that assessment by asking users to estimate where their perceived level falls both in relation to the minimum level of service that they would tolerate and the desired level of service they would expect.

More than 400 college and university libraries, special libraries and public libraries from the United States, Canada, and Europe have participated in the survey since its inception. Last year, Georgetown University Law Library became the first law library to use LibQUAL; this year, the Association of Jesuit Colleges and Universities was the first law library consortium to participate. Notre Dame joined other law libraries, including Boston College, Catholic University, Loyola University of Chicago, Saint Louis University, and the University of San Diego, for the fifth annual survey which, by June, had nearly 113,000 respondents worldwide.

Notre Dame joined other law libraries including Boston College, Catholic University, Loyola University of Chicago, Saint Louis University and the University of San Diego for the fifth annual survey which, by June, had nearly 113,000 respondents worldwide.

Participating libraries can compare results with peers and identify best practices across institutions.

In early February, Dean Jacobs sent an e-mail to law students and faculty announcing the three-week survey. The message provided a link to Kresge Library's version of the questionnaire. As surveys were completed, respondents' answers were sent to a central database at Texas A&M University to be analyzed by LibQUAL experts although written comments from respondents could be monitored online. Every day, we went online with bated breath to read the comments of students and faculty. Finally, in late April, the library received a written report of results from ARL.

So how did the Notre Dame Law Library fare? Very well! The 27-question survey measured the following three aspects of library service: 1. Library as Place, e.g., does the library space inspire study and learning? Is it a comfortable and inviting location?; 2. Information Control, e.g., does the library Web



Front row l-r: Dan Manier, Joe Reimers, Dave Thornton, Dwight King; back row l-r: Mary Cowser, Roger Jacobs, Beth Klein, Jessica Kayongo.

site enable me to locate information on my own? Does the library provide the printed materials I need for my work?; and 3. Effect of Service, e.g., does staff have the knowledge to answer user questions? Does staff deal with users in a caring fashion?

The final report from ARL contained three colorful “radar charts” summarizing the results from each of our three user groups — students, LL.M.s/J.S.D.s, and faculty. Yellow and blue were the predominant colors on each chart and represented areas in which the library was adequately meeting user expectations. Red indicated areas where the perceived level of service fell below the minimum level, and green showed where the perceived level outpaced the desired level. In other words, green was good, and red was bad!

The most notable thing about the library’s radar chart—and what set us apart from many of the other law libraries—was all that green! Yes, there may be problems with the building, but users love the staff, and we all take great pride in knowing that. Not only were we pleased with the many green areas on our radar chart, we were also very proud of the response rate from our students and faculty. The LibQUAL

The LibQUAL experts said that a 15-30 percent response rate would be very good for a Web-based survey. The Notre Dame response rate was a whopping 61 percent!

experts said that a 15-30 percent response rate would be very good for a Web-based survey. The Notre Dame response rate was a whopping 61 percent!

The three survey coordinators will continue to study the LibQUAL report, seeking ways to better provide library services to all users.

Gail Peshel Named Assistant Dean for Student Affairs



Gail Peshel
Director of Career Services
and Assistant Dean for Student Affairs

Dean Patricia O'Hara has named Gail Peshel assistant dean for student affairs. Peshel has been the Law School's director of career services since 2000.

In her new position, Dean Peshel will assume all the responsibilities previously held by the associate dean for academic affairs. She will serve as the principal liaison between the Law School administration and students and the final arbiter on matters relating to students and student organizations.

She will have supervisory authority for the offices of admissions, student services, and the registrar.

While a national search is under way for a new director of career services, Dean Peshel will direct the Career Services Office.

Dean Peshel is a nationally recognized expert in law school career services. She has been instrumental in the development of a program to help graduating law students fulfill the six-hour ethics requirement for newly licensed attorneys, in the creation of a student-accessible alumni mentor database, and has worked closely with NDLA board members and other alumni to advance student clerkship and employment opportunities.

She has held leadership positions in the National Association of Law Placement, in the ABA Section on Legal Education and Admission to the Bar, and for the Chicago Bar Association's Career Assistance Committee. Dean Peshel received her J.D. from Valparaiso University in Indiana and is licensed to practice law in the state of Indiana.



M. Catherine Roemer Named Assistant Dean for Law School Administration

M. Catherine Roemer has been named assistant dean of law school administration by Dean Patricia O'Hara. Since 2001, she has served as director of law school administration.

Her responsibilities include the creation and supervision of the operating budget of the Law School, supervision and maintenance of the facilities of the Law School, and oversight of the employment policies of the University as they relate to Law School personnel.

Dean Roemer earned a B.A. in accounting from the Indiana University School of Business and is a C.P.A. in the state of Indiana.

M. Catherine Roemer
Assistant Dean for Law School Administration

John Nagle Named Associate Dean for Faculty Research



John Nagle
Associate Dean of Faculty Research

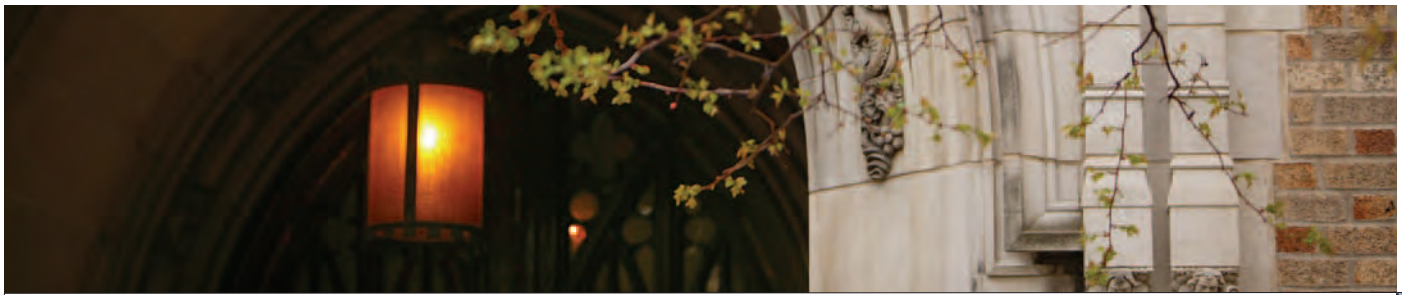
Dean Patricia O'Hara has announced that Professor John Nagle has accepted appointment to the newly-created position of associate dean for faculty research. Dean Nagle will work to promote existing faculty research and to pursue new initiatives for the intellectual activities of the Law School's scholarly community.

Dean Nagle will oversee faculty-sponsored speakers, symposia, and conferences such as the upcoming "Law

and..." series and the SEC 70th Anniversary symposium. He will also coordinate new initiatives designed to enhance and promote the individual and collective intellectual pursuits of the Law School faculty.

Dean Nagle will chair the Faculty Development Committee, which currently makes recommendations regarding leave requests and summer service research assistance but which will also assist in the development of new programs to enrich the scholarly endeavors of faculty.

Dean Nagle joined the Law School faculty as an associate professor in 1998 and became a full professor in 2001 and teaches courses in environmental law, legislation, and property. During the 1998 debate on the ability of a lame-duck Congress to impeach a sitting president, Professor Nagle's article on the history of the 20th amendment was often cited. In 2002, he received a Distinguished Lectureship award from the J. William Fulbright Foreign Scholarship Board to teach environmental law and property law at the Tsinghua University Law School in Beijing. He has served as a member of the executive committee of the Section on Legislation of the American Association of Law Schools and as a vice chair on the Endangered Species Committee of the American Bar Association's environmental section. He received his J.D. from the University of Michigan Law School.



FACULTY NOTES

Amy Barrett and her husband, Jesse, welcomed Therese Marie Barrett on April 9th.

Matthew J. Barrett published "Enron and Andersen - What Went Wrong and Why Similar Audit Failures Could Happen Again," which appeared in *Enron: Corporate Fiascos and Their Implications* (pp. 155-168). His article "Practicing What We Teach" was published in *America* (March 29 issue, Vol. 190, No. 11, Whole No. 4646). He participated in the panel "Enron: A Multi-Dimensional Examination of an Unethical Enterprise" during the Mendoza College of Business's Ethics Week. Professor Barrett also presented "Catholic Social Teaching on Taxation, Canon Law, and Beyond" during the session "'Hard Scholarship' on Relevant Issues of Interest to the Legal Academy, but from Particular 'Faith-Based' Perspectives" at the Conference of Religiously Affiliated Law Schools, which was hosted by the Notre Dame Law School.

G. Robert Blakey participated in the symposium, "Does the Time Fit the Crime? Mandatory Minimum Sentencing and the Curtailment of Judicial Discretion," sponsored by the *Notre Dame Journal of Law, Ethics and Public Policy* and the Thomas J. White Center on Law and Government.

Gerard Bradley presented the lecture "Eternal Vigilance at the Courthouse Door" as part of the 2004 spring lecture series sponsored by the Secretariat for Education of the Diocese of Pittsburgh. He also participated in a panel on "The Pledge of Allegiance Case: *Elk Grove vs. Newdow*" at the National Press Club in Washington, D.C.

Paolo G. Carozza received a Fulbright grant to teach comparative human rights law at the University of Milan, Italy, during the fall 2004 semester. He was an invited participant in the conference *Educating Lawyers for Transnational Challenges*, sponsored by the Association of American Law Schools, the first conference at which legal educators from around the world met to consider how best to educate lawyers for the practice of international law.

Tex Dutile received the 2004 Notre Dame Faculty Award at the President's Dinner in May. He delivered "UND Celebration Dinner" talks in Peoria, Illinois; Utica, New York; and Albany, New York, and conducted a session titled "The NCAA Faculty Athletics Representative, the Faculty Board on Athletics and the Problems Facing Intercollegiate Athletics" at The Sports Management Institute: The Executive Program. He was elected to a two-year term on the Executive Committee of the Faculty Athletics Representatives Association. Professor Dutile also appeared on ESPN2's "Cold Pizza" and was the keynote speaker for the Siegfried Hall Sports Banquet.

Barbara Fick wrote the chapters "Law and the Workplace" for *Family Legal Guide* and "Federalism and Labour Law: The American Experience" for *Federalism and Labour Law: Comparative Perspectives*. She also wrote the following case analyses: "What is an Employer's Liability for Constructive Discharge under Title VII? An Analysis of *Pennsylvania State Police v. Suders*," Preview of United States Supreme Court Cases, Issue No. 6, p. 317 (March 15, 2004); and "What is the Time Limit for Filing a Lawsuit? It Depends on What Your Definition of 'Arising Under' Is! An Analysis of *Jones v. Donnelley & Sons*," Preview of *United States Supreme Court Cases*, Issue No. 5, p. 263 (February 16, 2004). Professor Fick taught two two-day seminars for trade union lawyers and trade union leaders in Astana, Kazakhstan, on the topic "Worker Rights and International Labor Standards."

Nicole Stelle Garnett was appointed to the National Prison Rape Reduction Commission by President George W. Bush.

Richard W. Garnett presented "Beyond the Pledge of Allegiance: Hostility to Religious Expression in the Public Square" to the U.S. Senate Judiciary Subcommittee on the Constitution. [United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights (June 8, 2004).] He published "The Theology of the Blaine Amendments," 2 First. Amd. L. Rev. 45 (2003); "Crime

FACULTY NOTES *continued*

Victims' Rights Law Riddled With Pitfalls," *Chicago Sun-Times* (May 3, 2004); and "Confine and Conquer: The California Supreme Court and Religious Freedom," *National Review Online* (March 3, 2004). Professor Garnett presented "Religion, Division, and the First Amendment" at a faculty workshop at Northwestern University School of Law; "The Establishment Clause: Text, Context, and Pretext" at The Blackstone Fellowship in Phoenix, Arizona; "Religious Liberty Under Siege: Reflections on the Catholic Charities Case" to the St. Thomas More Society at the University of Chicago Law School; "Assimilation, Toleration, and the State's Interest in the Development of Religious Doctrine" at the 50th Anniversary Symposium of the UCLA Law Review; and "Religious Liberty Under Siege: The Catholic Charities Case" at the University of Chicago Law School.

Jimmy Gurulé was one of 10 legal experts invited to present at The Hague Conference on Rule of Law in Iraq, a training seminar for Iraqi judges who will form the tribunal that will determine the charges brought against Saddam Hussein and members of his government and then bring them to trial. Professor Gurulé was also appointed to the Bush/Cheney '04 National Hispanic Steering Committee, where he will serve as a surrogate speaker for the campaign on terrorism and criminal law issues.

Roger Jacobs served on the American Bar Association site evaluation team for the University of Connecticut. He also served as a visitor/consultant to the Osgoode Hall Law School of York University in Toronto.

Donald P. Kommers was appointed to a national commission on the present and future state of the American judiciary formed by the Annenberg Foundation Trust in conjunction with Oxford University Press. He delivered a lecture "How Valid are Comparisons? The American Occupation of Germany Revisited" at a conference on National Elections and Constitution Writing co-sponsored by the Carnegie Endowment for International Peace and the German Historical Institute. Professor Kommers published *American Constitutional Law*, 2nd ed. (Rowman & Littlefield, 2004). He has also published "Grundgesetz: An American Perspective" in Krakow and Streng, *Konflikt der Rechtskulturen? Die USA und Deutschland Vergleich* (Heidelberg, November 2003): 37-48, and he reviewed Will Hutton's "A Declaration of Interdependence: Why America Should Join the World" in *America* (November 24, 2003): 21-23.

Juan Méndez, current president of the International Centre of Transitional Justice, was appointed Special Adviser on the Prevention of Genocide by U.N. Secretary-General Kofi Annan. He participated in a meeting of experts on "Economic and Individual Freedom in Emerging Democracies" sponsored by Northwestern University Law School and on a panel "Terrorism and Human Rights in New York City." He gave a lecture on "Argentine Experiences with Truth and Justice" and on "Democratization and Rule of Law" at the Human Rights Center at Universidad de Chile. Professor Méndez participated in a panel on International Criminal Courts at Memoria Abierta in Buenos Aires, Argentina. He presented a lecture on "Human Rights in Argentina under President Kirchner" at Florida International University. Professor Méndez was appointed to the Advisory Council of the ABA Center for Human Rights; Board of Directors, Center for Justice and International Law; and Board of Directors, Global Rights.

Rev. John H. Pearson, C.S.C. published the chapters "The Law of Easements: Rights in the Property of Another" and "Real Covenants: Promises Concerning the Use of Land" in 2003 Supplement to Volume 7, *Thompson on Real Property* (LexisNexis, 2003). He gave two presentations, "A Catholic University in a Secular Society" and "After Kyoto, the Future Direction of American Environmental Law," at the Peter Pazmany Catholic University in Budapest, Hungary. Father Pearson was also re-elected President, Epsilon of Indiana, Notre Dame Chapter of Phi Beta Kappa for 2004-2005.

Teresa Godwin Phelps published her book *Shattered Voices: Language, Violence, and the Work of Truth Commissions* by the University of Pennsylvania Press. She presented the keynote address, "Pollyanna, Alice, and Other Women in the Law," at Olivet College for Women's Conference Week, and gave the plenary lecture "What's the Use of Stories? Narrative and Legal Writing" at the Rocky Mountain Legal Writing Conference at the University of Nevada at Las Vegas. She gave a seminar on the value of truth reports at the Interdisciplinary Seminar on Comparing Truth and Reconciliation Processes at the International Center for Human Rights at Northwestern University School of Law.

Robert E. Rhodes published his article “Juridical Elements in Theology” in the theological journal *Louvain Studies*.

Thomas L. Shaffer presented the lecture “Why is There a Catholic Law School in Seattle?” at the University of Seattle School of Law. He presented the lecture “My Client the Situation” to lawyers in Tacoma, Washington. His lecture “The Biblical Prophets as Lawyers for the Poor” was published in the *Fordham Urban Law Journal*.

J. Eric Smithburn published *Indiana Family Law*, Vol. 15A, and wrote supplements to Volumes 14 and 15. He also published the article “Why I Use Problems in Teaching Family Law.” Professor Smithburn taught trial advocacy skills and lectured to lawyers from Indiana, Illinois, Ohio, and Kentucky at the National Institute for Trial Advocacy Mid-Central Regional Trial Advocacy Program at the Indiana University School of Law. He also lectured on “Admission of Expert Testimony in Child Abuse and Neglect Cases” at the National Conference of Juvenile and Family Court Judges and National District Attorneys Association in Las Vegas.

Barbara Szweda presented “Together on the Journey of Hope: Pastoral Responses to Migration” at Notre Dame’s Department of Theology’s Program in Catholic Social Teaching conference.

Jay Tidmarsh, a member of the University’s Strategic Planning Committee, gave a presentation to the Vero Beach Club of Notre Dame outlining the University’s five-year vision. He also published “The Story of Hansberry: The Foundation for Modern Class Actions” in *Civil Procedure Stories* (Foundation Press, Kevin M. Clermont ed. 2004). His son, David, won the 2004 Scripps National Spelling Bee in June.



Retired Law School Professor Charles F. Crutchfield Dies

Charles F. Crutchfield, who retired from the Law School faculty in 1985, died on July 18, 2004, in San Antonio, Texas. He was 85.

Crutchfield came to South Bend, Indiana, in the mid-1960s from Gary, Indiana, where he had been in private practice for several years. His move to South Bend reflected a change in the focus of his practice: he became an attorney for, and later program director of, the Legal Service-Legal Education Program. He became its director when the growing program received a federal grant to expand St. Joseph County's legal aid program.

Crutchfield joined the Law School faculty in 1974. While a faculty member, he never lost his focus on legal aid services. In 1976, he received grants from the Lilly Endowment, the Cummins Engine Foundation, and the Public Welfare Foundation to establish a Street Law Program, which is a practical, participatory education program about law, democracy, and human rights that is taught by law students to local high school students.

While at the Law School, Professor Crutchfield was active with the Black American Law Students Association (now the Black Law Students Association) and received an award from the group upon his retirement. At the 1985 Annual Alumni Banquet held by BALSA, Kerry Phillips presented Professor Crutchfield with a plaque to commemorate his work with the organization. Then, Phillips said, "We want to say to you tonight in the strongest terms that we love you, and your presence does make a difference."

Upon learning of Professor Crutchfield's death almost 20 years later, Phillips said, "After almost 20 years of community-based lawyering, I can most assuredly state this about Professor Crutchfield: His presence at the Notre Dame Law School and the influence which he exerted on many of



his students helped to remind us of the real need to utilize our legal training and talents to work for the betterment of all segments of our society, including the disadvantaged. The examples set by Professor Crutchfield during the course of his career have helped many of us to never lose sight of the "big picture." We are all better lawyers as a result of having been touched by Professor Crutchfield. He will be sorely missed, but not forgotten."

Of his former colleague, Professor Tex Dutille said, "Crutch was a warm and caring colleague—always ready to laugh, always ready to help. His role of teacher-lawyer proved invaluable to all, but especially, given the years he was at Notre Dame, to our black students."

In a 1985 *South Bend Tribune* article announcing his retirement from the Law School, Crutchfield said, "Retirement is a nasty word to me; slowing down is a better word." The fact that he passed the Texas bar at 69 and continued to practice law is a testament to this sentiment.

After retiring, Crutchfield and his wife, Jewell, moved to Texas.

He was born July 19, 1919, and attended Vincennes University, completing his bachelor's degree at Indiana University while he served in the Army Air Corps and Air Force as a criminal investigation officer. While in the Air Force, he also completed a master's degree from Washington University in St. Louis, Missouri, and began his legal studies at John Marshall Law School in Chicago. Upon retirement from the Air Force, Crutchfield completed his legal studies at Indiana University's law school.

Those wishing to make donations in honor of Professor Crutchfield may do so to the Black Law Student Association or to the Notre Dame Law School Student Funded Fellowship Program.

DEVELOPMENT REPORT

Law School Enjoys Record Year in Fund-Raising

The Office of Law School Advancement is delighted to report that, during the recently completed 2003-2004 fiscal year, Notre Dame received a record \$9.4 million in gifts designated for the Law School. This remarkable tally was achieved only through the tremendous generosity of the Law School's alumni and friends across the nation and around the world. It is impossible to overstate the impact that the gifts of so many have made on the lives and work of the Law School's students, faculty, and staff. Two areas where our benefactors left a particularly significant mark were the Law School building fund and student financial aid in the form of both fellowships and loan repayment assistance.

The 2003-2004 fiscal year saw the Law School pass the halfway point in its pressing need to raise \$56 million for the building renovation and addition, ending with nearly \$31 million in gifts and pledges for the project. In the coming year, it is essential that we build on this impressive progress so that our students and faculty can soon benefit from a facility which will provide an academic environment in which they can reach their full potential.

Just as important, resources for financial aid continue to grow at a healthy pace. When Dean O'Hara began her tenure five years ago, Notre Dame could provide students financial aid packages that were only two-thirds the value that peer schools such as Vanderbilt and Northwestern furnished to their students. Now, thanks to the many alumni and friends who have contributed at numerous levels—ranging from the Law School Annual Fund to the Order of St. Thomas More to creating named endowed fellowships—Notre Dame is able to compete on an equal footing with other fine law schools for the very best students.

During the past year, Dean O'Hara and I traveled to a host of cities (some several times) to meet with Law School alumni and friends in individual and group settings. These locales included Boston, New York, Washington, D.C., Chicago, Philadelphia, Los Angeles, Detroit, Kansas City, Buffalo, Baltimore and Charlotte. This year, we will journey to even more cities in an effort to tell the Law School's unfolding story and to share Dean O'Hara's compelling vision for its future.

In these odysseys throughout the country, it is striking to observe that despite differences of geography, gender, occupation, ethnicity and political ideology, Notre Dame lawyers are united by a profound bond with their alma mater and with each other. Without exception, the Notre



Glenn Rosswurm II '91 J.D.
Director of Law School Advancement

Dame lawyers with whom Dean O'Hara and I visit are visibly committed to their faith, their families, and their communities. An ethic of service is pervasive among Notre Dame lawyers and provides great witness to their colleagues in the legal profession. Notre Dame lawyers speak passionately about the influence the Law School has had on the success they attain in their professional and personal lives. One prominent alumna reflected that her professors in the Law School "constantly drummed into my head that in practice you'll frequently be faced with the opportunity to make the expedient choice or the right choice. I've never forgotten that admonition, and it has guided me through many difficult situations."

Another common thread among Notre Dame lawyers is their fealty to the professors who taught them so well. The names of Murphy, McCafferty, Rice, Ripple, Dutile, O'Hara, Rodes, Kellenberg, and so many others are invoked time and again with great fondness and gratitude. The lessons these professors imparted were, our graduates say, not only about how to practice law, but more importantly, about how to live.

It is for all these reasons that the Notre Dame Law School commands such heartfelt allegiance. This devotion manifests itself in myriad ways, but never more tangibly than in the tremendous financial support that our alumni and friends provide to ensure that the Law School's luminous legacy continues and grows.

As director of law school advancement, my appreciation for (indeed awe of) the dedication and character of our alumni and friends deepens each year that I serve—as does my pride in being able to say that I am a graduate of the Notre Dame Law School. On behalf of the Law School's students, faculty and staff, thank you for your extraordinary generosity during the past year.

NEWS FROM THE CAREER SERVICES OFFICE



Left to right: Gail Peshel, Nancy Kommers, Kitty Hoye

A Brief History Through Time

Technology and market forces have changed the face of career services but not its heart. Notre Dame Law School has always been responsive to its students and alumni, and the Law School Career Services Office is no exception. The Law School was one of the first to add a career services director to its administrative staff, and that foresight and willingness to serve students and alumni continues. A consideration of the evolution of the Career Services Office serves to reinforce that statement.

At a time when most law schools relied on a faculty member or the dean's office to post unsolicited notices of hiring opportunities, Notre Dame's first Career Services director, Nancy Kommers, was actively assisting students. The Career Services Office in the late '70s and '80s relied heavily on bulletin boards for postings, card files and Rolodexes filled with contacts, and file drawers crammed with employer information. Reviewing resumes and assisting students with job searches through counseling and programming was under way. On-campus interviews were coordinated and every student interview was personally scheduled using paper and pen. These first measures were expanded when a growing on-campus interview program necessitated additional organization.

Many of you were assisted by Nancy, who directed the Career Services program for 12 years. In the early '80s, long lines of students eager to sign up for interviews were waiting outside her door when she arrived in the morning. These students arrived early and patiently waited for the chance to gain access to sheets of paper taped to walls on which they could sign up for particular employers. Nancy also recalls that most of her secretary's time (remember Wanda?) was spent typing interview schedules.

The age of computers began under Nancy's direction, but technology only allowed simple mail merges and

rudimentary scheduling programs. Pen and paper were still the norm. Cooperation with other schools to coordinate interview opportunities in cities favored by students began in the '80s as well.

Notre Dame embraced new technology and systems as they became available, and more sophisticated computer programs were introduced under Kitty Cooney Hoye's directorship. Kitty began directing the Career Services Office in 1993 when Nancy retired, and many of you benefited from Kitty's experience, insight, unfailing commitment to students, and leadership. For 10 years, Kitty directed the office and then assisted three more directors, including Lisa Patterson '96 and me.

The office staff has grown and now includes a director, assistant director, assistant director for public interest law, and a senior administrative assistant who coordinates the on-campus program. The office has moved three times, from its original site in the basement to the first floor to its present location on the third floor, and its square footage has increased with each move.

Currently, NDLS Career Services information is available to students and alumni anywhere via the Internet. Drawers of file folders containing printed employer information have given way to electronic data. Students research firms, bid for interview times with on-campus employers, and learn deadlines and job search information via their computers. Staff members send and respond to numerous e-mail messages daily. Face-to-face, individual counseling is also available whenever a student wishes to stop by, and appointments are scheduled with every student at least once a year. Nearly all students work the summers after both their first and second year of law school and are paid for their work. Many second-year students receive offers for full-time employment before they begin their third year of law school.

NEWS FROM THE ADMISSIONS OFFICE



Charles Roboski
Director of Admissions and
Financial Aid

Technology has changed many aspects of our Career Services Office. Economic forces have caused other changes, and the breadth of student interests necessitated still other changes. However, some cherished practices remain constant. One constant is the Notre Dame faculty. The Law School faculty have always taken a personal interest in students, and their knowledge of the alumni community and willingness to recommend students to employers is invaluable.

Another constant is our alumni, whose participation is also invaluable. In addition to hiring, they are instrumental in providing more than 50 programs per year. The discussion of career options, practice areas, judicial clerkship opportunities, teaching in higher academics, and serving as judges comes alive as students listen to alumni who have lived these experiences. Alumni also volunteer to serve as mentors to students interested in working in particular practice or geographic areas.

If you would like to be involved in any of our Career Services activities, please let us know. We would love to hear from you!

Gail Peshel, director (peshel.1@nd.edu), Erika Harriford-McLaren, assistant director (harriford-mclaren.1@nd.edu), Alexandria Lewis, assistant director for public interest law (lewis.85@nd.edu), and Trish Anderson, senior administrative assistant and OCI Coordinator (anderson.209@nd.edu)

Gail Peshel,
Assistant Dean for Student Affairs
and Director of Career Services

Alumni Support Key in Enrollment Efforts

As this article is written, we're just a few weeks away from enrolling the Class of 2007. The 180 women and men who will be joining the Law School community this fall will bring to their studies a wonderful variety of personal and professional experiences and accomplishments. They hail from 34 states and other nations, 98 undergraduate institutions, and have outstanding records of academic performance and involvement in college and community organizations. This year's entering class was selected from a record-high pool of 3,771 applicants.

I would like to take this opportunity to thank the many alumni who have so generously supported our enrollment efforts these past several months. More than 175 alumni have volunteered their time this spring and summer to help meet and welcome prospective students, as well as provide other types of assistance. Responses to surveys conducted by our office indicate that prospective students place a premium on interacting with alumni as they research law schools and as they assess what law school is best for them.

As the Admissions Office plans for the NDLS Classes of 2008 and 2009, we will again be contacting alumni to assist us. Janet McGinn '84 will continue to coordinate alumni involvement during the academic year. If you wish to volunteer, please complete an online Alumni Volunteer Form or phone or e-mail the office.

Yours in Notre Dame,
Charles W. Roboski
Director of Admissions and Financial Aid

Online Alumni Volunteer Form:
http://www.nd.edu/~lawvisit/place_ndlawyers_lawdays.htm
E-mail: lawadmit@nd.edu or Janet.J.McGinn.9@nd.edu
Telephone: (574) 631-6626

ADMISSIONS

We are grateful to the following alumni for their assistance with our enrollment efforts this year.

Admitted Candidate Visit Program Alumni Panelist

Walter Brown '85
Kathleen DeMetz '77
Jan Egan '97
Timothy Egan '97
Robert Goethals '86 B.S., '90 J.D.
Meighan Harmon '96
Michael Hilliard '72
John MacLeod '63 B.B.A., '69 J.D.
Corey Manley '03
James McCament '00
Rudy Monterrosa '01
Mark Ross '93 B.A., B.S. '01 J.D., M.B.A.
David Walters '94 B.S., '98 J.D.
Charles Weiss '68
Michael Whitton '89 BA., '92 J.D.
William Zieske '97

Candidate Interview

David Ristaino '88
Edward Ristaino '84

Congratulatory Welcome Letter to Admitted Candidates

Elena Baca '92
Robert Barton '69 B.A., '72 J.D.
Brian Bates '79 B.A., '86 J.D.
Scott Beall '89
Ellen Carpenter '79

N. Patrick Crooks '63
Thomas Cushing '84 B.B.A., '87 J.D.
Lee DeJulius '02
David Dreyer '77 B.A., '80 J.D.
Franklin Julian '99
Douglas Kenyon '76 B.A., '79 J.D.
Ellen Laberge '83
Alfred Lechner '72
Nancy O'Connor '76
David Petron '01 M.A., '01 J.D.
David Scheper '85
Greg Shumaker '87
Gene Smary '69 M.A., '75 J.D.
Scott Sullivan '76 B.B.A., '79 J.D.
Zhidong Wang '94
Mark Wattley '91
Michael Whitton '89 BA., '92 J.D.

DVD Project

Elena Baca '92
Karen Bowen '00
Jonathan Bridges '00
Walter Brown '85
Ophelia Camiña '82
Luis Flores '87
Alicia Hernandez '92
Irma Herrera '78
Rachelle Hong '02
Luis Jaramillo '73
Colleen McDanald '02
Marytza Mendizabal '01
Cynthia Morgan '99
Daniel Novakov '72 B.A., '76 J.D.
Elizabeth Padilla '02

Michael Pietrykowski '79 B.A., '80 M.A., '83 J.D.
David Rivera '99
Barbara Scheper '85
David Scheper '85
Michael Whitton '89 BA., '92 J.D.
M. Andrew Woodmansee '93 B.A., '96 J.D.

Host for Admitted Candidate Luncheon

Carlos Acosta '90
Christopher Adkinson '01
Albert Allan '92
Thomas Antonini '85 B.A., '88 J.D.
James Arrowood '02
Brian Bates '79 B.A., '86 J.D.
Scott Beall '89
Joseph Birmingham '98 B.A., '01 J.D.
Ryan Blackstone-Gardner '00
Nicole Borda '99 B.A., '02 J.D.
Matthew Bozzelli '99 B.B.A., '02 J.D.
JonMarc Buffa '01
David Byrnes '02
Thomas Coffey '00 B.A., '03 J.D.
Kevin Connolly '01
Stephanie Couhig '02
N. Patrick Crooks '63
Thomas Curtin '68
Caroline Curtiss '02
Joseph Czerniawski '01
Tessa Davis '01
Kathleen Deane '80
David Dreyer '77 B.A., '80 J.D.
Gregory Dyer '92

Abbey Ellinger '02
 Sean Elliott '97
 Sarah Evans '00
 Mark Farrell '96 B.A., '02 J.D.
 Matthew Feeney '79 B.A., '83 J.D.
 Robert Gaughran '72
 Timothy Gerend '96
 Teresa Giltner '86
 Robert Greene '69
 Michael Grossman '78
 Elizabeth Haley '02
 Matthew Haney '89
 Steven Hearne '98
 Tricia Hoffman-Simanek '01
 Paul Jones '90
 Franklin Julian '99
 Bernie Keller '95 B.A., '98 J.D.
 Douglas Kenyon '76 B.A., '79 J.D.
 Kiera Kociban '02
 Matthew Kowalsky '95 B.A., '02 J.D.
 Alfred Lechner '72
 Susan Link '86
 Kathleen Lundy '01
 James Lynch '83
 Kevin Martinez '90
 Alicia Matsushima '97
 Paul Mattingly '75
 Colleen McDanald '02
 Julie McDonald '02
 Marytza Mendizabal '01
 Edward Merrill '01
 Sarah Bassler Millar '97 B.A., '01 J.D.
 Todd Miller '97
 Shawn Monterastelli '02
 Harold Moore '80
 Cynthia Morgan '99
 Chris Mugica '00
 Brian Murray '00
 Amy Ann Mursu '02

Matthew Nelson '02
 Stephanie Niehaus '02
 Sheila O'Brien '77 B.A., '80 J.D.
 Arthur O'Reilly '02
 Jason Osborn '01
 Michael O'Shaughnessy '02
 Anthony Patti '90
 Katherine Pauls '01
 Patrick Pedro '84
 David Petron '01 M.A., '01 J.D.
 Michael Pietrykowski '79 B.A.,
 '80 M.A., '83 J.D.
 Mark Pomfret '92
 Maureen Reid '02
 Christine Rice '98
 Brian Sagrestano '95
 Timothy Schank '98 B.A., '01 J.D.
 Frank Shaw '76
 Greg Shumaker '87
 Thomas Shumate '98
 Eileen Skuse '00
 Gene Smary '69 M.A., '75 J.D.
 John Sweeney '67 B.B.A., '73 J.D.
 Sara Thomas '01
 Carolyn Trenda '99 B.A., '02 J.D.
 Regis Trenda '69
 Christopher Turk '97
 Jack Ubinger '73
 Zhidong Wang '94
 Mark Wattley '91
 Kurt Weaver '87
 Charles Weiss '68
 Michael Whitton '89 B.A., '92 J.D.
 Merle Wilberding '69
 Charles Wilson '76 B.A., '79 J.D.
 Andrew Wright '96
 Bryan Yeazel '02

NDLA Chair of Admissions Committee

Robert Greene '69

Prelaw Adviser National Conference

Ellen Carpenter '79

Jan Egan '97

Timothy Egan '97

Matthew Kowalsky '95 B.A., '02 J.D.

Kathleen Lundy '01

Summer Event Host for Entering Law Students

Robert Boldt '95

Edward Caspar '97 B.A., '01 J.D.

Emily Nyen Chang '01

Jonathan Coury '91 B.A., '94 J.D.

David Daftary '03

Matthew Donohue '95

Cynthia Dubell '96 B.A., '99 J.D.

Scott Gronek '95 B.A., '99 J.D.

Laura Leslie '03

Esther Slater McDonald '03

Teresita Mercado '97 B.A., '00 J.D.

Christine Niles '03

Nancy O'Connor '76

William Walsh '95



COMMENCEMENT 2004

Commencement Awards

Edward F. Barrett Award

Mary Frances Blazek
Catherine Mary Wharton

Nathan Burkan Memorial Award

Tomas Joseph Van Gelder

Joseph Ciraolo Memorial Award

Adam Hartley Greenwood

The Farabaugh Prize

Daniel Kelly Storino

The Colonel William J. Hoynes Award

Laura Isabel Bauer

International Academy of Trial Lawyers Award

Daniel J. Martin
Matthew Benjamin Schmanski
James Michael Yannakopoulos

Jessup International Moot Court Award

Jeremy Marvin Fonseca
Anna Maria Gabrielidis

William T. Kirby Award

Michael Edward Lisko
Jennifer Lynn Spry

Dean Konop Legal Aid Award

Erica Lynn Kruse

The Jon E. Krupnick Award

Ryan Patrick Blaney
Christopher James Kubiak

David T. Link Award

Devyn Michelle Cook

The Judge Joseph E. Mahoney Award

Kenneth Jude Kleppel

The Arthur A. May Award

Catherine Mary Wharton

Captain William O. McLean Law School Community Citizenship Award

Devyn Michelle Cook

National Association of Women Lawyers Award

Cynthia Lee Phillips

The Dean Joseph O'Meara Award

Peter Mack Flanagan

The A. Harold Weber Moot Court Awards

Carah Marie Helwig
Cynthia Lee Phillips
Julissa Robles
Eric J. Tamashasky

The A. Harold Weber Writing Award

Rebecca Anne D'Arcy

Clinical Legal Education Association Outstanding Student Award

Gregory Aaron Garcia

Substance Over Form: Advice on Life from... the Internal Revenue Code

Commencement address by Michael Kirsch, 2004 Law School Distinguished Teacher

I've been reflecting on what words of advice I might be capable of offering you and my thoughts turned—as they typically do on a beautiful spring day like today—to the Internal Revenue Code. Because many of you were in my tax law class, I'd like to remind you of a few bits of tax advice that no graduating law student should be without.

The first piece of advice you should remember comes from Internal Revenue Code § 217(a):

“There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee . . . at a new principal place of work.”

Put into plain English, your moving expenses to your first job might be tax deductible.

Perhaps of even more interest is Internal Revenue Code § 221(a):

“In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.”

In other words, the interest you pay on your student loans may be tax deductible. (Because my request to set up PowerPoint presentation equipment on the stage was turned down, I won't



Michael Kirsch

be able to go through the phase-out calculations that apply to student loan interest deductions—I leave those to you to figure out.)

Last, but certainly not least, I want to remind you of Internal Revenue Code § 170(a):

“There shall be allowed as a deduction any charitable contribution . . . payment of which is made within the taxable year.”

We follow the cross-reference to subsection 170(c) and, lo and behold, the term “charitable contribution” includes contributions to educational institutions. So your future contributions to institutions of higher education are tax deductible.

All of this is important advice for a graduating law student to keep in mind.

On a more serious note, I'd like to step away from the Internal Revenue Code for a few minutes—difficult as that is for me—and offer a few more thoughts and observations.

I'm honored to be given the opportunity to address you in your final few minutes of your formal education at Notre Dame Law School. In a way, I consider myself a part of your class. Both you and I arrived here at Notre Dame Law School together in August 2001—you as fresh 1Ls, and I as a newly minted professor.

Unfortunately, within a few weeks of our arrival at Notre Dame, we were all shaken out of our tranquil academic existence by the tragic events of September 2001. Those events—and the subsequent international events—have affected some of your classmates and loved ones very directly,



SPEECH *continued*

and have affected all of us indirectly. But today is meant to be a happy occasion, so today I'd like to focus on your educational achievement and, more importantly, what you will make of that education in the future.

Today marks the pinnacle of your pursuit of formal higher education. For more than half of you, this is the end of 20 straight years of formal education, dating all the way back to kindergarten. For the vast majority of you, this is the final formal degree that you will receive. Congratulations to all of you for attaining this goal. Congratulations also to your families—parents, spouses, and others—who have supported you, whether financially or emotionally, along your educational journey.

But keep in mind that today not only marks the pinnacle of your formal education, but, more importantly, it represents the start of the rest of your life. Once you leave campus in the next few days, you'll no longer be defined as a student at a great law school. What will define you for the next 50 or 60 or 70 years

you have ahead of you is what you do after you leave Notre Dame. Not just what you do professionally, but what you do



with your family—as a son, daughter, husband, wife, father, mother—to make your family members' lives better; what you do with your friends to make their lives better; what you do in your community to make its life better. I hope that the education you've received here at Notre Dame Law School will help you along that path.

A Notre Dame law degree is an important credential. Some of you will use that credential to work at a large law firm; others will use that credential to work at a smaller law firm. Some of you will use it to go into practice on your own; others will use it to work in a legal aid clinic or a nonprofit entity. Some of you will use it to work in the legal department of a corporation; others will use that credential as a ticket to open doors to employment and volunteer opportunities wholly outside the practice of law. No matter what you do with that credential, it will open doors and create opportunities for you.

But, as important as your degree is as a credential, I hope that you view your degree as much more than just another academic credential—more than just another certificate to hang on your office wall next to your college diploma or diplomas from other graduate-level endeavors; more than just another line to add to your resume.

I hope that 40 minutes from now when you show your newly minted diploma to your proud parents and other family and friends, or 40 years from now, when you look at the yellowed diploma hanging on your office wall—perhaps as you're

What will define you for the next 50 or 60 or 70 years you have ahead of you is what you do after you leave Notre Dame. Not just what you do professionally, but what you do with your family—as a son, daughter, husband, wife, father, mother—to make your family members' lives better... – Michael Kirsch



packing up your office at the end of a long legal career—it will remind you of the education you received at Notre Dame Law School. Not so much the specific knowledge you learned in any one class—it's not so important whether 40 years from now you remember the difference between Internal Revenue Code sections 170, 217, and 221 (as I recall from grading the final exams, some of you might not have known the difference between them at the time you were taking your exams).

Instead, I hope that when you think back and remember your Notre Dame Law School education you'll think about how your education here:

- Enhanced your ability to tackle tough problems and stick with them until you resolve them.
- Enhanced your desire to pursue those things for which you have a passion. No amount of salary is going to be enough if you end up pursuing a career that doesn't satisfy you. Conversely, if you eventually find something you have a passion for, the money (or lack thereof) will seem less important.
- I hope your education here has also enhanced your ability to deal with the setbacks and disappointments that life inevitably has in store for all of us—maybe you didn't get

the grades that you had hoped for; maybe you didn't get the ideal first job that you had hoped for. In the bigger picture, the important thing isn't the grades you received or the first job you got or soon will get. What matters is how you react to those events. When you got those grades you might not have expected, did you pull yourself up and redouble your efforts to do your best, or did you resign yourself to coasting along just so you could pick up the piece of paper in a few minutes? More importantly, when you're confronted by setbacks after you leave the relatively comfortable confines of Notre Dame Law School, will you continue to do your best in everything you do, or will you resign yourself to something less?

- In addition to helping you deal with setbacks, I hope your education here at Notre Dame Law School has also enhanced your ability to celebrate with friends the many good things that I hope life has in store for you. I saw the warmth and spirit you had as you gathered together Thursday night for your farewell 3L dinner and viewed that as evidence of your education in that regard.
- Finally, and most importantly, I hope that your education at Notre Dame Law School has enhanced your ability to discern right from wrong, justice from injustice, and to act on it. Most of you already had a strong sense of that before you arrived here—something instilled in you by your





SPEECH *continued*

family and loved ones that are here celebrating with you today. I hope that at Notre Dame Law School you received additional tools that will enable you to put those beliefs and ideals into practice as you face the many difficult hurdles that await everyone as they go through their lives, both professionally and personally.

As I conclude, I'd like to mention one more piece of advice that comes from the tax law. As some of you may recall, an important judicial principle of tax law is that the substance of a transaction controls over its form (for those of you still taking notes, the cite for that substance over form principle is *Gregory v. Helvering*, 293 U.S. 465 (1935), but don't worry, it won't be on any future exams).

Just as substance prevails over form in the tax law, I hope you apply the same principle when you think back on your education at Notre Dame Law School. The paper diplomas you are about to receive merely represent the tangible form of your education. Of much more importance is the substance of what you make with that education once you leave here.

So again, congratulations on your achievement, and, on behalf of your entire faculty, best of luck to all of you as you now make the transition from being Notre Dame law students to being Notre Dame lawyers.





NEWS FROM THE NOTRE DAME LAW ASSOCIATION

On June 30, 2004, **Robert Greene '69** ended his term as president of the board. The association and faculty, staff, and students of the Law School are grateful for the capable leadership he brought to the office!

On the same day, **Doug Kenyon '79** began his term as president and Hon. **David Dreyer '80** began his term as president-elect for the 2004-2005 term.

The results of the 2004 Board election are:

Region 4

(Minnesota, North Dakota, South Dakota, and Wisconsin):

Ann Merchlewitz '83

Region 5

(Iowa, Kansas, Missouri, Nebraska):

Martha Boesen '91

Region 6

(Illinois except Cook County, Northwest Indiana):

Tim McLean '88

Region 11

(Maine, Massachusetts, New Hampshire,
Northern Connecticut, Rhode Island, Vermont):

Ellen Carpenter '79

Region 15/17

(Florida, Georgia, North and South Carolina, Puerto Rico):

Dan McDevitt '93 J.D., '94 LL.M.

At-Large:

Peter Witty '97

Elena Baca '92 was reappointed by the Board to serve as the Hispanic Alumni representative.



NDLA Board of Directors, April 2004.

Many thanks are due to the NDLA Nominations Committee, chaired by Richard Catenacci, for their work of soliciting candidates for election and overseeing election results.

Many thanks, also, to those board members whose terms of office have expired:

Hon. N. Patrick Crooks '63 (Region 4)

Paul Drey '92 (Region 5)

Scott Sullivan '79 (Region 6)

Thomas Keller '92 (at-large representative).



Paul Polking, '59, '66 J.D.

Law School Honors Paul Polking; Order of St. Thomas More Passes 700-Member Milestone

On May 4, 2004, Law School alumni and friends in Charlotte, North Carolina, gathered to celebrate and honor Paul Polking '59, '66 J.D., outgoing chairman of the Order of St. Thomas More, for his four years of outstanding service to the Law School. The event was hosted by Doug Kenyon '76, '79 J.D., president of the Notre Dame Law Association, and was attended by Dean Patricia O'Hara.

Paul became chairman of the order in May 2000, succeeding Pat McCartan '56, '59 J.D. During his four-year tenure as the chairman of the Order of St. Thomas More, membership in the order grew dramatically, from 423 members to 705.

Paul's work on behalf of the order has enabled the Law School to make significant progress on its most critical funding priority: student financial aid. Since 2000, gifts from the members of the Order of St. Thomas More have helped the Law School to double its student fellowship awards. In 2001, the generosity of the order's members enabled the Law School to introduce the Loan Repayment Assistance Program (Loan Forgiveness) to assist recent graduates who have chosen modestly paying public interest careers.

In his final remarks as the chairman, Paul reminded the attendees of the vital importance of the Order of St. Thomas More to the Law School. He also called on all Notre Dame lawyers to support the Law School's mission to train lawyers who excel professionally and live lives that are inspired by Notre Dame's enduring values.

Paul recently retired from an impressive career as the executive vice president and general counsel for Bank of America. He has served with distinction on the Law School Advisory Council since 1994 and will continue his loyal service to the Law School in that capacity.

Tom Curtin Appointed as Chairman of the Order of St. Thomas More

Tom Curtin '68 J.D. was recently appointed as the new chairman of the Order of St. Thomas More. He succeeds Paul Polking '59, '66 J.D., whose term concluded in May 2004. Tom is a resident of Far Hills, New Jersey, and is president of Graham Curtin & Sheridan in Morristown, New Jersey. His practice focuses on corporate and commercial litigation, specializing in sports and fashion-related issues, with clients that include Tommy Hilfiger, Salvatore Ferragamo, Ermenegildo Zegna, and former head coach of the New York Giants, Jim Fassel.

Tom's professionalism and dedication to service in his community exemplify the values of the Notre Dame Law School. He currently serves as a director of the Community Food Bank of New Jersey, the Cancer Hope Network, and the National Football Foundation and College Hall of Fame. His professional associations include

serving on the Martindale-Hubbell Advisory Board and chairing the New Jersey Commission on Professionalism in the Law from 1996 to 1998. Tom's dedication to public service is reflected through the Curtin Endowment, a Law School endowment created with contributions from his friend Tommy Hilfiger and from Tom himself, to fund student summer public service internships.



Tom Curtin, '68 J.D.

Since graduation, Tom has remained connected to the Notre Dame family through membership in the Northern New Jersey Notre Dame Club along with several volunteer posts at the Law School. He has been a member of the Notre Dame Law Association Board since 1991 and served as president of the Board in 2000-2001. He has also served on the Law School Advisory Council since 1999.

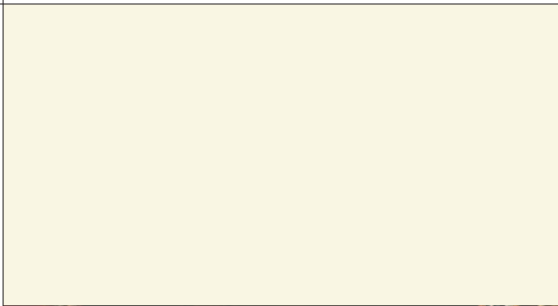
Tom's enthusiasm for, and commitment to, his new role is evident. Of the St. Thomas More Society, he said, "Notre Dame Law School graduates are proud of and love the Law School. The best way to demonstrate that pride and love is to support the fund-raising efforts of the Order of St. Thomas More, so that more great lawyers can proudly say, 'I went to Notre Dame Law School.'"

There is no better ambassador for the Law School than Tom Curtin. We welcome Tom as the new chairman of the Order of St. Thomas More and look forward to building upon the solid foundations laid by past chairmen Pat McCartan '56, '59 J.D. and Paul Polking.



REUNION 2004







CLASS NOTES

Births

Michael Whitton '89, '92 J.D. and his wife, Janelle, welcomed Gage in February.

Sean O'Brien '95, '01 J.D., '02 LL.M. and his wife, Felicia, welcomed a daughter, Sophia Rose, in June.

Marriages

Stephanie (Gumm) Hale '99 J.D. married Jeffrey Hale on January 10, 2004.

Janet Hamilton '00 J.D. married Mike Merckx at the Basilica of the Sacred Heart on September 13, 2003.

Gabe Tsui '00 J.D. married Tammy Yuen on April 17, 2004 in his hometown of Libertyville, Illinois.

Kevin Connolly '01 J.D. married Rebecca Wall on May 1, 2004.

Nicole Homan '03 J.D. and **Mark Juba, '03 J.D.** were married on November 29, 2003.

In Memoriam

Clarence J. Ruddy '27 J.D. died at his home on June 21, 2004 at the age of 99.

T.J. Bergan '55 J.D. passed away on April 10, 2004.

Leonard Opperman '70 J.D. died on February 5, 2004.

1950s

Abdallah Samuel Adelo '47, '54 J.D. was profiled in the Spring 2004 10th Anniversary issue of *La Herencia*, a Santa Fe-based quarterly magazine.

1960s

Edmund J. Adams '63 J.D. received the Notre Dame Club of Greater Cincinnati's 2004 Award of the Year. This award recognizes a local graduate who has made extraordinary contributions to the community and Notre Dame, especially through the local club.

N. Patrick Crooks '63 J.D. of the Supreme Court of Wisconsin, delivered a speech titled "The Importance of State Constitutions in a System of Federalism" to the Notre Dame Federalist Society at the Law School.

James T. Heimbuch '65 J.D. was elected president of the Detroit Metropolitan Bar Association. He is a partner at Bodman, Longley & Dahling in Detroit, where he specializes in banking law and labor and employment law.

Charles Weiss '68 J.D. was honored with the President's Outstanding Service Award from the Bar Association of Metropolitan St. Louis at its annual Law Day Banquet.

1970s

James L. McCrystal Jr. '73 J.D., a partner at Brzytwa Quick & McCrystal, LLC in Cleveland, Ohio, was elected to the board of directors of the Product Liability Advisory Council.

Robert W. Lueck '74 J.D. published an article, "The Collaborative Law (R)evolution: An Idea Whose Time Has Come In Nevada," in the April 2004 edition of the *Nevada Lawyer*.

Terrence J. McGann '72, '75 J.D. was named to the Montgomery County Circuit Court by Governor Robert L. Ehrlich Jr.

Terry A. Crone '77 J.D. was appointed to the Indiana Court of Appeals by Governor Joseph Kernan.

Jon R. Robinson '77 J.D. was named vice president - utility law and regulation. He will be in charge of all legal issues related to public utility law and regulation before the Michigan Public Service Commission and the Federal Energy Regulatory Commission and the appellate courts.

Stephen Duggan '72, '78 J.D. has joined Lanahan & Reilley's employment and labor law practice group in Santa Rosa.

1980s

Thomas M. Crowley '76, '79, '82 J.D. spent February 2004 as a visiting professor at Vytautas Magnus University School of Law in Kaunas, Lithuania, teaching environmental law. The visitorship was part of a Certificate of Transnational Law Program jointly run by Vytautas Magnus and Michigan State University-Detroit College of Law.

The Honorable Diana Lewis '74, '82 J.D. was appointed to the board of directors of Catholic Relief Services. This is the first time in the agency's history that lay members have served on the board of directors.

Mary Persyn '82 J.D. was appointed associate dean for library services at Valparaiso University School of Law.

Thomas G. Taylor '83 J.D. has been appointed by the governor of North Carolina to fulfill the unexpired term of a state district court judge and will serve for the next four years.

Ann Firth '81, '84 J.D. was named associate vice president for student affairs at Notre Dame.

John Maciejczyk '84 J.D. joined the U.S. Attorney's Office in South Bend as an assistant U.S. attorney.

Stephen J. Dunn '85 J.D. has joined Kitch Drutchas Wagner Denardis & Valitutti. He will be based in the firm's Detroit office and will specialize in the areas of civil and criminal tax litigation, entity tax planning, mergers and acquisitions, and estate planning and administration.

Kim L. Kirn '85 J.D. received the Southern Illinois University Edwardsville 2004 Kimmel Community Service Award for SIUE faculty and staff. Kim is associate general counsel for the university.

Michael G. Gotsch '79, '87 J.D. was appointed a St. Joseph County Circuit Court judge by Indiana Governor Joseph Kernan.

James J. Ciapciak '88 J.D. was named USA Hockey's Coach of the Year for Massachusetts. In his first year of coaching, Jim took his son Patrick's

Squirt level C team to the state final four for level B teams in 2004. The team won their district championship and the Eastern division championship.

William Cowden '88 J.D. is an assistant U.S. attorney assigned to the civil division.

Kelly D. Talcott '88 J.D. joined the New York office of Kirkpatrick & Lockhart LLP, where he will continue his intellectual property practice.

1990s

Thomas F. Warth '86, '90 J.D. has joined the Rochester, New York, firm of Hiscock & Barclay, LLP.

Elena Baca '92 J.D. was appointed to chair Paul, Hastings, Janofsky & Walker's Los Angeles office.

Jennifer McClennan '92 J.D. is a partner at Shaw Pittman. She is a member of the global sourcing practice.

Larry Liu '94 J.D. joined Foran Glennon Palandech & Ponzi PC in Los Angeles as senior counsel.

Jamie (Billotte) Moses '94 J.D. will serve as president-elect of the Florida Bar's Young Lawyer's Division for 2004-2005 and will serve as president in June 2005.

David J. Freund '96 J.D. has accepted a position with the Death Penalty Defense Unit in Wichita, Kansas.

Steve and Jennifer (Fraley) Hieatt '96 J.D. live in Cincinnati with their four children: Mary Katherine, Emily, John Paul, and Mark. Steve is senior counsel with Clopay Corporation and Jennifer is in-house counsel to Miami Management Company.

Jonathan Fligg '93, '97 J.D. was recognized by the Atlanta Volunteer Lawyers Foundation for his pro bono work over the past several years. The award was presented at a luncheon sponsored by the Atlanta Bar Association.

Melissa O'Loughlin White '97 J.D. was elected to membership in the firm Cozen O'Connor in Seattle. Melissa

concentrates her practice in complex litigation, appeals, and insurance coverage matters for London Market insurers.

John P. Cerone '98 J.D. was appointed assistant professor of law and director of the Center for International Law and Policy at New England School of Law.

Christopher Robinson '99 J.D. joined Epstein, Becker & Green's national health law practice as an associate.

2000s

Christopher M. Parent '93, '00 J.D. published "Personal Fouls: How Sexual Assault by Football Players is Exposing Universities to Title IX Liability" in the *Fordham Intellectual Property, Media & Entertainment Law Journal*.

Gregg D. Stephenson '00 J.D. has joined the law firm of Van Cott, Bagley, Cornwall & McCarthy as a member of the tax, estate and benefits group.

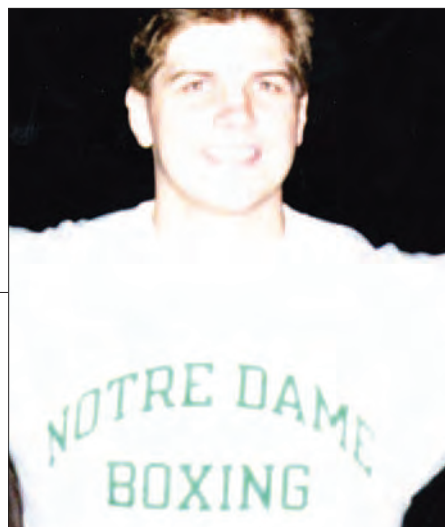
Peyton Berg '02 J.D. spoke at the Indianapolis Bar Association Education Center on the requirements necessary to represent professional athletes in Indiana and on a national level.

Beth L. Riga '02 J.D. has been appointed to the Citizenship Education Advisory Committee and Unauthorized Practice of Law Committee of the Indiana State Bar Association. She was also appointed newsletter editor for the business litigation section of the Defense Trial Counsel of Indiana.

Greg Ripple '94, '03 J.D. is an associate in the South Bend office of Barnes & Thornburg. He practices primarily with the firm's labor and employment law department.

Joseph Koczera '04 J.D. will enter the novitiate of the Chicago Province of the Society of Jesus in August.

THE DANIEL J. ADAM MEMORIAL AWARD



On October 25, 2003, a tragedy befell the Class of 2001, when our beloved friend Daniel J. Adam sadly passed away at 28 years old. His passing broke the hearts of the entire Class of 2001 and his loss still reverberates with all of us today. As anyone who was lucky enough to share a part of his joyous life can attest, Dan was committed to the betterment of society by helping the weakest among us. Whether it was charitable work in Montana on a Native American reservation or volunteer work at soup kitchens at Harvard, Dan gave of himself to help those in the community who

could not help themselves.

His spirit of charity and compassion propelled him to join one of Notre Dame's most respected charitable efforts, Notre Dame Bengal Bouts, where he was a two-time heavyweight finalist. The Notre Dame Bengal Bouts is a boxing tournament which, for more than 70 years, has raised funds to

support the Holy Cross Missions

in Bangladesh. Bangladesh is one of the poorest nations in the world, where the people subsist on a per capita income of \$285 a year. All funds raised by Bengal Bouts benefit the Holy Cross Missions and support various endeavors throughout Bangladesh. To learn more about the Bengal Bouts or to donate, please see the official Bengal Bouts Web site at <http://bengalbouts.nd.edu>.

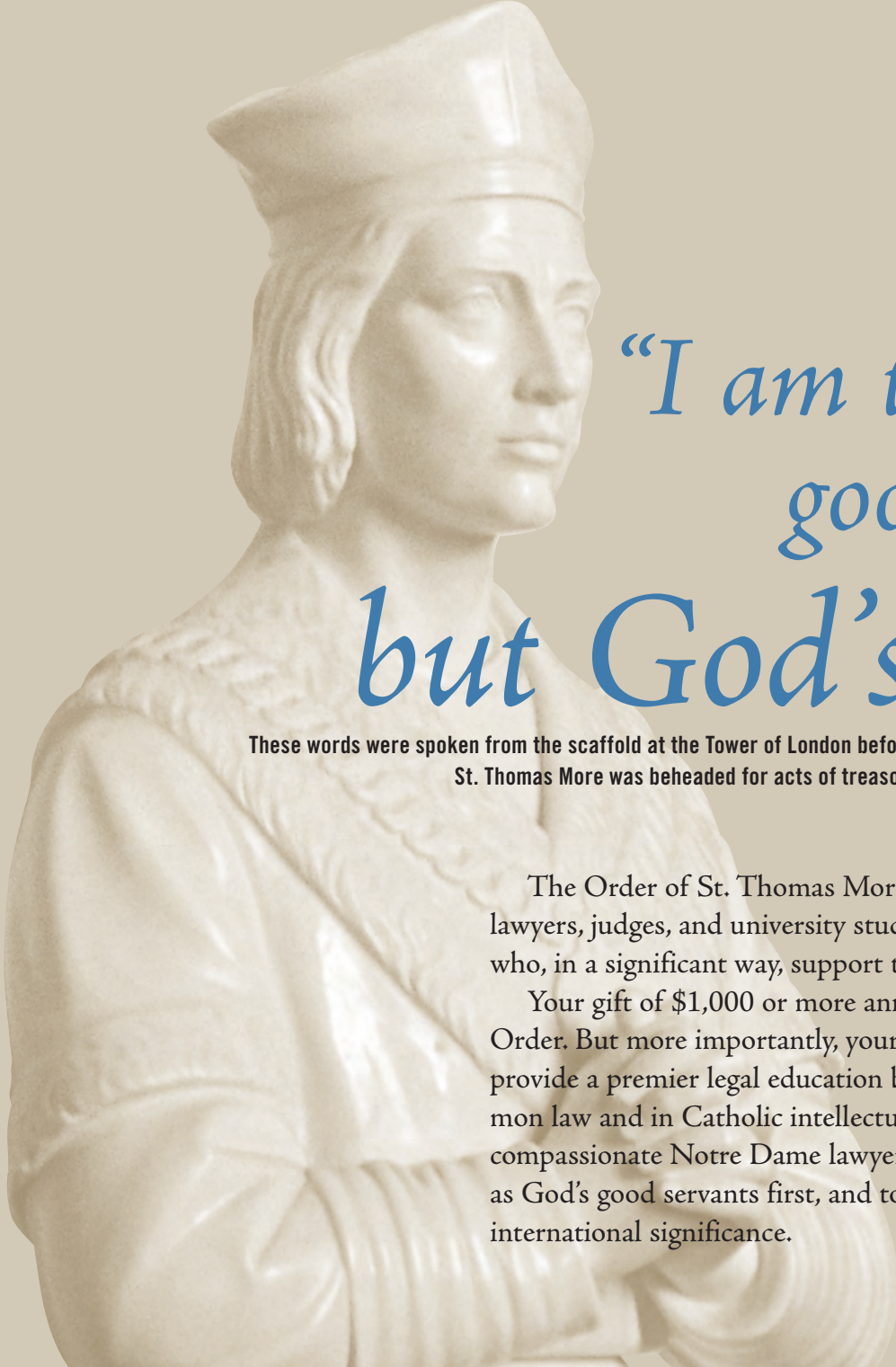
In an effort to honor his life and cherish his memory, Dan's classmates came together to create a Bengal Bouts award in his honor, the Daniel J. Adam Memorial Award. This award will be presented annually to the most outstanding law school boxer in each year's Bengal Bouts Tournament. Through the generosity of his classmates, \$2,000 was raised to endow the award and an additional \$2,100 was raised for a donation to the Bengal Bouts charity in Dan's honor. An elegant plaque currently hangs in the Law School building and will have the name of the annual winner added to it each year. Also, the Bengal Bouts will present a trophy to the recipient at the annual banquet. The first annual recipient of the Daniel J. Adam Memorial Award is Brian Nicholson; he was presented the award in the Law School before the Notre Dame vs. Michigan game on September 11, 2004.

This award would not have become a reality without the insights and assistance of a number of people. I wish I could acknowledge everyone who contributed to the award in so many ways. I would like to extend my sincerest appreciation to Professor Emeritus Charles Rice, who provided invaluable guidance and support; William McMurtrie, who did an outstanding job designing the beautiful plaque which hangs in the Law School; and Jonell Lucca, who was a tireless fund-raiser.

May this award be an annual reminder of a life lost too soon and an inspiration to future generations of Notre Dame law students to embrace the motto of the Bengal Bouts: "Strong bodies fight, that weak bodies may be nourished."*

— JonMarc P. Buffa '01 J.D.

*Dominic Napolitano, Bengal Bouts, legendary director



*“I am the king’s
good servant—
but God’s first.”*

These words were spoken from the scaffold at the Tower of London before
St. Thomas More was beheaded for acts of treason.

The Order of St. Thomas More, named for the patron saint of lawyers, judges, and university students, honors Law School benefactors who, in a significant way, support the ideals of the Law School.

Your gift of \$1,000 or more annually gives you membership in the Order. But more importantly, your gift will contribute to our efforts to provide a premier legal education based in English and American common law and in Catholic intellectual traditions, to form competent and compassionate Notre Dame lawyers who engage in their practice of law as God’s good servants first, and to conduct scholarship of national and international significance.

The Order of St. Thomas More

For information on membership,
please contact:
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