

# LAWYER



**Spring 2006**



UNIVERSITY OF  
**NOTRE DAME**

The Law School

## AB INITIO

### *Spring 2006 at the Law School*

Dear Reader,

Since you received the fall 2005 issue of the *Lawyer*, I've experienced an incredible football season, attended a concert by the Chieftains in Leighton Hall at the DeBartolo Performing Arts Center (the most acoustically perfect venue I've ever had the pleasure of experiencing), and was honored to watch the inauguration of Notre Dame's 17th President, Rev. John I. Jenkins CSC.

Where else could all of this have happened during one academic year other than at Notre Dame?

And just as these varied events are emblematic of the University, so are my experiences inside the halls of the Law School: the opportunity to meet a new class of law students, the opportunity to say goodbye to a wonderful group of third-year students who will soon begin making their mark on the world of jurisprudence—and I do mean “world,” as I've met some of the most talented, dedicated jurists in the Center for Civil and Human Rights who will soon continue their work on the cause of international human rights—to listen to presentations by legal scholars such as Cass Sunstein of the University of Chicago, and to work with a dedicated group of Law School alumni who comprise the Notre Dame Law Association board of directors. Within the walls of the Law School, classes, symposia, guest lectures, student meetings, chance hallway debates, and prayer have taken place.

Where else could all of this have happened during one academic year other than at the Law School?

This magazine presents a snapshot of the fall and winter here. I hope you find its contents useful and interesting.

I remain yours in Notre Dame.

*Carol*

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# NOTRE DAME LAWYER



## SPRING 2006



- 3 Dean's Message**
- 4 In House**
- 24 Voir Dire** / Prof. Mary Ellen O'Connell
- 34 Faculty Scholarship and Honors**
- 35 Staff Notes**
- 36 Class Notes**
- 40 Closing Arguments** / Director of Law School Advancement

## FEATURES

- 6 Learning What It Means to be a Different Kind of Lawyer**  
Student participants are reminded why they came to law school.
- 8 Tennis and Top Buttons: Remembering William Rehnquist**  
Prof. Richard Garnett eulogizes his former mentor.
- 10 The Far Reach of the Dome's Shadow: Discovery in Asia**  
Prof. Joseph Bauer travels 7,000 miles to discover Asia.
- 12 The Law Library: A Twenty-Year Odyssey**  
Departing Associate Prof. Roger Jacobs reflects on the past 20 years.
- 18 People, Books, Quiet Action: The Emblems of a Friend**  
Prof. Walter Pratt salutes his departing friend.
- 20 Center for Civil and Human Rights: Continuing a Tradition**  
Firmly grounded in its history, the center approaches its future.
- 22 Rwanda: The Blood Flows with the Honey**  
Judge Fred Mulindwa confronts the legacy of genocide.
- 23 One Specific Time and Place**  
Alpha Sesay reflects on his time at the Center.
- 26 Hallmarks of Excellence**  
Two NDLS graduates exemplify scholarship and service.
- 28 The Supervisory Power of the Supreme Court**  
Associate Prof. Amy Barrett excerpts her *Columbia Law Review* article.
- 32 Goodbye to a Beloved "Co-Pilot"**  
The Law School says goodbye to Shirley McLean.
- 33 Larry D. Soderquist: Professor, Author, Minister, Friend**  
Colleagues remember former professor Larry Soderquist.



# FROM THE DEAN

As I write this letter, spring is in full bloom, and Commencement has marked the end of an academic year. Our graduating students prepare to enter the profession, two other cohorts advance to the next year of legal education, and a new class slowly takes shape through the hard work of our Admissions Office. Faces that were new on our faculty and in our community back in the fall are now familiar. Colleagues we have known and cherished for years are about to move on to retirement or to opportunities elsewhere. Prospective colleagues prepare to join our ranks this summer. I will focus on just a few of these transitions.

For 21 years Roger Jacobs has been the visionary force that drove expansion of our library from one that was barely adequate for the research needs of our faculty and students to one that is now the envy of many of our peers. He accomplished this at a time when law libraries throughout the nation entered the digital revolution, and when the scholarly agendas of our faculty grew increasingly more sophisticated and complex. With boundless energy, patient persistence, unmatched people skills, and unfailing good humor, Roger presided over this transformation. Moreover, he served as an inspiration and as a source of wise counsel to Dean David Link and to me as a member of the senior administrative team. In this issue you will find Roger's modest account of his tenure as director of our library, as well as Jack Pratt's personal tribute to him. As Roger shifts into retirement, we wish him and Alice, his wife, godspeed.

For a generation now, the Center for Civil and Human Rights has been the embodiment of the Law School's commitment to teaching, scholarship, and service in the field of international human rights law. As restructured by Father Bill Lewers 15 years ago, the Center prepares human rights lawyers from all over the globe for the difficult work in which they engage, while at the same time preparing a small number of them for academic careers in human-rights education in their home countries. The Center brings a global perspective to our community and reminds us of how important and difficult the quest for justice through law can be. With the arrival this year as director of Prof. Douglass Cassel, a noted human rights activist and scholar, the Center stands poised to build on the strong foundation laid by his worthy predecessors. In this issue, you will find several articles describing the work of the Center under Prof. Cassel's leadership, as well as an interview with Prof. Mary Ellen O'Connell, a leading voice on the international regulation of the use of force. Prof. O'Connell joined us this past fall as the Robert and Marion Short Professor, and her scholarship enriches both the Law School and the Center.

On a more somber note, we mark the passing of two individuals who in very different ways made significant

contributions to our community. Larry Soderquist was a member of our faculty from 1976 to 1980 when he moved to Vanderbilt Law School, where he served until his untimely death last summer. Shirley McLean was the wife of Captain Bill McLean, who served for almost 20 years as associate dean of the Law School. In the articles memorializing each of them, we try to capture our sense of loss.

We have experienced many more transitions this spring than this issue of the *Lawyer* could cover. We congratulate Jack Pratt on his appointment as the new dean of the University of South Carolina School of Law. A member of our faculty for 20 years, Jack shared his time, talent, energy, and gifts as an associate dean for more than a decade in ways too innumerable to describe. Terry Phelps leaves to become director of the Legal Writing Program at Washington College of Law of American University in Washington, D.C. Terry taught legal writing to a generation of our students and enriched our international human rights program with her scholarship. We will also say goodbye to Barbara Szweda, who heads west to become director of the Immigration Clinic at Holy Cross Ministries in Salt Lake City. Barbara touched the lives of the many students she supervised over the years in our Legal Aid Clinic, as well as the immigrants and refugees she represented. Finally, Patti Ogden, whose talents as a reference librarian are legendary among our faculty, leaves us for the University of Tennessee and the mountains she so loves to hike.

Our ranks will be enlarged this fall by the arrival of Peg Brinig, currently a chaired professor at Iowa and a renowned scholar in a number of areas including family law and law and economics. In addition, Ed Edmonds will return to his undergraduate alma mater from the University of St. Thomas in Minneapolis to succeed Roger Jacobs as director of the library. Finally, Jen Mason will switch her current visitor status to a tenure-track position on the faculty. The holder of an undergraduate degree from Notre Dame, Jen graduated first in her class from NYU Law School and joins Tricia Bellia as the second Justice O'Connor clerk on our faculty.

Each year our graduating students select the gospel readings for the Commencement Hooding Ceremony. This year's passage from John's gospel provides a fitting note on which to end: "I am the vine; you are the branches. Those who abide in me and I in them bear much fruit because apart from me, you can do nothing." As we witness the renewal of the earth and the rites of spring, we mark the close of an academic year that bore much fruit. May we remain faithful to the one who makes our progress possible.



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





## Notre Dame Journal of Law, Ethics & Public Policy Hosts Symposium

The Notre Dame Journal of Law, Ethics, & Public Policy hosted a symposium Nov. 9 in the Eck Center auditorium titled “The Religious Commitments of Judicial Nominees: Appropriate Questioning and Acceptable Answers.”

The symposium is available for viewing on the Web at:

(Broadband) <http://streaming.nd.edu/law/journal/nominees.wmv>

(Modem) [http://streaming.nd.edu/law/journal/nominees\\_low.wmv](http://streaming.nd.edu/law/journal/nominees_low.wmv)

Panelists for the presentations included:

- Judge D’Army Bailey, a two-term judge on the Tennessee Circuit Court, 30th Judicial District, disagreed with the perspective that would allow judges to recuse themselves from cases because of conflicts between the law and the judge’s religious commitments. He stressed that judges take an oath to uphold the law, and that this oath should not be overridden or informed by religious commitments.



- Matthew Franck, professor and chair of the Political Science Department at Radford University, offered a brief survey of the Supreme Court’s historical religious background and stressed that the recent focus on religion in the confirmation process is a new phenomenon. He observed that this new phenomenon is likely driven by concern over the growing number of adherents to one religion (Catholicism) on the Court, as well as by how religious commitment may affect the justices’ decisions in cases on abortion rights, gay marriage, and the right to die, which are at the center of the “culture wars.” Dr. Franck also noted that inquiries into religious commitments are used as an indirect form of questioning on judicial philosophy by those who feel uncomfortable directly questioning judicial philosophy, or by those who are stonewalled by the nominees on direct questions.
- Francis Beckwith, associate professor of church-state studies, associate editor of the *Journal of Church and State*, and associate director of the J.M. Dawson Institute of Church-State Studies at Baylor University, argued that, unlike scientific, historical, mathematical, or other sources of knowledge, religion has been systematically and intentionally marginalized (and personalized) so that it is no longer acceptable as a respectable source of information for the legal opinions of judges.

The *Notre Dame Journal of Law, Ethics, & Public Policy* analyzes legal and public policy questions within the framework of the Judeo-Christian intellectual and moral tradition. The journal offers two symposia a year.



D’Army Bailey



Francis Beckwith



Matthew Frank



## Black Law Student Association Triumphs in Madison

While attending the spring semester's midwest regional meeting of the Black Law Student Association, the NDLS chapter scored so many victories that event can be considered nothing short of a triumph.

### **Their victories include:**

- the moot court team of Stephen Robinson and Sean Seymore winning best brief in the preliminary round as well as the championship. They advanced to the national competition in Washington, D.C.
- two BLSA members winning regional board positions. Marlysha Myrthil was elected director of programming and Leonard Stewart was election regional director.
- the chapter being named runner-up for Chapter of the Year.



Stephen Robinson and Sean Seymore

In an celebratory e-mail message to his classmates, Bobbi Brown (J.D. '06) wrote: "I am just waking up from an unbelievable night of accomplishment and celebration for ND BLSA...We ALL have so much to be proud of...and I hope this establishes ND BLSA's presence in the region that will never dwindle."



## 56th Annual Showcase Moot Court

On February 23, 2006, in the Judge Norman C. Barry Courtroom, advocates Maria Cruz Melendez and Joel M. Melendez (for the petitioners) and Adrienne Lyles-Chockley and Andrew Hiller (for the respondents) withstood intense questions from the bench as classmates, family, and members of the faculty and staff of the Law School listened. All had gathered for the Law School's 56th annual Showcase Moot Court Argument.

At the end of arguments, members of the court complimented the students on their preparation and presentation. Certainly, the advocates' performances reflected the strength of their litigation training under the guidance of moot court appellate advisors Robert J. Palmer and Edward A. Sullivan, both adjunct assistant professors of the Law School.

Sitting on the court for the competition were the Honorable Bruce M. Selya, United States Court of Appeals for the First Circuit; the Honorable Jeffrey S. Sutton, United States Court of Appeals for the Sixth Circuit; and the Honorable Diane S. Sykes, United States Court of Appeals for the Seventh Circuit.

The argument centered around a roller coaster derailment in the town of Belle Mer in the state of York, a derailment that killed a young boy and severely injured several other riders. In response to the accident, the town enacted Local Law 25, which imposed new safety requirements on "thrill rides" at "The Pier," the theme park where the roller coaster accident took place.

Walt Riders Corp., owner of the roller coaster, unsuccessfully sought a variance, arguing that the mandatory changes ordered by Law 25 were cost-prohibitive, unnecessary, and dangerously imprudent. The corporation then brought an action in the York Superior Court, which dismissed the administrative claims. The Fourteenth Circuit Court of Appeals eventually heard the case and held that the corporation had stated a legal claim for a Fifth Amendment taking. The court remanded the case to the district court, allowing the corporation the chance to further prove its takings claim.

The Town of Belle Mer then filed a petition for *writ of certiorari* for the Supreme Court to review the Fourteenth Circuit's judgment, which the Court granted.

# Learning What It Means To Be

**BY ROBERT JONES**  
**DIRECTOR, LEGAL AID CLINIC**

**F**orty-five law students discovered over Christmas break that leaving campus is one of the best ways to learn what it means to be a Notre Dame lawyer. While their classmates relaxed after the rigors of final exams, the participants in the Law School's GALILEE program fanned out to six cities across the country for a three-day immersion into the legal problems of the urban poor and the responses of public interest lawyers.

The students heard many voices, ranging from Illinois Attorney General Lisa Madigan to NDLS grad Zenaida Alonzo, who provides legal assistance to homeless teens from her minivan. They heard from judges, prosecutors, public defenders, legal aid lawyers, policy advocates, social workers, police officers, and public interest attorneys of all stripes. Perhaps most importantly, they heard directly from the poor—homeless men and women, the elderly, troubled teens, and inmates. Those voices all conveyed a similar message: the urban poor face a host of injustices, and attorneys can find fulfillment in attempting to address them, whether through full-time public interest work or pro bono efforts.



"GALILEE opened my eyes to the world of public interest law," commented first-year student William Hannan. Courtney Ridge enthused that "GALILEE was an amazing, unique experience" that "really helped to rekindle why I want to become a lawyer. Notre Dame's emphasis on being a different kind of lawyer is truly captured in the GALILEE program."

GALILEE's most important contribution, say many first-year students, is helping to remind them why they came to law school, and putting flesh on the abstract idea of public interest work. As Sravana Yarlagadda explains, idealism fades in the blur of the first semester of law school. Students are consumed with mastering cases, exposed to a steady parade of

upperclassmen decked out in suits on their way to private law firm interviews, and conscious of the substantial debts they are beginning to incur: "After beginning law school, my plans slowly changed. I was acquainted with

the reality of graduating with incredible student debt. I felt like my professional options were limited by my loan. I slowly left behind what I considered just 'a little girl's dream.' While partial to public service, I began to explore other areas of the legal profession." GALILEE "caused me to revisit the idea of the law and my role in society as a citizen, as a lawyer, and as a Christian. My experience with GALILEE reminded me that people can and do make a change. My experience with GALILEE provided me with the confidence that I will be able to do what I set out to do many years ago."

GALILEE (Group Alternative Live-In Legal Experience) is the brainchild of Prof. Teresa Phelps. It is the only program of its type in the country. Twenty-five years ago, Prof. Phelps led the first group of law students on an immersion experience in Chicago. Since then, nearly a thousand students have visited cities across the country and have been transformed by the experience. Modeled after the undergraduate Urban Plunge program, GALILEE requires small groups of students to spend three days living together in an urban area while they visit public interest law offices, social service agencies, and other sites that will help them understand the legal problems of the urban poor. Students also perform a service project during their immersion, such as serving a meal at a soup kitchen or helping out at a homeless shelter. Students participate in half-day retreats before and after their GALILEE experience and write a paper reflecting on their experiences. The program is largely student-run; participants from one year volunteer to organize the recruitment and retreats the following year. Student participants are responsible for choosing the sites they wish to visit and arranging their itineraries.

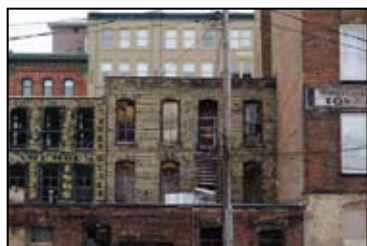
For many students, GALILEE is a first direct exposure to urban poverty. Nicole Tlachac observed that, "We were a group of five Notre Dame law students, most of whom had never seen or felt the effects of poverty outside the holiday food drives and Toys for Tots our parents participated in." Zach Dougherty conceded that,



# a Different Kind of Lawyer

“Entire worlds exist in my own country—in my own city—that I basically grew up oblivious to.” “The only solution is exposure,” concludes Thomas Winegar, pleased that GALILEE helps “burst the bubble of privilege” that can surround some students.

Just as the GALILEE experience puts flesh on the abstract notion of urban poverty, it also provides students with a specific understanding of the work of public interest lawyers. For Andrew Soukup, GALILEE “represented an attempt for me to figure out how my broad desire to serve the public good could be channeled toward some specific function.” Krista Yee found that by allowing her to interact with a variety of public interest lawyers, GALILEE enabled her “to get a better sense of what kind of job I would like to pursue upon graduation.” Jessica Burke discovered her “dream job” advocating for



children through the US Attorney’s office. Some students were so excited by what they saw that they do not plan to wait for graduation. Immediately upon returning to South Bend, several students applied for summer jobs at public interest offices they had visited.

Not all GALILEE participants are focused on full-time public interest careers. Many were anxious to learn about pro bono opportunities that could be incorporated into a private practice. To that end, several groups met with pro bono coordinators for large private firms. The GALILEE experience clearly reinforced students’ desire to participate in pro bono efforts and showed them how to do so. As Stephanie Scharrer commented, “Before GALILEE, I was unsure exactly how I would find pro bono opportunities that would interest and stimulate me. Now, I know.”

GALILEE’s impacts may extend overseas as well. Two L.L.M. students from Kenya, Faith Kabata and Caroline Okioga, participated in the New York immersion. They will return home with new ideas about how Kenyan lawyers might engage in both civil poverty-related issues and post-conviction proceedings.

GALILEE provided some photo album memories: meeting an attorney general, riding in a police car on a high speed chase, visiting the FBI’s gun vault, and sitting in on the corruption trial of a former governor. But its lasting impact will stem from the quieter moments, like the intake meeting at Cabrini Green Legal Services, that stirred students’ souls. Students discovered that public interest work is a passionate and fulfilling undertaking, and they began to imagine themselves in the shoes of the lawyers they observed.

Michael Tippy noticed that “at nearly every stop we made we had the opportunity to meet with NDLS alumni who are committed to serving the public good.” Returning to campus, the GALILEE participants may now, in T.S. Eliot’s words, “know the place for the first time.”

**We shall not cease from exploration  
And the end of all our exploring  
Will be to arrive where we started  
And know the place for the first time.**

**—T.S. Eliot, *The Four Quartets***



# Tennis and Top Buttons

## *Remembering William H. Rehnquist*

BY RICHARD W. GARNETT

LILLY ENDOWMENT ASSOCIATE PROFESSOR OF LAW

reprinted by permission from *Slate.com*, Sunday, Sept. 4, 2005

I wrote a book report in high school on *The Brethren*, the Bob Woodward and Scott Armstrong “behind the scenes” takedown (or send-up) of the early Burger Court. The justices struck me, I have to admit, as a dysfunctional and petty bunch, but I remember thinking that one of them seemed pretty “cool.” The youngest justice, Bill Rehnquist, apparently went in for practical jokes, ping-pong in the basement, swashbuckling dissents, and shaggy hair. I am embarrassed to admit that the thought actually occurred to me, “It would be fun to be one of these ‘law clerks’ for him.”

About 10 years later, I showed up at the court for my clerkship interview with the chief, sweating horribly from the combined effects of Washington, D.C.’s June humidity and my one wool lawyer suit. I can only imagine how obviously disheveled, in both appearance and mind, I seemed to his assistants, Janet and Laverne, as I waited. Right on time, the chief came into the waiting room, in casual clothes, shook my hand, and said, “Hi, I’m Bill Rehnquist.”

He showed me around his chambers and the court’s conference room. We had a friendly conversation about obscure Arizona mining towns, our respective hitchhiking experiences, the death penalty, and my childhood in Anchorage, Alaska. Thinking back



to *The Brethren*, I asked him about pranks he'd played on Chief Justice Burger. When he asked me if I had any questions, I said—thinking it would be my only chance—that I would appreciate seeing the justices' basketball court, “the Highest Court in the Land.” At the end of the interview, when the chief remarked that he'd never had a clerk from Alaska before, I started to get my hopes up.

During my clerkship year, the chief, my co-clerks, and I played tennis together weekly at a public, outdoor court near Capitol Hill. (We played on the same day that the week's “cert memos,” analyzing petitions filed by those seeking review of their cases, were due, so—more than a few times—clerks played without having slept.) We took turns driving and buying a new can of balls. I was the chief's doubles partner that year, and I several times beamed him with my hopelessly chaotic serves. One day, I am ashamed to admit, after yet another double-fault, I slammed my racket to the ground and yelled an extremely unattractive expletive. My co-clerks looked across the net at me in horror. The chief, though, didn't turn around. He just slowly bent over, put his hands on his knees, and started laughing.

For me, maybe the best part of the job was the daily 9:30 a.m. meeting. We'd drink our coffee, talk a bit about football, movies, and weather, and check up on pending cases and opinions. Sometimes he'd wonder aloud why one colleague or another still hadn't circulated a draft. (He was always, though, unfailingly fair and genial about and toward his colleagues; he would never have tolerated from any clerk a snide remark about a justice.)

In keeping with his days as a sideburn-and-psychedelic-tie-wearing junior justice (though not with his expectations of lawyers who appeared before the court!), the chief didn't impose on his clerks the standard law-firm-ready attire rules. He did, however, have a problem with T-shirts showing under our shirts. So, whenever my co-clerks and I had a meeting, we'd quickly button up our top buttons. I sometimes forgot to hide the offending undergarment, though, and one day, in the middle of a conversation about a pending case, he looked at me, sighed, and wondered why even his “extremely lax” dress code was proving such a burden.

We had cheeseburgers and beer (“Miller's Lite,” he called it) together regularly, and he allowed himself one cigarette with lunch. He invited us to his home for dinner and charades; I don't think I'll ever forget watching the chief act out *Saving Private Ryan*, crawling around under his coffee table, pointing his fingers like a gun, and mouthing “pow, pow!”

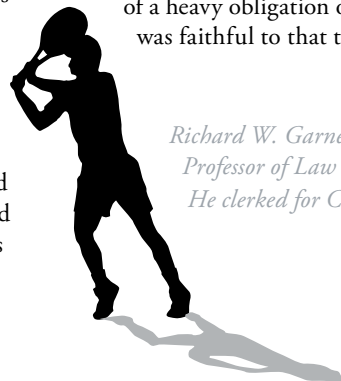
Chief Justice Rehnquist liked to put together friendly brackets and pools for the NCAA tournament, the Kentucky Derby, and the bowl games. One day, just after the 1996 election, he passed down to me a note from the bench. I assumed he wanted a law book or a memo, but instead he asked me to find out what was happening in one of the not-yet-called House races that was integral to our inter-chambers contest.



The chief's chambers ran like clockwork. We had a routine, and it worked well. He knew his job, and he knew he was good at it. He knew a staggering amount of law and was scarily quick at seeing and getting to the heart of any question. To prepare for oral arguments, the chief preferred not to read long, heavily footnoted memos, opting instead for talking through problems with his clerks, while walking around the block outside the Supreme Court building—sometimes twice, for a particularly tricky case. It was surprising, and always funny, that so few of the gawking tourists around the court recognized the chief justice as he ambled around Capitol Hill, doing his work. (He didn't mind at all).

A few years ago, lured by the promise of great seats for the Michigan game (the Fighting Irish won, though the chief thought they “won ugly”), the chief justice visited Notre Dame and—after a game of doubles with me and two colleagues—spent an hour with my First Amendment class. The conversation quickly turned to advice about life and lawyering, balancing work and family, being a good parent, making a difference, and contributing to our communities. It meant a lot, to me and to my students, that he clearly cared more about helping these students find happiness in the law than about selling them on his legal opinions.

The chief was a lawyer's lawyer. He taught and inspired me, and all of his clerks, to read carefully, to write clearly, and to think hard. He will, quite appropriately, be remembered as one of the few great chief justices. For me, though, William Rehnquist is more than a historic figure and a former boss. Today, thanks in no small part to him, I have a great job: I get paid to think, research, and write about things that matter and to teach friendly and engaged students about the law. I will always be grateful. And I hope that the deluge of political spin to come will not drown out what Americans should remember about the chief: He was a dedicated public servant, committed to the rule of law and to the court. He regarded himself as the bearer of a great trust and of a heavy obligation of stewardship. In my judgment, he was faithful to that trust, and he fulfilled that obligation.



*Richard W. Garnett is a Lilly Endowment Associate Professor of Law at the University of Notre Dame. He clerked for Chief Justice Rehnquist in 1996–97.*



# The Far Reach of the Dome's

BY JOSEPH BAUER  
PROFESSOR OF LAW

Taiwan and China are about 7,000 miles from South Bend. But, on my trip to Asia last summer, groups of Notre Dame alumni in Taipei, Hong Kong, and Beijing made me feel as much “at home” as if I were still in the shadow of the Golden Dome.

Although I did not realize it at the time, my trip to China actually began in my office in April of 2005, with a visit from Mike Chiang (LL.M. '91, J.D. '95). Mike, a native of Taiwan who was at that time practicing with the Jones Day office in Taipei, and who moved this past December to the AllBright Law Offices in Shanghai, was in South Bend for a meeting of the University's Alumni Association, of which he is the elected representative for Asian alumni. In our conversation, when we were catching up on the past 10 years, he asked if I had ever been to China. My negative response elicited his offer to help arrange for me to come for a visit. Little did I expect that I would be in Taiwan and China only four months later.

Mike has worked for several years as an adjunct faculty member at the Chinese Cultural University in Taipei. CCU is a cosponsor of an annual conference, organized by the Straits Law Forum, held in Fuzhou—which is the capital of the coastal province of Fujian, across the Straits of Taiwan from Taipei—and CCU sends a delegation of academics to that conference. This year, the theme of the Straits Law Forum was “Antitrust Theory and Practice.” Mike arranged with the dean of the law faculty at CCU for me to be invited as a member of their delegation, and to give a talk at the conference.

My visit to China began with a 21-hour trip from New York to Taipei. There, I went to the Chiang Kai Shek Memorial and to the National Palace Museum, which houses half a million treasures brought over from the Mainland in the 1940s (and no, I didn't see even half of the collection). I met with members and staff of the Taiwanese Fair Trade Commission, which is the analogue to our Federal Trade Commission. And, I was the guest of about a dozen Notre Dame alumni and spouses at a restaurant serving a 25-course dinner.

Since one cannot fly directly from Taiwan to China, my next stop was in Hong Kong. I spent a day visiting that vibrant island-peninsular city, highlighted by a delightful dinner with a group of five Notre Dame alums at a restaurant overlooking the harbor.

My next stop was in Fuzhou—a city that I had never heard of before the conference, but home to 1.3 million residents. The annual Conference of the Straits Law Forum has gained recognition as one of the most important academic events on the comparative study of the laws of China and Taiwan. This year's conference was attended by more than 200 academics, lawyers, and government officials from China, Taiwan, Hong Kong, Macau, and the United States.



China is in the early stages of developing its antitrust regime, and so this conference—addressing China's needs and the experiences of other countries—was both timely and important. I gave one of the keynote speeches at the opening session of the conference—in English, with the attendees having a written translation into Chinese done by Mike Chiang. Unfortunately, all but one of the other speeches were in Chinese, and the conference had no facilities for translation into English. In fact, I was only one of two non-native Chinese speakers. Therefore, most of my interactions with the participants occurred before or after the sessions. However, these were very useful, enriching my understanding of China's continuing emergence as a global economic power, and its need for enhanced

competition—through both antitrust and intellectual property protection—to maximize consumer welfare.

My brief trip to China culminated with a two-day visit to Beijing. I made the key touristic pilgrimages—a journey to the Great Wall (which was truly fantastic to see and walk along), to the Tombs built by the emperors of the Ming Dynasty, to Tienanmen Square and to the Forbidden City. And, I was again hosted by a group of Notre Dame alumni for a traditional dinner, which happily included Peking duck.

The capital of China is huge, sprawling, crowded, vibrant, and growing. The streets are teeming with pedestrians, bicycles, cars, buses, and trucks. The omnipresent sight is the construction crane, with old neighborhoods being leveled and replaced by



# Shadow: Discovery in Asia

20- to 30-story apartments or office buildings; one person told me that over 50 percent of all the cranes in the world are in China, and I certainly can believe it. Not surprisingly, as a part of globalization, China shows many Western features, including far too many—at least for my taste—sightings of McDonald's and Kentucky Fried Chicken. China also reflects growing prosperity, with malls as opulent as those in the United States, and selling the same Ralph Lauren or Gucci products as one would buy in Paris or New York or Chicago. And people everywhere talking on cell phones.

And then, a long journey back to the United States, across 13 time zones from Beijing to Indiana. But a trip that was filled with memories (and photos), a (slightly) better understanding of China, and a definite desire not to wait another 59 years before my next trip to Asia.



Mike Chiang (second from left), Professor Bauer, and members of the Taiwanese Fair Trade Commission



# THE LAW LIBRARY: A TWENTY

1985

BY ROGER F. JACOBS

**M**y wife, Alice, and I stood in front of the Morris Inn awaiting our early dinner appointment with Dean and Barbara Link. I had been to the campus on a previous occasion and, having been offered the position of director of the library, we were visiting to determine if we should accept the offer. It was October 4, 1984. The air was crisp, the sky cloudless. Provost O'Meara and President Hesburgh had been more than kind that afternoon describing a premier law school that needed a first-class library and suggesting that I was the person to lead the ambitious plan that they and the dean had in mind. As we waited for the Links, Alice and I discussed the opportunity. Coming from Washington and the Supreme Court Library, we were impressed, but not overwhelmed. The staff was small, the budget smaller. The collection, to be kind, was modest. While a building addition was in the final stages of planning, it would not be realized for another three years. Moreover, when completed, its labyrinthine arrangement would challenge all efforts to provide efficient library services. Could the community, University, and Law School strengths overcome the present weaknesses of the library? As the pros and cons swung back and forth in our conversations, we noticed some organized commotion approaching us from the direction of the Dome. It was the marching band. Just as it passed the Law School's St. Thomas More Door, it columned left toward the stadium and struck up the "Notre Dame Fight Song." The pendulum of choice stopped and more than two decades on, I am able to record this all too brief odyssey.

**We did not sit on our hands for the next two years while the dust and inconvenience of construction swirled around us.**

Although my appointment date was officially in June 1985, Mrs. Farmann, the retiring director, generously welcomed my early arrival in April. The next two months under her tutelage provided me with a useful introduction to the Law School library, its recent history, and methods of operation. When I assumed the helm, the library crew consisted of three librarians: Granville Cleveland, Jim Gates, and Michael Slinger (now librarian emeritus and directors of the Baseball Hall of Fame Museum Library and Cleveland State University Law Library, respectively). Four support staff, among them Carmela Kinslow, who subsequently earned a library degree and assumed her long-time leadership of the circulation department, rounded our complement. Although talented and dedicated, this group was only half the size of my two previous academic appointments and one-third the size that complements peer schools.

The collection consisted of 150,000 books. Primary materials were arranged by form, and treatises were arranged alphabetically by author under the titles of the major subjects in the Law School curriculum, an arrangement common to small law libraries and one I had seen in my first library directorship 23 years earlier. Resources for collection building had historically been extremely modest and it showed. Fundamental primary materials and basic treatises were lacking, and there was almost a total absence of public or private international law materials. A void existed where literature to support scholarship between law and other disciplines should be shelved. But what would we have done with more staff and more books? There was no place to put them. Every available shelf was filled. Some space, technically within the library, was occupied by the White Center, NITA, and a scattering of faculty offices. Fortunately, ground breaking for a building addition between the Law School and the College of Engineering promised relief in 1987.

We did not, however, sit on our hands for the next two years while the dust and inconvenience of construction swirled around us. Responding to my argument that we needed research librarians to help overcome the meagerness of in-house collections by mining the resources available from other libraries and resources via interlibrary loan or direct research, the University substantially expanded our base budget allowing the addition of three librarians (Dwight King, longtime head of the library's research unit among them) and appropriate support staff. It promised, as well, the resources to increase the tempo of acquisitions. Space for new books was found by removing older books from the shelves and sending them to off-site storage. The entire staff was stuffed into what is now known as the "computer lab," a space that, in an earlier time, housed the National Reporter System and other items of the core collection. My office, no larger than the private washroom I had at the Court,



# -YEAR ODYSSEY

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was defined by unfinished plywood walls open at the ceiling. This tiny space also accommodated Teresa Welty (nee Tincher), the library's new administrative assistant who, 20 years on, manages so much of the library's operations with unfailing grace. The dust, noise, and, depending on the season, drafts of hot or cold air, were major burdens during the two years of construction.

While the footprint of the new addition and the assignment of spaces were set by the time of my appointment, some changes in the plan were successfully implemented. The anticipated expansion of staff was met by building offices for research librarians in reading room alcoves. The Center for Civil and Human Rights and library technical services spaces were interchanged, thus enabling processing space to expand several times in subsequent years as demanded by the larger staff required to support a more aggressive acquisitions program. My estimates

that the planned acquisitions program would exhaust the book storage space of the new addition in less than 10 years led to the installation of substantial compact shelving. This expanded shelving provided room for 70,000 more books and extended the capacity of the stacks to nearly 20 years.

Inauspiciously, during this period, we initiated two small programs that would have pronounced impacts in future years. I authorized purchasing two Apple IIc computers and accepted the University Library's offer to collaborate with them on converting the library's historical card catalog records into machine-readable formats. At the time, I knew that library catalogs were prime candidates for automation but had only the foggiest vision of how automation of the library's records would transform all aspects of collection management for the benefit of patrons. I had no idea at all of how information retrieval, first in full-text databases like



Lexis and Westlaw and later via the Internet and Google, would become accessible via the PC. I remember just a bit later being cautioned about cobbling together our first public computer lab on grounds that while we were accomplished librarians, technology management might well be beyond our competence.

About the same time the third addition of the Law School Building was dedicated in 1987, the John P. Murphy Foundation, which had some years earlier established the library's foundational endowment, again generously underwrote library development. Pledging a \$500,000 gift in five equal yearly installments, these resources supported collection building at levels that had been impossible a decade earlier. Some of these funds were used for new publications, but then and now

the modest, early development of the library meant that a good percentage of new resources were being used to locate and acquire out-of-print material important to research but not currently available. In 1990, I discovered that the Chicago Bar Association was planning to move its operations and eliminate its century-old law library. Upon further investigation, I determined that the bar might find an offer for the entire collection an attractive alternative to any attempts to sell off the collection in pieces. After examining the collection, I determined that it was worth attempting to acquire the entirety of the approximately 100,000 books in order that we might bring to Notre Dame the volumes that would be unique to our library. I took the suggestion to Dean Link, and he carried the idea to Provost O'Meara. In an example to me of the ability of a great university to nimbly respond to a unique opportunity, within 48 hours I was told "go for it, Roger." Our offer was accepted. In one fell swoop we added 13,000 titles and 35,000 volumes—the equivalent of what today

would be three years' growth and in 1990 exceeded our acquisitions for the previous 10 years. I later learned that the entire cost of the CBA purchase was generously funded by Jack Sandner, Class of 1968 and chairman of the board of the Chicago Mercantile Exchange. This one-time feast had two downsides, one more immediate and one longer term. Immediately, we had the task of processing this gorge of law books while maintaining regular operations—a task that burdened us for a decade. In the longer term, the 20-year life expectancy of the library's book-stack capacity had suddenly been reduced to 16 years. Every bit of shelving would be exhausted, not in 2007, but in 2003. Moreover, since effective capacity of a library is reached when 85 percent of all shelving is occupied, I began as early as 1991 to urge the consideration of what the Law School must do to face the inexorable

growth of the collection. The 70,000 books in the CBA purchase that were beyond our needs, equally divided between useable duplicates and terribly deteriorated items, were stored in primitive conditions in a Mishawaka warehouse until a major portion were sent to Notre Dame Australia to help build the library in support of its new law school—the balance were ultimately pulped. We also acquired space to store boxed books in a warehouse operated by the St. Vincent De Paul Society and, when the University Library completed renovation of its basement in 2003, Jennifer Younger graciously allowed the law library to temporarily store 75,000 volumes there.

It is little surprise to librarians that this is not a new phenomenon. Prof. Moore, in his *A Century of Law at Notre Dame*, notes Dean O'Meara's lament that stack space was inadequate, "but space has been assigned for our exclusive use in the Memorial Library, and little-used books will be transferred from time to time to this law library segment of the Memorial Library." But even this





## **In the longer term, the 20-year life expectancy of the library's book-stack capacity had suddenly been reduced to 16 years. Every bit of shelving would be exhausted, not in 2007, but in 2003.**

additional space was soon exhausted "... and in that year [1958] fifteen thousand volumes were put in dead storage in the tower of the law building." Today, as in 1958 and in 1985 when I arrived, the library owns more books than it can store on its available shelving. While this is a temporary inconvenience awaiting the completion of the new Law School addition for which ground will be broken in 2007, the school can be pleased at the undeniable research strength available to faculty and students that has developed in the past 20 years.

Obviously, the library can hardly exist without books. But a collection of books without services is little more than a specialized warehouse. The law library services have matured over the past two decades. Initially, under the direction of Michael Slinger, until he took the directorship of Suffolk University Law School Library in 1990, and since then led by Dwight King, research librarians have proved invaluable in assisting faculty scholarship and introducing students to the arcane but essential skill of legal research. Frequently recognized in the author's acknowledgements in books or articles or by a special note, the services of research librarians, including, in addition to Michael and Dwight, former librarians David Boeck (1985) and Lucy Payne (1988) and current incumbents Patti Ogden and Warren Rees, continually received high praise. Their efforts in introducing neophyte lawyers to the world of legal research are equally noteworthy. Many graduates, particularly those in their first years of practice, extol the quality of the preparation provided by their legal research teachers. As the Law School's scholarly production increases, the service of these librarians should continue to be a major library asset.

Document delivery, whether from nearby shelves, remote storage, or libraries across a vast national or international interlibrary network, is an essential task of the modern library. No library, regardless of size, is capable of holding every scholarly resource of interest. Moreover, acquiring over 200,000 volume equivalents in microform often requires copying the information from this disfavored format to a printed or digitally computer-readable form. Insofar as resources allowed, I attempted to encourage the prompt hassle-free document delivery service I had experienced at the Court, at least to faculty. The access services staff, led since 1990 by Carmel Kinslow, has consistently been in the forefront of receiving patrons, responding to their requests or directing them to staff directly responsible for their needs. From my first day with the library until now, the access services department, with its openly inviting circulation desk staff, is perceived by many as THE library.

As mentioned previously, the organization of the collection and the reliance on the card catalog, methods of a bygone library era, ultimately gave way in time to a machine-readable electronic catalog and the use of the standard classification schemes for academic libraries developed by the Library of Congress for law in 1967. Collaborating with the University Library, Jim Gates (1981) supported and followed by Nan Moegerle (1986) saw that some 28,000 title records were converted to machine-readable form and treatises were classed and arranged by L.C. Classification. We also decided to follow the University's lead in using the NOTIS automated library system. Unfortunately, while the price was right, being paid for by a grant received by the University Library, and the system offered a catalog that satisfied most of our needs, the system's functionality in handling serial records was essentially deficient. That deficiency was so telling in a library where 70 percent of all receipts were serials (law reports, statutory or regulatory releases, loose leaf services, periodicals, pocket parts, etc.). We needed another product to meet our requirements. By the time we were making this decision in 1991, Janis Johnston had joined the staff to head up technical services. With substantial experience in law libraries, most recently at the University of Illinois, she spearheaded an effort to find and acquire the best system for controlling legal serials. This search soon led to Innovative Interfaces Inc., which more than a decade earlier created a serial system to satisfy Boalt Hall's law library needs. With grant funds in hand, we undertook a multi-year effort to merge the NOTIS catalog with the III serial control system. While the merger worked, it was not without continuing friction.

When in 1992 the University Library decided to abandon the aging NOTIS for a new integrated library system, untested in the United States with no guarantees that the new system would ameliorate the limitations of NOTIS for the law library, we decided to invest some windfall resources and completely automate our processing efforts with the Innovative Interfaces. The conversion effort was a major challenge, but by the time Joe Thomas succeeded Janis Johnston (who in 1999 became director of the University of Illinois Law Library) as the head of library technical services and with the support of Sandra Klein, Nancy Poehlmann, and Laurel Cochrane, librarians responsible respectively for acquisitions, cataloging, and inventory control, we had a superior library system that enabled electronic management of ordering, cataloging, serials, binding, routing, circulation, financial records, and a myriad of other interrelated services. These tools, by enabling us to make decisions on the basis of data unavailable in the manual paper regime, increased library effectiveness by making library resources more accessible to all our patrons.

## The growth of collections, services, technology, and their attendant staffs during my tenure at Notre Dame has been pronounced.

The implementation of these electronic technologies to library services was certainly important, but library attention to technology paled with the more comprehensive technology requirements of the entire Law School. As the unit in the school that first became involved in technology in a major way and responsible for introducing services, both hardware and software applications, it seemed natural for the library to extend its support of IT applications far beyond the library and the small computer lab designed to support computer-assisted legal instruction. For the better part of the past decade, responsibility for all Law School information technology has slowly accreted to a growing IT department under my general direction. The trend began in 1991 when it became clear to me that the campus-wide plan to widely distribute hardware to faculty and staff and license software to support office productivity over a campus local area network would demand more resources and expertise than available from library staff. I decided to slowly build up an IT staff that would ultimately assume responsibility for Law School IT.

The first person engaged to devote all his energies to supporting Law School staff and faculty IT was Jeff Morgan who, while remaining a member of the University's Office of Information Technologies, was detailed to the law library four days a week. In 1995, Jeff's efforts were substantially augmented by a director of Law School IT hired to develop and manage Law School technology on a scale appropriate to a premier law school. Since 1998, Dan Manier, director of Law School Computing, has led this effort as the department, growing to a staff of 5.5 full-time employees, assumed responsibilities for networking, Law School Web management, classroom technologies that support the faculty's growing interest, two student computer labs, and parallel service to the growing cohort of students who require laptop support. Most recently, in addition to serving the specialized computing needs of the admissions, career services, and clinic offices, the IT department has been a major player in implementing exam software that allows students to provide printed exams taken in a secure environment. When these particular demands are aggregated with the service requirements of approximately 200 established faculty, staff, and student workstations, and constant close liaison with the University's Office of Information Technologies, it is no wonder that technology has evolved into a major area of responsibility that I never imagined 20 years ago.

The growth of collections, services, technology, and their attendant staffs during my tenure at Notre Dame has been pronounced. Its 137,000 volume/32,000 title collection has grown to 635,000 volume and volume equivalents in microform and 99,000 titles held. In 1985, it kept up-to-date by receiving 3,329 serial titles, 1,045 new book titles, and 4,304 books. Last year the library subscribed to 6,700 serial titles, and added 4,300 new titles and 16,302 book and book equivalents to the collection. Its library faculty has doubled and the entire staff has grown at least threefold. Its comparative position among all the nation's law schools has increased dramatically. It stands strong among national peers. Faculty and student evaluation of library services in a recent national survey indicated immense satisfaction with every aspect of the library, save the physical environment. The University and the Law School can be proud of its strength and growing national reputation. This achievement has been the product of the immense support of a host of individuals. While there are too many to name individually, justice demands that I call attention to several without whose encouragement or contribution we could not have climbed so high. I owe a huge debt to Dean David Link. Dave sold me on the special quality of this place and gave me the opportunity to build a law library responsive to his irrepressible optimism and love of Notre Dame. Dean Patricia O'Hara honored me with continuing votes of confidence that the library's efforts were meeting her high standards. The faculty of the Law School encouraged our efforts, patiently accepting the fact that building a research library would take time. The funds provided by the University officers and those many extraordinary benefactors identified by the development office provided the financial resources essential to our growth. The library staff who accepted my leadership and whose work, both inspired and mundane, were essential to all of our achievements. Alice Jacobs stood beside me outside the Morris Inn in 1984, and together we decided to come to Notre Dame. I pray as we walk away together that she is still pleased with the decision.





# People, Books, Quiet Action: The Emblems of a Friend

BY WALTER (JACK) F. PRATT JR.  
PROFESSOR OF LAW

**T**he statistics are the easy part. When Roger arrived at the Law School in 1985, the library's statistics were little more than a haze among ABA reports; when he departs in 2006, by any measure, the library belongs distinctly among the elite of law schools. The numbers alone entitle him to special recognition and acclaim. Though he would seek neither, we will give him both. Yet, in doing so, we will inevitably miss the important elements. And therein lies the difficult part. For all of his accomplishments, for all of his presidencies and service, for all of the plaques for library endowments, for all that is tangible that he leaves with us, what we will miss most is the rest. Capturing that is the difficult part.

Words are inadequate in part because even though Roger was a man of books, he has rarely been a man of words, and never a man of many words. (His account of his odyssey written for this issue may well be the longest public composition he has written at Notre Dame, though it is typical in the grace with which he credits others for the library's achievements.) Instead of tarrying over words, Roger has acted. And acted foremost as a man of faith. He wears his faith gently, recalling the admonition of the prophet Micah that we "do justice, love mercy, and walk humbly with our God." Roger has. Through him we have seen God working in our lives at the Law School and in our community. His work with the St. Vincent de Paul Society is but the most public of his service; his uncounted trips to the homes of those in dire need are recorded not on the pages of any ledgers but in the lives of those he reached.

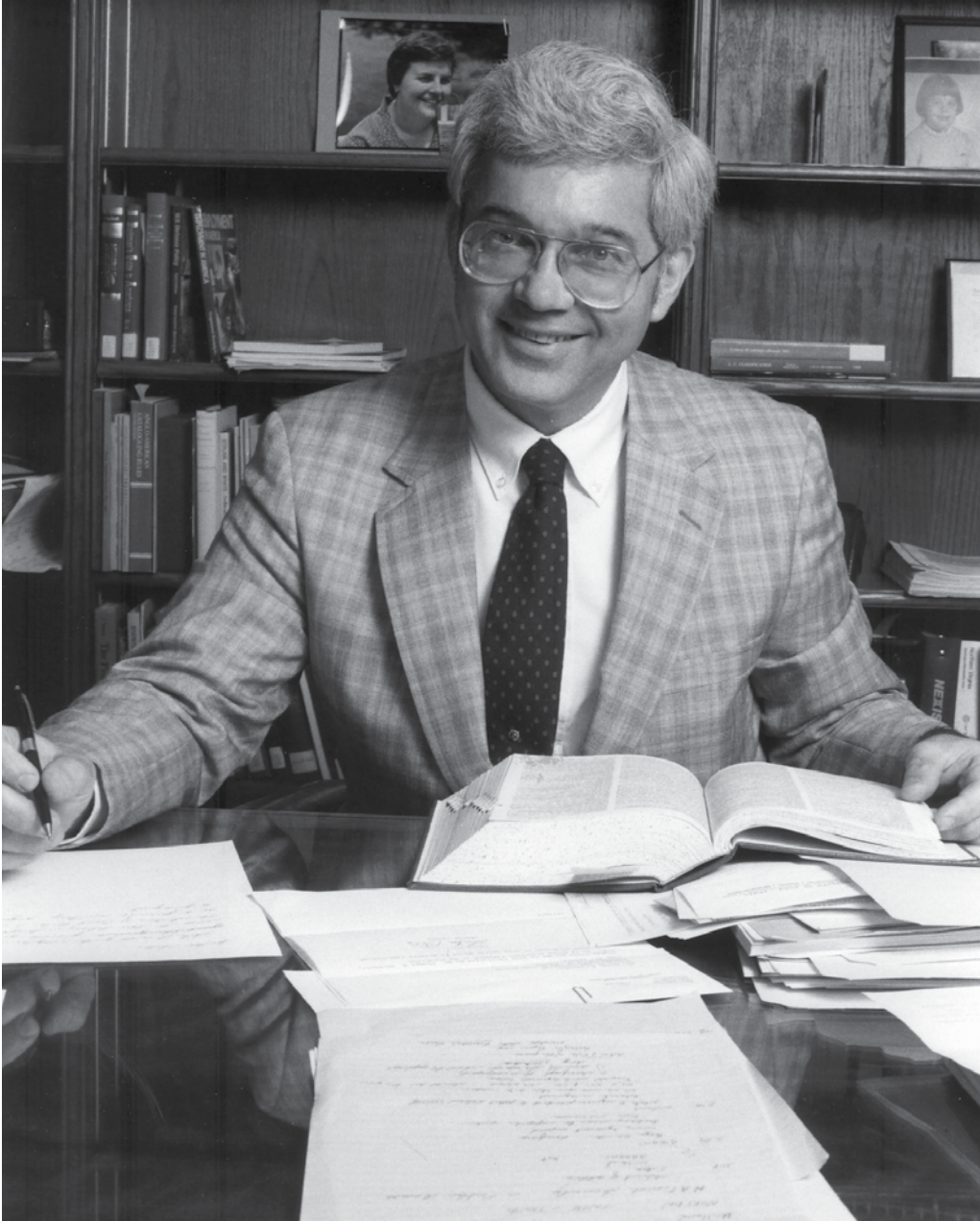
In our shared life within the Law School, Roger has acted as director of the library, combining his genuine fondness for people with superb administrative skills. Again, another's imagery comes readily to mind—for Roger belongs among a triumvirate of giants on whose shoulders we now stand to see a future of potential. (The others are Dave Link and Bill McLean, who with Roger led the school for a generation.) To the administrative core of the Law School, Roger brought innate skills, though he never let anyone doubt that he was of the library. He also brought his considerable experience with law schools across the country, alerting us to innovations elsewhere, allowing us to measure our efforts against those of others. Always, though, it was the library that was at the heart of Roger's efforts. And closest to the heart were "his people," for Roger knew that a library began not with books, but with

people. He supported them unhesitatingly, encouraging them to develop themselves professionally, counseling them to enhance their skills; and, yes, chastizing them for the rare shortcoming. It mattered not whether the person was a part-time, student worker or someone with a formal title. Roger was equally concerned about them all. He beamed with the pride of a parent when the dean presented a student worker with an award for outstanding performance, a picture that is all the more apt because the large number of "his people" who joined him for the presentation made the event more a family reunion than a burden. He took great joy in the success of his staff, joining them at lunch when they were acknowledged for distinguished service to the University, applauding them when they rose to the highest ranks of the profession. As was true at the Supreme Court and elsewhere, Roger's contributions live on through a staff whose way of life is service.

Throughout our shared life, Roger's presence is illustrated not in self-proclaiming banners, but in quiet actions. When the Chicago Bar Association offered its library for sale, Roger acted, enriching our collection in one breathtaking initiative. He posted his collection of autographed photographs of justices of the Supreme Court not in his office, but in the recess leading from the library's circulation desk to the offices of the staff charged with processing acquisitions. As though bridging the library's public and private faces, Roger allowed all of us to take pride in the judicial accolades—again the words of others are telling—"high esteem," "inestimable assistance," "deep personal appreciation," and, of course, "admiration."

Roger earned those laurels, and many others as well, through the breadth of his embrace. He genuinely welcomed people, whether it was the towel guy in the locker room at the Joyce Center or the most treasured of alumni. For alumni, Roger genuinely relished hearing them reminisce about the Law School. He liked hearing of their families. Above all, he liked them as people. He never missed an opportunity to allow them to donate to the library; but he always saw them as people, not as checkbooks. For everyone, Roger effortlessly learned a first name; at receptions, he inconspicuously moved to join anyone left alone.





I suspect, though, that the people he really liked most (other than his family) were those who used his library. He relished the occasions when he could report that our library had a book needed for research. He especially savored those times when his own bibliographic work showed that we had a book or a series that another eminent library lacked.

People, books, service, actions. Words. Words that describe, words that portray vignettes. Words, some of them mine; some of them belonging to others; none of them adequate to depict the privilege of working with Roger for 20 years. His library; his people. All a delight to know and to share the enterprise of educating a different kind of lawyer; but none sufficient. Trying to capture the essence of Roger for the past 20 years has been the hard part.

In the end, being his friend, THAT was the easy part.

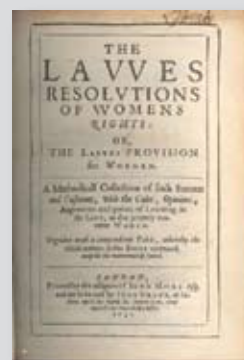
ed: Jack, too, will depart NDLS on June 30, 2006, to become dean of the University of South Carolina Law School.

## Historic Text Acquisition

The Guarnieri Endowment for Rare Legal Materials has provided the Kresge Law Library with the privilege of purchasing some of the greatest and hardest to obtain classics of law. Part of our mission is to preserve these great works from the past in order to make them available to today's and tomorrow's students and researchers. Through the generosity of the Guarnieri family our most recent acquisition is a copy of *The Lawes and Resolutions of Womens Rights: or, The Lawes Provision for Womens. A Methodical Collection of Such Statutes and Customes, with the Cases, Opinions, Arguments and Points of Learning in the Law, as do Properly Concerne Women. Together with a Compendious Table, Whereby the Chiefe Matters in This Booke Contained, May Be the More Readily Found.* London: printed by the assigns of John More, 1632.

This is the earliest book in English on the legal status and rights of women; it is, in fact, the first work devoted exclusively to women's law. It was commonly called "The Women's Lawyer." The book assembles English statutes affecting women, maids, widows, and children, and cites cases from English reports concerning marriage, divorce, polygamy (forbidden), wooing, and elopement. It also treats such diverse topics as age of consent, dower, hermaphrodites, partition, chattels, divorce, descent, seisin, treason, felonies, and rape. At over 400 pages, the text represents a massive effort of consolidation and organization of the disparate and hitherto uncompiled aspects of the common law applicable to women

into a logical framework. It is unusual among early modern legal treatises in its stated goal of providing a 'popular kind of instruction' to its readers.



# Center for Civil and Human Rights: *Continuing a Tradition*

**BY SEAN O'BRIEN**  
**ASSISTANT DIRECTOR**  
**CENTER FOR CIVIL AND HUMAN RIGHTS**

Since its founding by Rev. Theodore Hesburgh, CSC, in 1973, the Center for Civil and Human Rights of Notre Dame Law School has been one of the world's leading centers of teaching, research, and advocacy in the field of international human rights.

The University's commitment to the values of human dignity and to the importance of their defense by law is underlined by its generous support of the center. Each year, the Provost's Office funds 15 full-tuition scholarships and 10 full-living-expense stipends for human rights lawyers in developing nations to pursue master's and doctorate degrees in international human rights law at the center.

Graduates of these programs now hold key positions at the Inter-American Court of Human Rights, the Inter-American Commission of Human Rights, and the International Criminal Tribunal for the Former Yugoslavia, among other international human rights tribunals and agencies. This year's LL.M class includes human rights lawyers from Cameroon, China, Colombia, Kenya, Korea, Mexico, Moldova, the Philippines, Rwanda, Sierra Leone, and Ukraine.

The programs also provide valuable opportunities for J.D. students, who benefit from one of the broadest curricula in international human rights offered by any law school and from exposure to foreign human rights lawyers. The extensive experience of these lawyers in human rights practice in diverse legal cultures, often in trying circumstances, inspires and informs our students.

Beginning in 1998, the center was led by Argentinian human rights lawyer and former political prisoner Juan Mendez. In 2004, Dr. Mendez left Notre Dame to head the International Center for Transitional Justice in New York as well as to become the first UN special advisor on genocide, appointed by Secretary-General Kofi Annan.

After a year-long search process, the center now continues its work under new leadership. Its director, Doug Cassel, has also been named a Lilly Endowment Professor of Law by the University. He comes to Notre Dame after seven years as founder and director of the Center for International Human Rights at Northwestern University School of Law, and, previously, eight years as co-founder and director of a similar center at DePaul University College of Law in Chicago.

Prof. Cassel is well known internationally in the field. Among other positions, he has served as legal adviser to the UN Truth

Commission for El Salvador and was elected by the Organization of American States to the board of the Justice Studies Center of the Americas, which in turn elected him as its president. He is also currently president of the Due Process of Law Foundation in Washington, D.C., and sits on the executive council of the American Society of International Law.

His scholarly articles are published in international law journals in English and Spanish. His regular commentaries on human rights are broadcast on Chicago Public Radio and published in the *Chicago Daily Law Bulletin*, and periodically in the *Chicago Tribune*.

I am the Center's new assistant director, a "triple domer," whose B.A., J.D., and LL.M in human rights are all from Notre Dame. I was among the first recipients of the Law School's loan forgiveness program, which enabled me to work on inter-American human rights matters for the Center for Justice and International Law (CEJIL) in Washington. Before returning to Notre Dame, I directed a legal services program for survivors of torture and severe war trauma at a center for refugees in Falls Church, Va.

The Center's J.S.D. program is chaired by Prof. Paolo Carozza, author of groundbreaking articles in the field. Last year, Prof. Carozza was nominated by the US government and elected by the Organization of American States to serve as a member of the Inter-American Commission on Human Rights. The center's students now assist him in research and analysis of matters before the commission.

Courses attended by center students are also offered by Professors Barbara Fick, Mary Ellen O'Connell, and Teresa Phelps, as well as by other members of the Law School faculty.

During the current academic year, the center also benefits from the presence of two visiting fellows who assist in research, lecturing, and advising students. Dr. Babafemi Akinrinade of Nigeria holds his LL.M and his J.S.D. in international human rights from Notre Dame. Dr. Juan Diego Castrillon, a human rights lawyer from Colombia, received his doctorate with honors from Mexico's most prestigious academic center, the Legal Research Institute of the National Autonomous University of Mexico. His thesis was on international legal protection of the rights of indigenous peoples.

Among the center's aims is the desire to ensure a lively and diverse program of speakers and conferences on human rights. Among the main events it has held during the current academic year, the center organized and sponsored:





The center also facilitates public advocacy on issues of human rights. In addition to his commentaries, which this year have addressed such issues as torture, genocide, and backsliding on human rights in Russia, Doug Cassel recently cowrote an amicus brief before the United States Supreme Court in the case of *Hamdan v. Rumsfeld*, in which international humanitarian law experts argue that US military commission trials at Guantanamo Bay, Cuba violate international standards of fair trial.

I have led teams of J.D. and LL.M. students conducting research on two projects. One team provided research assistance to the newly named United Nations Special Rapporteur on the Rights of Migrants, Prof. Jorge Bustamante of Notre Dame. The other team is currently assisting the Center for Human Rights of the American Bar Association. Its research seeks to evaluate the extent to which the US government has carried out ABA recommendations concerning torture, military commissions, and other matters raising issues of human rights in the “war on terror.”

Through teaching, research, and public engagement, the center is committed both to the highest standards of academic excellence and to the service of the Catholic value of human dignity through the defense of fundamental human rights.

- A two-day conference on “Human Rights in the Shadow of China: The Case of Taiwan,” which brought together leading scholars from the US and Taiwan (the videotaped proceedings may be viewed and heard on the center’s Web page at <http://www.nd.edu/~cchr/>);
- Presentations by Cristian Correa, former executive director of Chile’s national commission on torture and political imprisonment (and a graduate of the Notre Dame Kroc Institute’s program on peace studies), and by Andrew Seaton, British Consul General for the Midwest, on British legal responses to terrorism; and
- A series of lectures by Judge António Cançado Trindade, former president of the Inter-American Court of Human Rights, in connection with his visit to the Law School as the Judge James J. Clynes Jr. Visiting Chair in the Ethics of Litigation within the Judicial Process.



# Rwanda: The Blood Flows with the Honey

BY JUDGE FRED MULINDWA, LL.M. '06

Though we lived in Uganda, the thought of “Rwanda” was so darling to my grandpa and his sons. I used to hear them talk about Rwanda as a land that flowed with milk and honey—you would think they were talking about heaven on earth. When I spent my vacations from school with grandpa, one thing I would notice was that his short wave radio was always tuned to a Rwandan station. I always got in trouble with him when I changed the dial to listen to a local Ugandan program. As the saying goes, “east, west, home is always best” and their home was in Rwanda. To me this was strange because all I knew was Uganda, the country in which I was born. All my friends were in Uganda; my family was in Uganda; I did not know anybody in Rwanda. Going to Rwanda would be like going into exile for me. My attitude about Rwanda began to change, however, when bodies of Tutsis from Rwanda began floating ashore on the Ugandan side of Lake Victoria.

The genocide had begun. The news of the bloodshed poured out of my grandpa’s radio and out of every radio in Uganda. Even if I did not personally know anyone one in Rwanda at the time, I knew that the people being killed were my kinsmen. I became angry. And then I became ashamed of myself for not having joined the forces that were fighting the injustice in Rwanda. On December 22, 1994, I went with my grandpa to Rwanda to discover whether his relatives—my relatives—were still alive. Nearly a million people had been slaughtered in a matter of weeks. The bodies of the dead and the suffering of the survivors turned my thinking about Rwanda around. I had to stay and do something to alleviate the pain of my kinsmen. I decided to study law in Rwanda, so that I would be able to fight the good fight for the poor, the oppressed, and the victims of genocide in the land of milk and honey.

One of the terrible legacies of the genocide was the depletion of the Rwandan bar: the perpetrators of the genocide had targeted and killed nearly all of Rwanda’s judges and lawyers. So upon graduation from law school in 1999, I immediately went to work as a judge in the Rwandan judiciary. I felt that the judiciary was the place for Rwanda to begin over again—a place where the victims would seek justice and where the perpetrators would be brought to justice.

But justice would not come easily. Day after day from my bench, I listened to gut-wrenching stories told by the victims and survivors themselves—stories describing their awful suffering and demanding that their aggressors be punished. The perpetrators would beg for mercy, claiming that they did not understand what led them to do the things they did, that they could not explain why they had killed their longtime neighbors with garden tools.

Sometimes, a single smile from a victim whose suffering was vindicated was all that I had to give me strength.

As time went by and my experience as a judge grew, I came to realize that the system in which I was working was not perfect. Justice was delayed for both victims and the suspects alike. Many incarcerated suspects would later be found not guilty, but only after languishing for years in prison under horrible conditions. Some suspects had been placed in prison as the result of personal grudges or feuds. The victims of the genocide could not receive the monetary damages the courts were awarding them because the government had failed to pass a bill approving compensation.

Once again, I felt that something had to be done. I felt that I could contribute to the solution, if only I had the education and platform from which to engage and

educate my community. In order to become a professor in Rwanda, one must attain at least a master’s degree. So this is what I set out to achieve.

I was fortunate enough to receive a Fulbright grant to study human rights in the United States. I chose the Center for Civil and Human Rights at Notre Dame Law School because of its Catholic heritage and because it is known around the world for training the best human rights lawyers. Since August 2005, I have been surrounded by the most dedicated professors and passionate students that I can imagine. Though I will miss Notre Dame, I am eager to return to Rwanda and share my knowledge with those who have looked evil in the eye, but still believe Rwanda can be a land of milk and honey.





# One Specific Time and Place

BY ALPHA SESAY, LL.M. '06

I firmly believe in the powerful message of Ecclesiastes 3:1—that every human endeavour has its own time and meaning. Looking back on my own life before coming to Notre Dame Law School, I see the different seasons I have gone through as stages of growth that have helped me understand my path as a human rights lawyer.

I grew up in Sierra Leone, a society that has known violence in its most extreme sense. In 1993, at age 12, I became a victim of the rebel war in my country. My family was forced to flee and we became refugees. I became a witness to a war in Sierra Leone that saw grave human rights violations, unprecedented in human history. I endured this with faith that there is a time for every purpose.

But in 1998, just months before entering the University of Sierra Leone, my father was murdered by rebels fighting to take over power. I thought that was the end of my world until I read the words of Ngungi Wa Thiongo in his book *The Trial of Dedan Kimathi*: “*the day you ask yourself why your father died, the day you ask yourself whether it was possible for him to die so, the day you ask yourself what shall I do so that another cannot be made to die under such grisly circumstances, that day, my son, you become a man.*” I want to contribute to society as a human rights lawyer so that others will not be made to die under grisly circumstances.

My experience with injustice did not end with the death of my father. While at the university, I was arrested, detained, and beaten by the police for disobeying an unjust decree instituted by the military regime that ruled Sierra Leone from 1992 to 1996. Nothing could protect me from the police. I asked myself, “Where is the rule of law?” After my release, I thought about my fellow citizens, also helpless without the protection of the law. I thought about how much needed to be done to ensure that civilians are not at the mercy of the police. I concluded that an effective means of challenging these issues was through legal redress. With this in mind, I decided to make a change in my academic pursuit, and in the next academic year, I enrolled in the Department of Law, determined to become a lawyer.

While in law school, a few colleagues and I formed the Fourah Bay Human Rights Clinic, the first law school clinic in the entire West African subregion. Collaborating with the human rights clinics at Yale and Columbia in the United States, the clinic has

been a successful complement to the understaffed human rights community in Sierra Leone and occupies a vital role in the work of the university.

Transitioning from academia to the professional world, I worked with the Child Protection Unit in the Office of the Special Representative of the Secretary General in the United Nations Mission in Sierra Leone (UNAMSIL), with excombatants from our country’s civil war, and with the Office of the Principal Defender, at the Special Court for Sierra Leone.



On November 1, 2004, based on my work on human rights and transitional justice issues, I was contracted by the International Centre for Transitional Justice in New York to work as the national director of the Sierra Leone Court Monitoring Programme (SLCMP). This project was designed to monitor judicial institutions in Sierra Leone with the aim of promoting judicial accountability in the country. My duties as director included the supervision of all monitors associated with the programme; serving as editor-in-chief of the SLCMP monthly newsletter; coordinating and hosting the SLCMP weekly radio programme; serving as chief liaison with senior members of the Special Court’s staff, civil society, and international and domestic organizations; and developing plans to monitor national courts.

As my country struggles to address peace and justice in its post-conflict era, numerous human rights concerns remain. Chief among these concerns is what institutions to put in place or strengthen so that the horrible violence my country suffered will never be revisited. It is crucial that young Sierra Leoneans, especially those with a calling in the law, develop the skills necessary to address impunity and avoid future human rights violations.

I believe that all of my life experiences have combined to bring me to Notre Dame Law School and the LL.M. program in international human rights law. I have been thrilled to find a program that approaches human rights with a crossdisciplinary focus in the light of faith. I look forward to my graduation with an LL.M. degree as another milestone on my journey of learning as a leader, teacher, scholar, and professional.

I do not know what the next season of my life will bring, but Notre Dame has prepared me to return to Sierra Leone and to my country’s struggle to achieve peace, justice, and human rights in its post-conflict era.

## Mary Ellen O'Connell



Mary Ellen O'Connell, the Robert and Marion Short Professor of Law, joined the NDLS faculty in August 2005. Most recently, she was the William B. Saxbe Designated Professor of Law at Ohio State University's Moritz College of Law.

She holds a B.A., with highest honors, from Northwestern University; an M.Sc. in international relations from the London School of Economics, where she was a Marshall Scholar; an LL.B., with first class honors, from Cambridge University; and a J.D. from Columbia University, where she was a Stone Scholar and book review editor for the *Columbia Journal of Transnational Law*.

In addition to Moritz College of Law and Notre Dame Law School, Prof. O'Connell has taught at Indiana University School of Law; the Bologna Center of the Johns Hopkins University; Paul H. Nitze School of Advanced International Studies, Bologna, Italy; the George

C. Marshall European Center for Security Studies, Garmisch-Partenkirchen, Germany; and the University of Cincinnati College of Law.

Prof. O'Connell teaches contracts as well as several courses in international law. Her primary research focuses on the international regulation of the use of force and conflict and dispute resolution. A recent area of interest is international art law, especially as related to disputed title cases. She believes that harm that comes to a nation's art during war represents another aspect of war's collateral damage.

***It would seem that much of the United States...if not the world...is currently thinking about your area of expertise: international law.***

Yes, that appears to be so, and perhaps especially in my area of teaching and research: war and the peaceful settlement of disputes.

***It would be helpful if you defined "international law." So many people probably think of the Geneva Conventions, especially as they seem to be mentioned frequently these days.***

International law is the system of rules, norms, and principles governing relations at the inter-state level. The principal actors governed by international law are states, but international

organizations, such as the United Nations and World Trade Organization, are also important subjects of international law. To a lesser extent, individuals have rights and duties directly from international law. When Saddam Hussein invaded Kuwait, for example, he committed the crime of aggression, a crime under international law.

International law's role in providing individual human rights, but also in holding individuals accountable, began with the Nuremberg trials. The Nuremberg Tribunal was the first international court to hold major war criminals directly accountable under international law. In addition to aggression or crimes against the peace, Germans were also convicted of crimes against humanity and war crimes.

**International law's role in providing individual human rights, but also in holding individuals accountable, began with the Nuremberg trials.**

The International Criminal

Court is the successor of the Nuremberg Tribunal. It, too, can potentially hold individuals accountable for aggression, crimes against humanity, and war crimes.

***Certainly, this must be the most commonly known (or maybe commonly talked-about) aspect of international law. What is the second aspect?***

International law has two primary sources, treaties and customary international law. The treaty source is well known—it is roughly analogous to contracts in private law. Everyone has heard of such famous treaties as the Geneva Conventions, which you mentioned, the Convention Against Torture, or the UN Charter.

The other source, customary international law, is not as well known. It is roughly analogous to the common law. Customary international law develops from the practice of states followed out of a sense of legal obligation. Developing over time as they do, customary international law rules reflect a certain wisdom and moral consensus of the international community. States seem to fare best when they comply with such rules.

***How does our American spirit of independence and invulnerability affect our participation in such legal situations?***

It is tempting for US leaders to consider this country above the law given its extraordinary attributes of wealth, military power, ingenuity, and so on. Our leaders may not feel that this country needs to compromise and cooperate to make international law effective. That sort of thinking, however, has at times denied the US the benefits we could gain from international law.

***How do you mean?***

An example is the current trial of Saddam Hussein. US leaders wanted the trial to occur quickly and before an Iraqi, not an international, tribunal. They may have wanted to avoid an international court to avoid claims Saddam might have raised against the US. US leaders and many in Iraq may also have wanted to ensure that he would receive the death penalty.

The trial in Iraq, however, is beset by problems that could have been avoided if an international court had been chosen—security, the neutrality of the judges, the capability of the judges, and so on. All of this to avoid answering claims against us of international law violations and to ensure the death penalty?

On this one issue—the death penalty—the United States is one of only a very few countries that practices it. The others are China, Saudi Arabia, Iraq, and Iran.

***So we set ourselves apart from the benefit of such wisdom?***

Yes, at times. One of my law professors at Columbia Law School, Louis Henkin, for whom I worked for three years as a teaching and research assistant, often spoke of what he thinks of as the United States' schizophrenic reaction to international law. We can both be strongly in favor of international law rules and institutions, showing extraordinary leadership, and at the same time undermine other international law, turning our back on the real benefits it imparts for short-term gains.

***How does your world view inform your teaching and research interests?***

I am very fortunate to have had the opportunity to live, study, and teach abroad—in Germany for five years and in England for four. Living outside one's own country for a significant period makes very clear the indispensable role of international law in international relations.

***The trial in Iraq...is beset by problems that could have been avoided if an international court had been chosen—security, the neutrality of the judges, the capability of the judges...***

And in terms of my interest in the legal regulation of the use of force, being married to a combat veteran has its advantages, too.

***As a law professor, how are you able to impact a topic as vast as war and peace?***

Law professors have the wonderful opportunity to teach bright students who will develop and improve the law of the future.

More immediately, several of my students are serving or have served in the Iraq War as members of the Judge Advocate General Corps. I pray daily for their safe return and am gratified when they tell me that what they learned in my classes helps them do their job better. It is reassuring to know these men and women with their ability and training are in the field on behalf of our country.

In addition to teaching and publishing in a way that I hope has an impact, there are plenty of service opportunities. I have just been selected to serve a four-year term as chair of the International Law Association's International Study Committee on the Meaning of War. The Association's headquarters are in London, but the committee is from around the globe. I am planning a major conference here at Notre Dame in 2007 in connection with the committee's work.

Let me also say that the atmosphere at Notre Dame is terrific for anyone interested in international law. The LL.M. students here under the auspices of the Center for Civil and Human Rights are great contributors, and I am grateful to have colleagues dedicated to the study of international law and human rights, such as John Finnis, Paolo Carozza, Terry Phelps, Don Kommers, and Doug Cassel.

***When you are not consumed with the weighty matters of war and peace, what do you do?***

My husband and I bought an old house in a historic district of South Bend, and we are enjoying getting the house back in good shape. Otherwise, I am obsessed with international art law at the moment—I am reading three books at the same time on different cases of lost or stolen art.



# Hallmarks of

**O**n May 21, 2006, armed with their experiences of the last three years, members of the Law School community walked across the stage, in front of the Hesburgh Library's reflecting pool, beginning this walk as a student and ending it as a graduate. Within this group are people who, three years ago, were more different than similar. But, shaped by the experience of studying the law under the gaze of St. Thomas More, this group will forever be bound to the community of lawyers who completed the same walk, pledging to pursue the highest of ethical standards while practicing law.

For these graduates, the importance of academic achievement and community service has been trumpeted by their professors. Intellectual rigor and a dedication to service beyond self are of equal value. For Notre Dame law students, the intersection of faith and reason forms the nexus of their legal education. While academic achievements are one hallmark of a Notre Dame legal education, service to the community is another, each valued equally: thus, the credo "a different kind of lawyer."

During the 2005–2006 academic year, two students have represented these academic and public service achievements: Adrienne Lyles-Chockley through public service and Sean Seymore through scholarship. Both have advanced degrees in other disciplines and have taught at the university level. And both share a passion for the law.

Adrienne was awarded the national Public Service Law Net's Pro Bono Publico Award for her work establishing a nonprofit legal aid clinic, the Social Justices Center, in Benton Harbor, Michigan.

She earned her bachelor's degree in English from Iowa State University and her master's and doctoral degrees in philosophy from the University of Colorado. Before entering the Law School, she was an assistant professor of philosophy at the University of San Diego.

The fall of 2003, when Lyles-Chockley began her legal studies, followed a summer of racial rioting that had shaken the city of Benton Harbor, a community about 40 miles northwest of South Bend. Her introduction to the city occurred the following summer when she split her time working as a research associate for Prof. Walter Pratt and as an intern for Benton Harbor's

Economic Development Group; as an intern, she helped the city council with its Hope VI project, a \$32 million public housing initiative. It was this work that introduced her to the need for a social service agency to help Benton Harbor residents who could not afford private legal services and who lacked the resources to seek community services. Her dream of the Social Justice Services, a nonprofit legal aid clinic, was born.

During the summer of 2005, Lyles-Chockley divided her time between working 40 hours per week for the legal firm of Jones Obenchain and, during evenings and days off, gathering community support for the clinic. In nominating her for the Pro Bono Publico Award, Career Services Assistant Director Erika Harriford-McLaren wrote, "Adrienne's pursuit of justice for a community that is not even her own...and her fearlessness in approaching this challenge and making this project come alive has really shown me and her classmates the necessity of using our law degrees to provide pro bono service."

Like his classmate, Sean Seymore came to the study of law from another career: that of a chemistry professor. He holds a bachelor's degree in chemistry from the University of

**While academic achievements are one hallmark of a Notre Dame legal education, service to the community is another one, each valued equally: thus, the credo "a different kind of lawyer."**

Tennessee, a master's degree in chemistry from Georgia Tech, and a Ph.D. in inorganic chemistry from the University of Notre Dame. He had taught chemistry for two years before enrolling in law school.

Seymore's reputation as a legal scholar continues past his achievements as a scholar of chemistry. Adding to his three publications in the field of inorganic chemistry, Seymore has had four scholarly articles accepted for publication in legal journals. The articles focus on intellectual property in higher education, transit inequality in urban centers, and federal funding for black colleges; they will appear in four separate journals: the *George Mason University Civil Rights Law Journal*,

# Excellence



the *Albany Law Journal of Science in Technology*, the *Richmond Journal of Law and Technology*, and the *Washington and Lee Journal of Civil Rights and Social Justice*.

Both Lyles-Chockley and Seymore plan to pursue their service and scholarship after their studies at the Law School end this coming June: Adrienne will practice at Jones Obenchain and

expand Social Justice Services into a full-service holistic legal services clinic. Seymore will pursue a career in patent prosecution at the law firm of Foley Hoag LLP in Boston, assisting inventors, academics, and others obtain patents for their discoveries in chemistry.

# The Supervisory Power of the Supreme Court

BY AMY CONEY BARRETT  
ASSOCIATE PROFESSOR OF LAW

**"The law in this area is clear. This Court has supervisory authority over the federal courts, and we may use that authority to prescribe rules of evidence and procedure that are binding in those tribunals."**

*Dickerson v. United States*<sup>1</sup>

The Supreme Court's relationship to inferior federal courts is not a matter on which the Court typically reflects in any depth. Nevertheless, the Court in *Dickerson* recently expressed great confidence in at least one aspect of that relationship: its authority over inferior federal court procedure, even outside the confines of the statutorily authorized federal rulemaking process. As *Dickerson* suggests, the idea that the Supreme Court possesses supervisory authority over inferior-court procedure is well-entrenched in its cases. The Court claimed such authority for the first time in 1943,<sup>2</sup> and since then, it has invoked that authority to announce, through adjudication, a wide range of procedures binding in inferior courts.

Contrary to the Court's assertion in *Dickerson*, however, the law in this area is not clear. The Supreme Court has never justified its claim to power over inferior-court procedure. Both the Court and scholars studying it have assumed that the Court's assertions of supervisory authority are legitimate so long as they do not exceed the bounds of the inherent authority that every federal court possesses over procedure. But that inherent authority, which is incident to "the judicial power" that Article III grants every federal court, has conventionally been understood as authorizing a federal court to regulate its own proceedings. In other words, both scholars and the Supreme Court—albeit without reflection on this point—have treated Article III's grant of inherent authority as a grant of authority over local procedure. In the supervisory power cases, however, the Supreme Court is neither regulating its own procedure nor reviewing an inferior court's regulation of its own procedure for consistency with statutory and constitutional limits. In these cases, the Supreme Court is directly regulating the proceedings of inferior courts. The legitimacy of this exercise, therefore, must be measured by more than the bounds of every federal court's inherent authority. There must be some reason to think that the Supreme Court has the power to make procedural choices for inferior federal courts.

This Article investigates whether the Court's supremacy grants it such power. It is possible that in designating the Court "supreme," Article III endows the Court with some inherent authority over



its inferiors, including the authority to prescribe procedures for them. In general terms, an argument for constitutionally based supervisory power would go like this: By virtue of its supremacy, the Supreme Court has the power to oversee the federal judiciary. As overseer, the Supreme Court is empowered (and, as departmental leader, arguably even obliged) to adopt procedural rules to ensure the smooth and uniform functioning of inferior federal courts.

Evaluating the strength of a claim to supervisory authority based on the supreme/inferior distinction necessitates an evaluation of the kind of relationship that Article III contemplates for the Supreme Court and its inferiors. Determining the constitutionally required structure of the federal judicial department,



however, is more complicated than one might expect, and there is surprisingly little scholarly guidance in the area. The constitutional analysis raises three questions. The first has engendered scholarly disagreement, and the remaining two are wholly unexplored in the literature.

First is the threshold question of whether the constitutional distinction between “supreme” and “inferior” courts establishes a judicial hierarchy. The terms “supreme” and “inferior” are capable of two constructions: They might render inferior courts “subordinate to” the Supreme Court, or they might refer simply to the relative jurisdictional reach of the courts. A claim to constitutionally based supervisory power is viable only if the terms “supreme” and “inferior” establish a judicial hierarchy by rendering inferior courts subordinate to the Supreme Court. Scholars have explored these competing constructions of the supreme/inferior distinction at some length, but no consensus exists as to which is correct.

Second, if one decides that the supreme/inferior distinction does render inferior courts subordinate to the Supreme Court, one must determine the structural effect of this subordination requirement. Does it operate only as a limit on Congress’s ability to structure the federal court system, or does it also act as a source of inherent authority for the Supreme Court vis-à-vis its inferiors? Thus far, scholars have devoted textual and structural analysis only to ways in which the supreme/inferior distinction might limit Congress’s ability to structure the federal court system. Nearly every scholar who has studied the impact of the supreme/inferior distinction has done so in the course of considering whether that distinction limits Congress’s ability to deprive the Supreme Court of jurisdiction to review the judgments of inferior federal courts—the argument being that the Court might not be “supreme” in relation to inferior courts without the ability to review at least some of their judgments.<sup>3</sup> A textual and structural study of whether the Court’s supremacy imbues it with inherent power over inferior courts is absent in the scholarship.

Third, if the Court’s supremacy does give it inherent authority over inferior courts, does that authority include the supervisory authority to prescribe procedures for them? Study of this question is also absent in the scholarship.

Space prohibits a full exploration of these three questions. This brief excerpt, therefore, treats only the first two: Does Article III’s distinction between “supreme” and “inferior” courts create a hierarchy, and, if so, does that requirement of hierarchy serve as a source of inherent authority for the Supreme Court? This excerpt will pursue these questions by analyzing the structure of Article III itself, by comparing Article III to Articles I and II, and finally, by discussing the implications that one can draw from the analysis.

#### A. Article III

Article III is largely silent with respect to the structure of the judicial department. Apart from the language distinguishing between a “supreme” court and “inferior” courts, Article III says little about the relationship between the Supreme Court and its inferiors. On the one hand, certain aspects of Article III suggest

that all federal judges are on equal footing—or, as some scholars put it, that they enjoy structural parity.<sup>4</sup> All federal judges have life tenure and an irreducible salary, and all federal courts, both supreme and inferior, possess “the judicial power of the United States.”<sup>5</sup> On the other hand, Article III does contain at least one provision other than the supreme/inferior distinction that is suggestive of hierarchy: It provides that “the supreme Court shall have appellate jurisdiction.”<sup>6</sup> Insofar as this provision grants the Supreme Court appellate jurisdiction to review the judgments of inferior federal courts, it suggests that the Supreme Court sits above those courts in a judicial hierarchy.

The Appellate Jurisdiction Clause is good evidence that Article III envisions some sort of hierarchy. But the hierarchy that one can infer from that clause, standing alone, is fairly weak. The grant of appellate jurisdiction is immediately qualified by the Exceptions and Regulations Clause, which provides that the Court has appellate jurisdiction only subject to “such Exceptions, and under such Regulations, as the Congress shall make.”<sup>7</sup> As others have observed, the Exceptions and Regulations Clause “plainly diminishes the extent to which the Supreme Court is hierarchically dominant over the inferior courts,”<sup>8</sup> because it permits Congress to insulate some—and arguably all—inferior federal court judgments from Supreme Court review. In fact, the threat that this clause poses to the Supreme Court’s hierarchical dominance has prompted scholars to consider whether the Court’s designation as “supreme” limits the exceptions that Congress can make to the Court’s appellate jurisdiction over inferior federal courts.<sup>9</sup> Thus, study of Article III’s structure circles the inquiry back to its starting point, a consideration of how the Court’s supremacy affects the structure of the judicial branch. Since Article III itself says little about that question, it is worth comparing that Article with the Articles I and II, which establish the other two branches of the federal government.

#### B. A Comparison to Article II

Article III’s silence on matters of structure is particularly striking when Article III is compared to Articles I and II, which give a reasonable amount of detail regarding the composition of the other two branches. Consider Article II. The claim that the Court’s supremacy endows it with supervisory power requires one to view Article III as creating a hierarchy headed by the Supreme Court. But Article II, which indisputably creates a hierarchy headed by the President, does so far more explicitly.

To begin with, Article II gives the President significant ability to control executive-branch membership. The President has the power to nominate (and, with the advice and consent of the Senate, to appoint) principal officers of the executive branch; thus, the President’s first means of directing the executive branch is filling it with principal officers who are loyal to him. Article III, by contrast, does not guarantee the Supreme Court any say in the selection of inferior judges. Nor, of course, does Article III give the Supreme Court any say in their retention. While there is disagreement as to whether the President possesses an absolute or limited ability to remove those who exercise executive power, there is general agreement that the President must have some ability to remove such officials.<sup>10</sup> The Supreme Court, by contrast, has no ability to remove inferior-court judges, who enjoy

the same guarantees of life tenure and undiminished salary as do Supreme Court justices.

Even through devices short of removal, Article II is clear about the fact that at least some executive officers report to the President, in some respect. Article II expressly permits the President to “require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices.”<sup>11</sup> Article III, by contrast, does not expressly authorize the Supreme Court to make any demands of inferior courts. There is no Article III analogue to the Opinions Clause under which the Supreme Court could demand that inferior courts provide it with written opinions regarding the judgments they issue. Article III, unlike Article II, does not provide the Supreme Court with any specific means of controlling any other members of the judicial department. Some have come to regard it as the Supreme Court’s role to “take care that federal law is uniformly interpreted,” much as the President must “take care that the laws be faithfully executed.”<sup>12</sup> Article III, however, does not explicitly charge the Supreme Court with this function, much less endow it with the means to carry it out.

It is also worth comparing Article III’s Vesting Clause with that of Article II. Article III vests the judicial power “in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.”<sup>13</sup> Article II provides that “[t]he executive power shall be vested in a President of the United States of America.”<sup>14</sup> A vast literature exists debating whether Article II’s Vesting Clause requires a “hierarchical, unified executive department under the direct control of the President,” or whether the Clause permits a looser hierarchy in which some exercises of executive power can be placed beyond the President’s direct control.<sup>15</sup> Whichever position one ultimately takes in that debate, it is worth noting that while it is at least plausible to construe Article II’s Vesting Clause to place all executive power within the control of the President, a comparable construction of Article III’s Vesting Clause is not plausible. Article III does not vest the judicial power exclusively in “a supreme Court,” leaving open the possibility that inferior courts exercise the judicial power at the Supreme Court’s pleasure. On the contrary, Article III makes clear that the judicial power vests directly in each Article III court. Inferior courts are capable of exercising judicial power wholly independently of the Supreme Court’s direction. They do not depend on the Supreme Court to give them the power, and the Supreme Court cannot take it away.

In fact, rather than giving the Supreme Court grounds for claiming control of all exercises of judicial power, Article III’s Vesting Clause arguably limits the degree of control that the Supreme Court can exert over inferior courts. The Supreme Court’s control over inferior courts is already limited by the Good Behavior Clause, which gives judges intrabranched as well as interbranch protection from job loss and salary reduction. But the Vesting Clause may also prevent the Supreme Court from controlling inferior courts through methods short of these more drastic measures. The Vesting Clause may prohibit the Supreme Court from regulating inferior courts in a way that cripples their ability to exercise “judicial power”; otherwise, the Supreme Court could effectively take away what Article III gives. As Judge Tatel eloquently put it in the context of judicial discipline, “[T]he

principle of judicial independence guarantees to individual Article III judges a degree of protection against interference with their exercise of judicial power, including interference by fellow judges.”<sup>16</sup> The Supreme Court has expressed the same sentiment.<sup>17</sup>

Thus, unlike Article II’s Vesting Clause, Article III’s Vesting Clause does not strengthen the Supreme Court’s claim to departmental dominance. Instead, Article III’s Vesting Clause actually weakens that claim by making clear that the judicial power inheres in every federal court.

### C. A Comparison to Article I

It is also worth comparing Article III with Article I. Unlike Article II, Article I does not create a pyramid of authority. Nonetheless, it still has more to say about departmental structure than does Article III.

The tone of Article I is one of self-governance, which is perhaps fitting for a department whose members hold the legislative power collectively. Article I’s Vesting Clause stands in sharp contrast to the Vesting Clauses of Articles II and III. Article I makes clear that the members of Congress hold the legislative power together, as “the Congress of the United States.”<sup>18</sup> Unlike the Executive, no one member of Congress can plausibly launch an exclusive claim to the power of her department. Unlike any single Article III court, no one member of Congress can, acting alone, exercise the power of her department. Instead, members of Congress can exercise legislative power only when acting in concert with each other (and the President). Perhaps fittingly, members of Congress settle matters of branch governance through collective action as well.

Article I permits members of Congress to exercise a fair amount of control over one another. Indeed, one might say that it sets up a democracy of sorts within the most democratically selected branch. For example, Article I expressly authorizes each House to choose its own leader: the House of Representatives chooses its Speaker and the Senate chooses its President pro tempore.<sup>19</sup> Article III, by contrast, does not give members of the judiciary any comparable power; it does not, for example, guarantee the Supreme Court the right to select its own chief. Article I also expressly authorizes members of Congress to discipline one another. Section Five authorizes each House to “compel the Attendance of absent Members, in such Manner, and under such Penalties, as each House may provide.” And Section Six authorizes each House to “punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.” By contrast, Article III does not expressly grant the judiciary any power to control or discipline its members. Currently existing means of judicial self-discipline are entirely statutory,<sup>20</sup> and, because of the Good Behavior Clause, they stop short of removal.

In short, just as Article II specifies some ways in which members of the Executive Branch must answer to the President, Article I specifies ways in which members of Congress must answer to one another. Article III, by contrast, not only fails to specify any ways in which inferior courts must answer to the Supreme Court, but it fails to specify any ways in which members of the judicial branch must answer to one another. Article III does not

expressly authorize judges to promote or demote one another to or from positions of judicial branch leadership; nor does it expressly authorize judges to require any particular standard of behavior of one another. Where Article I's Vesting Clause emphasizes the interdependence of members of Congress, Article III's Vesting Clause emphasizes the independence of each Article III court.

#### D. Conclusions from Constitutional Silence

As the above discussion illustrates, Article III reflects neither the obvious hierarchy of Article II nor the self-governance of Article I. One could draw a number of different conclusions from this silence.

First, one might conclude that Article III's relative silence with respect to departmental structure is reason to adopt the nonhierarchical reading of the supreme/inferior distinction. In light of the explicit structural choices made by Articles I and II, one could understand Article III's silence on these matters to reflect deliberate agnosticism about the structure of the judicial branch. On this view, Congress could, consistent with Article III, create a nonhierarchical judicial department in which federal courts operate largely independently of one another. Or, Congress could, consistent with Article III, create a hierarchical judicial department like the one it has in fact chosen to create. One taking this view would argue that Article III leaves the choice entirely in Congress's hands. A claim to constitutionally based supervisory power would fail on this account of Article III.

Second, one might interpret the supreme/inferior distinction to refer to a relationship of subordination, but still decide to attribute significance to Article III's silence about departmental structure. The interpretive task is not complete once one equates "inferior" with "subordinate"; one must still decide what structural function the supreme/inferior distinction performs. The distinction might operate exclusively as a limit on the way Congress can shape the judicial department—in other words, it might mean simply that Congress cannot create inferior courts that operate wholly outside of the Supreme Court's control. Or, the distinction might operate as a source of inherent authority for the Supreme Court—in other words, it might directly equip the Supreme Court with some means of controlling inferior courts. One inclined to interpret the supreme/inferior distinction as referring to a relationship of subordination but reluctant to dismiss the significance of Article III's silence on matters of departmental structure would likely prefer the more restrained view of the distinction's structural function (limiting Congress) to the more expansive one (granting inherent power). The restrained view would consider Article III's silence regarding means by which the Supreme Court might control its inferiors (particularly in contrast to Article II) or means by which members of the judiciary might control one another (particularly in contrast to Article I) to counsel against implying any powers in that regard. The Supreme Court, on this view, could not claim simply by virtue of its title to have power over its subordinates that Congress did not expressly give it. A claim to constitutionally based supervisory power, therefore, would also fail on this account of Article III.

Third, one could discount Article III's relative silence with respect to departmental structure and leave open the possibility that the supreme/inferior distinction vests the Court with inherent

supervisory powers. A limited view of the Supreme Court's constitutionally required position in the judicial department is not, after all, the only possible explanation for Article III's silence. The Madisonian compromise left the creation of inferior courts to Congress's discretion. The Framers may have intended that the "supreme" court would control its inferiors, but avoided spelling out any details of that control for fear of giving the impression that Congress was obliged or expected to create inferior courts. In addition, it may have seemed pointless to flesh out a relationship between the Supreme Court and courts that were, after all, merely hypothetical at that point. Stopping at the supreme/inferior distinction may have been prudent understatement rather than a choice to limit the Supreme Court's powers. It also may be that at the time the Constitution was written, a "supreme" court had some powers that were so commonly understood that it would have been unnecessary to spell them out. Simply calling the court "supreme" effectively described at least a core of power, and the absence of more detail does not undercut the presence of that core. A claim to constitutionally based supervisory power might succeed on this account.

Even if limited evidence, the Appellate Jurisdiction Clause does provide some evidence from which one can infer a hierarchy in Article III. That clause directly vests the Supreme Court with the jurisdiction to review the judgments of inferior federal courts (and state courts). It is true that Congress can limit this appellate jurisdiction, and perhaps even wholly withdraw it, pursuant to the Exceptions and Regulations Clause. Nevertheless, the Constitution's grant of appellate jurisdiction to the Supreme Court reflects at least a presumption that one of the Court's functions is correcting the errors of inferior federal courts. Consequently, the second and third options seem more plausible than the first.

As between the second and third options, however, the third seems less consistent with the Constitution's structure. If the words "supreme" and "inferior" establish a hierarchy, it seems far more likely that the requirement of hierarchy serves the more restrained function of limiting Congress than the more expansive one of granting power. This conclusion garners some support from the fact that Article III is the only one of the first three articles that fails to detail any particular control that the ostensible departmental head has over its inferiors, or even that individual members of the branch have over one another. Admittedly, though, that silence, as noted above, might be explained by the Madisonian compromise.

Cutting more strongly against the third option is the fact that when Article III speaks, as it does in the Vesting and Good Behavior Clauses, it points toward judicial independence rather than subservience, even within the judicial department. The Vesting Clause makes clear that each Article III court enjoys the judicial power in its own right rather than as a Supreme Court delegatee. The Good Behavior Clause guarantees the independence of every Article III judge against other government actors—even other Article III judges. Together, these clauses insulate inferior courts from Supreme Court control. It goes exactly against that grain to argue that Article III implicitly subjects inferior courts to unspecified kinds of Supreme Court control, even if they must remain subordinate to the Supreme Court in any regulatory scheme.



In sum, the structure of Article III is in significant tension with the proposition that the Court's "supremacy" grants it any inherent authority over inferior courts. It might press the argument too far, however, to argue that the structure of Article III definitively forecloses that interpretation.

#### (Endnotes)

- 1 530 U.S. 428, 437 (2000).
- 2 *McNabb v. United States*, 318 U.S. 332, 340 (1943).
- 3 See, e.g., Henry M. Hart, Jr., *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362, 1365 (1953) (arguing that Congress cannot make exceptions to the Supreme Court's jurisdiction that will "destroy the essential role of the Supreme Court in the constitutional plan"); Ratner, *supra* note 12, at 161 (arguing that "essential functions" of the Supreme Court include ensuring the supremacy and uniformity of federal law).
- 4 See Akhil Reed Amar, *A Neo-Federalist View of Article III: Separating the Two Tiers of Federal Jurisdiction*, 65 B.U. L. Rev. 205, 221 (1985).
- 5 U.S. Const. art. III, § 1.
- 6 U.S. Const. art. III, § 1, cl. 2.
- 7 U.S. Const. art. III, § 2, cl. 2.
- 8 Steven G. Calabresi & Gary Lawson, *Equity and Hierarchy: Reflections on the Harris Execution*, 102 Yale L.J. 276 (1992). See also Akhil Reed Amar, *A Neo-Federalist View of Article III: Separating the Two Tiers of Federal Jurisdiction*, 65 B.U. L. Rev. 257 (1985) ("The 'exceptions' clause gives Congress the power to structure the internal hierarchy of the federal judiciary by shifting the final power to decide various mandatory cases from the Supreme Court to other Article III judges.") (emphasis omitted).
- 9 See *supra*.
- 10 See, e.g., *Morrison v. Olson*, 487 U.S. 654, 692, 695-96 (1988) (holding that the Independent Counsel Act did not violate Article II because, among other things, the President could fire an independent counsel for "good cause.").
- 11 U.S. Const. art. II, § 2, cl. 1.
- 12 U.S. Const. art. II, § 3. Cf. Leonard G. Ratner, *Congressional Power over the Jurisdiction of the Supreme Court*, 109 U. Pa. L. Rev. 157, 161 (1960) (arguing that the Supreme Court's essential function is, *inter alia*, "to provide a tribunal for the ultimate resolution of inconsistent or conflicting interpretations of federal law by state and federal courts.").
- 13 U.S. Const. art. III, § 1. (emphasis added).
- 14 U.S. Const. art. II, § 1, cl. 1.
- 15 Steven G. Calabresi & Kevin H. Rhodes, *The Structural Constitution: Unitary Executive, Plural Judiciary*, 105 Harv. L. Rev. 1165 (1992).
- 16 *In re McBryde*, 264 F.3d 52, 76--81 (D.C. Cir. 2001) (Tatel, J., concurring).
- 17 See, e.g., *Chandler v. Judicial Council of the Tenth Circuit of the United States*, 398 U.S. 74, 89 (1970) ("There can, of course, be no disagreement among us as to the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function.").
- 18 U.S. Const. art. I, § 1.
- 19 U.S. Const. art. I, § 2, cl. 5 & art. I, § 3, cl. 5.
- 20 See, e.g., *Judicial Discipline and Removal Reform Act of 1990*, Pub. L. No. 101-650, 104 Stat. 5122 (codified as amended in scattered sections of 28 U.S.C.)

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## Goodbye to a Beloved "Co-Pilot"

In his homily on Sunday, January 15, 2006, at Notre Dame's Basilica, Father John Pearson said:

"I went to a funeral Friday, a funeral for a woman I've known for years, but nowhere near as well as most of the large group of people who were gathered there. Every speaker was lavish in praise for her as a woman who was warm and welcoming, wise and perceptive, giving and forgiving. Wherever she and her husband went for nearly sixty years, her home was a center of love not just for her husband and children and their progeny but for many other people who crossed their paths."

Father Pearson was speaking of Shirley McLean, wife of nearly 60 years to William McLean, professor emeritus of the Law School. Shirley had died peacefully on Monday, January 9, in Saint Joseph Regional Medical Center in South Bend.

That Shirley's obituary in the *South Bend Tribune* should name her as a beloved "Co-Pilot" is fitting, as she accompanied her husband on a journey of almost six decades that took them from his distinguished 32-year career in the Navy to a relationship with the Law School that began in 1975, when he began service as associate dean, and continues to this day.

In the inaugural 1994 issue of the *Lawyer* magazine, Dean David Link wrote a faculty profile of Prof. McLean on the occasion of McLean's retirement from full-time teaching. This essay included the following observations: "Despite his steadfast devotion to the Law School, Captain was not married to his job—everyone knows that he is married only to Shirley, his one true love. Seeing Captain and Shirley at lunch in the University Club always reminds one of high school sweethearts in the neighborhood soda shop."

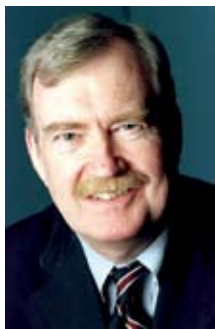
The McLeans' love for each other was also echoed in Shirley's obituary, which noted that "her enduring love for family and friends—have made over 30 years as a Navy wife and another 30 at the University of Notre Dame, first at the Navy ROTC and then at the law school—a testament to a life well-lived."

Shirley's love for her family and for the Law School has been memorialized through a fellowship established in her name to benefit the Law School. Acknowledging the Shirley J. McLean Fellowship, Dean O'Hara wrote of its ability to help the Law School achieve its goal of "creating a nationally renowned learning environment that is financially accessible for gifted students who seek a legal education grounded in faith and reason." It is fitting to honor a woman, who faithfully helped steer her husband and family for more than two-thirds of her life, through donations to this fellowship. This beloved "Co-Pilot" will now help students with financial needs to study law at a place that was her home for many years.

Donations to the Shirley J. McLean Fellowship Fund may be directed to Glenn Rossworm, Director of Law School Advancement, 1100 Grace Hall, Notre Dame, Indiana 46556.



## Larry D. Soderquist: Professor, Author, Minister, Friend



The Law School community was saddened to learn of the death of former faculty member Larry D. Soderquist on August 20, 2005, at Vanderbilt University Medical Center in Nashville, Tennessee. He died from injuries sustained as a result of an automobile accident on July 3, 2005.

At the time of his death, Prof. Soderquist was director of the Corporate and Securities Law Institute at Vanderbilt University School of Law, a position he had

held since 1980. Prof. Soderquist's interests and expertise were varied; he was considered to be one of the foremost experts on corporate and securities law and his legal textbook, *Understanding the Securities Law*, is the most widely distributed book of its kind, achieving publication in the People's Republic of China in 2004. However, he was also able to translate his scholarship for a lay audience and wrote *Investor's Rights Handbook*, a book published in 1993 for the average investor; in addition, he was the author of two mystery novels set on a university campus: *The Labcoat* (1998) and *The Iraqi Provocation* (2003).

Prior to his tenure at Vanderbilt, he was a member of the Notre Dame Law School faculty from 1976 until 1980. More than 25 years later, his influence on the school remains, with former students and colleagues remembering a consummate scholar who was also a gracious and kind man.

David T. Link, dean of the Law School during Prof. Soderquist's tenure with the school, recalled the precision of Soderquist's scholarship, a skill that benefited those who worked with him: "Larry Soderquist was the consummate faculty colleague. He was not only a fine teacher who cared greatly for his students, but he was an inquisitive and prolific scholar. When he and I collaborated on several treatises, along with our editor John Scanlon, it was safe to rely totally on Larry's technical opinions. Our three volumes could not have been completed without Larry's diligent efforts. The popularity of these volumes among practitioners is attributable to Larry and John's exceptional concern for accuracy and clarity."

Doug Kenyon (J.D. '79) reflected, "Prof. Soderquist was a man of many talents, not the least of which was a sense of self that allowed him to live an extraordinarily balanced life. Gifted law professor, scholar, and fiction writer were just a few of his interests and accomplishments. But I remember him most for his graciousness, his kindness, and his concern for his students."

For Ellen Carpenter (J.D. '79), memories of Prof. Soderquist include the classroom and beyond: "Prof. Soderquist came right out of central casting. He looked like a Wall Street lawyer, which, of course, he had been before entering academia. I took "Corporations" from him, which began my introduction to the business world...My favorite memory of him is not from the classroom, though. My favorite memory is the cocktail party he and his wife threw for his students. They were both so gracious and elegant. It was a very special evening and one that I fondly remember so many years later."

The friendship between Jerry Mowbray (J.D. '78) and Prof. Soderquist continued long after Jerry's enrollment in a business association class. During Mowbray's second year of study, the two began a flying club at the University, drawing on the assistance of the ND Air Force ROTC unit. Mowbray remembered, "Most law school students develop a friendship with a faculty member that carries on after graduation and, for me, Larry Soderquist was that person. After my graduation, Prof. Soderquist remained my friend until his untimely death this past summer. The nexus of our friendship was not the law, however, but rather airplanes and motorcycles. We took many airplane and motorcycle trips together and had many exciting experiences, traveling across different parts of the country, during which we would contemplate life and religion. You see, although Prof. Soderquist was a world-class securities law professor, recognized as the best in his field by his peers, he was also an ordained minister who spent as much time serving the underprivileged as he did teaching law."

Prof. Soderquist received a B.S. from Eastern Michigan University (1966), a J.D. from Harvard Law School (1969), and a D.Min. from Trinity Theological Seminary (1998). In addition to his teaching and research, Prof. Soderquist was an active member of the Nashville community: as an ordained minister, he preached occasionally, was a volunteer chaplain at the Veteran's Administration Hospital, served as a chaplain to the Belle Meade Police Department, and presided at graveside services for the homeless buried by the City's Metro Social Services.

He is survived by his wife, Ann, of Nashville; a son Hans, of New York City; another son Lars, of Chicago; his mother, Emma, of Zephyrhills, Florida; and his sister, Delores Brehm, of McLean, Virginia. After a memorial service held in Nashville on September 10, 2005, his ashes were buried at Arlington National Cemetery on September 21, 2005.

## FACULTY SCHOLARSHIP AND HONORS

**Matthew J. Barrett** published with D. Herwitz, unabridged and concise versions of *The 2005 Supplement to Materials on Accounting for Lawyers* 3rd ed. (Foundation Press).

**Alejandro Camacho** participated in a panel discussion sponsored by the University of Notre Dame, Department of Africana Studies, as well as several student organizations, titled "An American Tragedy: Katrina in Focus" (4 October 2005); he also participated in a panel discussion sponsored by the University of Notre Dame Law School, titled "Rebuilding New Orleans: An Interdisciplinary Discussion" (27 October 2005). Prof. Camacho also presented a lecture titled "Mustering the Missing Voices" (Chicago, Illinois: Chicago-Kent College of Law, Illinois Institute of Technology, 3 November 2005).

**Paolo Carozza** presented a paper on "Constitutionalism, Human Rights and Subsidiarity in the United States and Europe" at the University of St. Thomas Symposium on American Exceptionalism in the 21st Century (Minneapolis, Minnesota: September 2005); he also presented a paper on "Trafficking in Human Rights" at an international conference on "Virtues and Vices of Law in the Postmodern Age: Human Rights at the Dawn of the 21st Century" (Treviso, Italy: 17 January 2006). While in Italy, Carozza also gave lectures on European human rights law at the Catholic University in Milan, Italy. Carozza published *La sussidiarietà come principio strutturale dei diritti umani nel diritto internazionale*, in P.G. Grasso, ed. *Europa e Costituzione* (Edizioni Scientifiche Italiane 2005); and *Sussidiarietà e diritti fondamentali: un contributo europeo al diritto internazionale?*, in Vittorio E. Parsi, ed. *Esiste ancora la comunità transatlantica?* (Vita e Pensiero 2006); and "The Universal Common Good and the Authority of International Law" in *8 Logos: A Journal of Catholic Thought and Culture* 28 (2006).

**John M. Finnis** received the Center for Bioethics and Culture's 2006 Paul Ramsey Award.

**Richard W. Garnett** has been named a Senior Fellow at the Center for the Study of Law and Religion at Emory University School of Law. He is the chair-elect of the American Association of Law Schools Section on Law and Religion and a member of the Executive Committee of the American Association of Law Schools Section on Constitutional Law. He was named to the Center Committee of the Christian Legal Society for Law and Religious Freedom. Garnett published "Changing Minds: Proselytism, Freedom, and the First Amendment," 2 *University of St. Thomas Law Journal* 453 (2005); he also published "Jaycees Reconsidered: Justice Richard S. Arnold and the Freedom of the Association," 58 *Arkansas*

*Law Review* 587 (2005). Garnett also published "Judge Rehnquist, the Freedom of Speech, and Democracy" in C. Bradley, ed. *The Rehnquist Legacy* (2005); and "Permanent Conflict," *Commonweal* (18 November 2005) [reviewing Noah Feldman, *Divided by God* (2005), Marci A. Hamilton, *God vs. The Gavel* (2005), and Winnifred Fallers Sullivan, *The Impossibility of Religious Freedom* (2005)]. Prof. Garnett also wrote "Two Justices Who 'Get' Religion," *USA Today* (McLean, Virginia, 23 January 2006); and "Just Right," *New York Sun* (New York, New York, 1 November 2005).

**Jimmy Gurulé** wrote a chapter in *How to Combat Money Laundering and Terrorist Financing* (Central Banking Publications Ltd). In the fall of 2005, he participated in a series of talks to Italian, Paraguayan, and Austrian audiences. Gurulé specifically met with the Vice President of Paraguay Luis Castiglioni, Attorney General of Paraguay Ruben Candia Amarilla, the President of the Supreme Court of Paraguay Antonio Frete, and several members of the Paraguayan Senate to discuss the importance of enacting new anti-money laundering legislation. Gurulé delivered a lecture on terrorist financing at the Catholic University Law School in Asuncion, Paraguay. While in Milan, Italy, Gurulé met with Public Prosecutor Armando Sparatote and delivered a lecture on terrorism at Catholic University. In Rome, Gurulé delivered a lecture on terrorist financing before the Military Center for Strategic Studies, Italian War College. Gurulé also met with the president and secretary of the Italian Senate Justice Committee to discuss international cooperation in the war on terrorist financing. In January of 2006, Gurulé spoke in Vienna before the Academic Forum for Foreign Affairs on "The Trial of the Century: The Saddam Trail and Its Impact on International Criminal Law." While in Vienna, Gurulé also addressed the Austrian War College on "The Global War on Terrorism." He met with United Nations director of the Terrorism Bureau, Jean-Paul Laborde, to discuss ways to enhance the international efforts to combat financing of terror. Also in January, Gurulé traveled to Copenhagen for a two-day program on the funding of international terrorists. Gurulé met with several high-level officials of the Danish Ministry on Foreign Affairs to discuss the bilateral challenges in the fight against terrorist financing. He presented "Evaluating US and International Efforts to Combat Terrorist Financing" to members of the Danish Supervisory Authority.

**Vincent Johnson** received the Administration of Justice Award from the Supreme Court Fellows Alumni Association on January 19, 2006. Johnson also wrote "Cybersecurity, Identity Theft, and the Limits of Tort Liability," 57 *South Carolina Law Review* 255–311 (2005), and "Fighting Epidemics with Information and

Laws: The Case of SARS in China," 24 *Penn State International Law Review* 157–176 (2005).

**M. Cathleen Kaveny** gave an address, "Cultivating Hope in Troubled Times: Catholic Colleges," at the Loyola College of Maryland Presidential Inauguration. It was later published in *Origins*, the documentary service of the United States Catholic Bishops' Conference.

**Donald P. Kommers** presented the following Hesburg Lectures: "Is the United States Constitution Obsolete?" (Boise, Idaho, 17 October 2005); "Abortion and the Death Penalty in the Constitutional Jurisprudence of Germany and the United States" (Louisville, Kentucky, 9 November 2005); "Religion and the Constitution" (Madison, Wisconsin, 17 November 2005); and "Religion and the Constitution" (Spokane, Washington, 30 January 2006). On January 25, 2006 Kommers participated in an hour-long interview with radio station KXLY, an ABC affiliate, in Spokane, Washington. Kommers published "The Federal Constitutional Court: Guardian of German Democracy" in *The Annals of the American Academy of Political and Social Science* 603 (2006): 111–28; "American Courts and Democracy: A Comparative Perspective" in Hall and McGuire, eds., *The Judicial Branch* (New York: Oxford University Press, 2005): 200–30; "Germany: Balancing Rights and Duties" in Jeffrey Goldsworthy, ed. *Interpreting the Constitution: A Comparative Study* (New York: Oxford University Press, 2005): 161–214; and a review of *A Court Divided: The Rehnquist Court and the Future of Constitutional Law*, by Mark Tushnet, in *Law and Politics Book Review* 16 (2006): 11–16.

**Mary Ellen O'Connell**, with Robert Kennedy, wrote the editorial "Unlawful Practices Sour Intelligence," *The Baltimore Sun* (Baltimore, Maryland, 10 November 2005). O'Connell also wrote "The United Nations Security Council and Authorization of Force: Renewing the Council through Reform," *The Security Council and the Uses of Force, Theory and Reality – A Need for Change?* 47, Niels Blokker & Nico Schrijver eds. (Martinus Nijhof, 2005); "Affirming the Ban on Harsh Interrogation," 66 *Ohio State Law Journal* 1231 (2005); "Taking *Opinio Juris* Seriously, A Classical Approach to International Law on the Use of Force" in *International Customary Law on the Use of Force: A Methodological Approach* 9, E. Cannizzaro and P. Palchetti eds. (2005); and "Perjury, Lies and Degrading Treatment: The Case for the McCain Amendment," *Jurist* (3 November 2005) <<http://jurist.law.pitt.edu/formy/2005/11/perjury-lies-degrading-treatment.php>>.



## STAFF NOTES

**Jill Donnelly, '76 B.A.,** has been named the executive director of the Order of St. Thomas More and director of the Law School annual fund. As the director of annual giving programs at Notre Dame, she managed the University's development phone center, reunion giving, young alumni, matching gift, and direct mail programs. She is married to Joe Donnelly, '77 B.A. and '81 J.D. Their daughter, Molly, '04 B.A., is a second-year law student at Washington & Lee and their son, Joe, is a senior at Notre Dame.

**Carol Jambor-Smith**, director of external relations, was an invited presenter at two sessions during the annual meeting of the Association of American Law School's Section on Institutional Advancement. She presented "With Apologies to Cassandra: Trojan Horses, Rabbits, and Branding" during the plenary session and participated in a later panel that examined the role of communication in law school development and marketing.

**Lisa Koop**, Notre Dame Law School Clinic Immigration Law Fellow, wrote Michiana Point of View, "Cruel 'Reform' Hurts Immigrants and Robs our Community," *The South Bend Tribune* (South Bend, Indiana, 3 January 2006).

**Daniel Manier**, director of Law School information technology, has been invited to participate in the Frye Leadership Institute.

**Therese Post Hanlon** has joined the Law School as an administrative assistant to the Office of External Relations. She previously was the administrative assistant to the Order of St. Thomas More and the Law School annual fund.

**Charles Roboski**, director of Law School admissions, has left the University of Notre Dame to become the associate dean for Admissions and External Affairs for Ava Maria Law School.

## IN MEMORIAM

**Shirley McLean**, wife of Associate Dean Emeritus William O. McLean, passed away on January 9, 2006.

## BIRTHS

**A.J. and Tricia Bellia**, associate professors of law, welcomed their second child, Mary Elizabeth, on November 22, 2005.

**Carla DeVelder**, director of Career Services and her husband, Chris, welcomed their second child, Garrett Thomas, on January 31, 2006.

**Peter Horvath**, director of student services, and his wife, Michelle, welcomed their third child, Jackson Theodore, on February 13, 2006.

**Julian Velasco**, associate professor of law, and his wife, Jennifer, are celebrating the adoption of their daughter, Graciela Ling. Julian and Jennifer traveled to China in March to bring her home.

**Teresa Godwin Phelps** received an honorable mention from The Gustavus Myers Center for the Study of Bigotry and Human Rights 2005 Outstanding Book Award for her book *Shattered Voices*. Phelps also presented a paper, "ReMembering: The Use of Personal Stories in the Aftermath of Violence," to the "Franco's Mass Graves Conference," University of Notre Dame, 28 October 2005. On November 1, 2005, she was a panelist for the "Notre Dame Common Ground Project."

**Thomas L. Shaffer** wrote "My Client the Situation," *Res Gestae* 49, No.3 (October 2005): 24-29; "Should a Christian Lawyer Serve the Guilty?" in Susan D. Carle, ed. *Lawyers' Ethics and the Pursuit of Social Justice: A Critical Reader* (New York University Press, 2005): 343-50; "Professionals and Moral Responsibility" in *Professional Creativity and the Common Good* (University of Missouri Press, 2006). While at the annual meeting of the Association of American Law Schools (Washington D.C., 3-7 January 2006), Shaffer presented "Legal Ethics and Roman Catholics in the United States" in a joint session of the sections on Professional Responsibility and Law and Religion; as well as "Spirituality Among Law Teachers" in the plenary program, "A Search for Balance in the Whirlwind of Law School." Serving as a panelist, Shaffer spoke on "End of Life Decisions" in the "Older Adult Series" given by the Notre Dame Human Resources Department (29 September 2005). Shaffer also served as a panelist speaking on "Trust in Democracy: Anabaptists, Italian Americans, and Solidarity" at the conference, "Liberal Democracy, God, and Human Good," at Hamlin University (St. Paul, Minnesota: 28 October 2005). In November 2005, Shaffer was awarded the 2004-2005 Exceptional Service Award, District Two, Indiana Pro-Bono Commission of the Indiana Supreme Court, for representation in nine or more cases.

**O. Carter Snead** participated in a debate on "The Role of Government in the Bioethical Regulation and Support of Stem Cell Research" (Marquette Law School's Health Law Society, Federalist Society and American Constitution Society, 8 November 2005). Snead also delivered this past fall's semiannual Arthur J. Schmitt Lecture, "Speaking Truthfully about Stem Cell Research and Cloning" (University of Notre Dame, Center for Ethics and Culture, 16 November 2005). He was also a panelist on January 7, 2006 with US Senator Sam Brownback at the "Awakening Conference" in Sea Island, Georgia, where he discussed the law, politics, and public policy

of stem cell research and cloning. Snead has also been invited to be a member of a UNESCO (Division of Bioethics) panel of experts to evaluate the wisdom and efficacy of various institutional approaches to bioethical regulation in countries around the world. His essay, "The (Surprising) Truth About Schiavo: A Defeat for the Cause of Autonomy," was completed in December 2005 and will be published in an upcoming issue of *Constitutional Commentary*.

**Frank Snyder** wrote "Late Night Thoughts on Blogging while Reading Duncan Kennedy's *Legal Education and the Reproduction of Hierarchy* in an Arkansas Motel Room," 11 NEXUS. Prof. Snyder presented "Two Doggoned Drunks at Ye Olde Virginne: The Story of *Lucy v. Zehmer*" at the "International Contracts Conference" (Fort Worth, Texas, February 2006), as well as moderated a panel on "The Myth and Rhetoric of Contract." He also moderated a panel on "The Law and Harry Potter" at the "Ninth Annual Meeting of the Association for the Study of Law, Culture, and Humanities" (Syracuse University School of Law, Syracuse, New York, March 2006); he participated in a panel discussion titled "The Blogosphere and the Law" (Chapman University School of Law, Anaheim, California, March 2006). Snyder's piece "The Unreal(ist) U.C.C." will appear as part of an American Association of Law Schools Commercial Law Section symposium published in the *Ohio State Law Journal*, forthcoming. He is also co-authoring *The Law and Harry Potter* (Carolina Academic Press), forthcoming.

**Jay Tidmarsh** has been appointed to the Professional Development Committee of the Association of American Law Schools. Tidmarsh cowrote and compiled *Combined Rules Supplement/Annual Update* for his cowritten civil procedure casebook. His article on federal common law, written with Brian J. Murphy, NDLS J.D. '00, has been published in *Northwestern Law Review*. Tidmarsh also has published an article on procedural reform in the *Notre Dame Law Review*.

**Julian Velasco** presented "The Fundamental Rights of the Shareholder" at a faculty workshop at the University of Illinois, College of Law, 18 October 2005; and again at the Central States Law School Conference, 4 November 2005.

## CLASS NOTES

### 1960s

**Ronald L. Sowers, '65 J.D.**, has joined his good friend John Necomb in practice. Sowers Necomb and Associates L.L.C. is located in Bremen, Ind.

**Congressman Peter King (R-NY), '68 J.D.**, was appointed on September 15, 2005 to serve as chairman of the Homeland Security Committee, the principal oversight panel for the US Department of Homeland Security.

### 1970s

**Richard Slawson, '67 B.A., '70 J.D.**, is the managing partner of Slawson Cunningham Whalen & Gaspari, P.L. The firm specializes in serious personal injury, wrongful death, and insurance company bad faith litigation throughout Florida.

**Michael Brennan, '71 J.D.**, is with the firm Brennan & Sullivan, P.A. in Santa Fe, N. Mex.

**Harry Henning, '71 J.D.**, with Porter Wright Morris & Arthur L.L.P. in Columbus, Ohio, was recently selected by his peers for inclusion in *The Best Lawyers in America*® 2005–2006. Henning was named a “Best Lawyer” in the area of corporate, M & A, and securities law.

**Tony Palumbo, '73 J.D.**, has started a new law firm with his son Scott and longtime friend Elliot Wolfe. Wolfe's partner, Scott Sahlman, will also join the group. The Phoenix, Ariz. firm is known as Palumbo Wolfe Sahlman and Palumbo.

**Mary Beth Buescher, '74 J.D.**, has retired from the District Attorney's Office in Grand Junction, Colo. She is currently working for US Senator Ken Salazar in his Western Colorado Office.

**John Burns, '74 J.D.**, is a partner with the Fort Wayne, Ind. office of Baker and Daniels. He has been recognized in *The Best Lawyers in America*® and *Indiana Super Lawyers*. He is the secretary of the Notre Dame Club of Fort Wayne.

**Christopher Kule, '74 J.D.**, is currently conducting a foreign language document review at Cleary Gottlieb in New York City, N.Y.

**Dennis Mulshine, '71 B.A., '75 J.D.**, is pleased to share that he has retired.

**John T. Sperla, '75 J.D.**, was named to the 2006 management committee of Mika Meyers Beckett and Jones in Grand Rapids, Mich.

**Nancy Morrison O'Connor, '76 J.D.**, has been appointed chair of the Montgomery County, Md. Commission on Human Rights.

**Christopher J. Dembowski, '77 J.D.**, was recently selected for inclusion in the public finance law section of *The Best Lawyers in America*® 2006.

**Dale Recinella, '76 B.A., '77 J.D.**, has published *The Biblical Truth about America's Death Penalty* (2005), *The Florida Bar Journal* 79, No. 9 (2005): 84; and also *The Florida Bar News* 32, No. 19 (2005): 24.

**Dean Calland, '79 J.D.**, a founding partner at the Pittsburgh firm of Babst, Calland, Clements and Zomnir P.C., was recently selected by his peers for inclusion in *The Best Lawyers in America*® 2005–2006 and was named in the environmental law section.

**Tony Vogel, '79 J.D.**, a partner with Quarles and Brady in Milwaukee, Wisc. has been named chairman of Governor Jim Doyle's new Blue Ribbon Task Force on Waste Materials Recovery and Disposal. Vogel focuses his practice on environmental matters, including solid and hazardous waste, environmental due diligence, site investigations and remediation, and private party negotiations related to environmental liabilities, Superfund management, and general regulatory compliance.

### 1980s

**Mark Gimenez, '80 J.D.**, wrote *The Color of Law* (Doubleday, 2005).

**Thomas Jennings, '80 J.D.**, special counsel in the environmental department in the Philadelphia office of Saul Ewing L.L.P., was elected vice chair of the Bucks County International Trade Council.

**Ed Wallison, '81 J.D.**, has joined the firm of Rathwell & Nizialek, P.C. in The Woodlands, Tex.

**Robert B. Clemens, '82 J.D.**, partner at Bose McKinney & Evans L.L.P., has received the Insurance Institute of Indiana's Award of Recognition. Clemens has also been named Diplomat of the Year by the Defense Trial Counsel of Indiana.

**Cynthia S. Gillard, '82 J.D.**, a partner at Warrick and Boyn, L.L.P. in Elkhart, Ind., was recently appointed by the Indiana Supreme Court to her second five-year term as a member of the Indiana State Board of Law Examiners.

**Edward McNally, '82 J.D.**, has been named interim US Attorney for Southern Illinois.

**James R. Lynch, '83 J.D.**, has formed Lynch Daskal Emery L.L.P. in Manhattan, N.Y.

**Michael G. Cumming, '84 J.D.**, was named as

one of *The Best Lawyers in America*® 2006 by Woodward/White. Cumming is an attorney for Dykema Gossett in Bloomfield, Mich.

**John Heitkamp, Jr., '81 M.M.I., '85 J.D.**, has accepted the position of deputy general counsel for Old Republic International Corporation.

**Karen Keltz, '85 J.D.**, is a shareholder with the firm Riddle and Williams, P.C. in Dallas, Tex. She practices trial and appellate law in the areas of complex commercial business construction and insurance law, insurance defense, and homeowners' association law. Karen is also the secretary of the Council for the State Bar of Texas Insurance Law Section.

**Steven J. Renshaw, '85 J.D.**, has joined the law firm of Rice and Renshaw as a partner in Torrance, Calif.

**Cari Votava, '85 J.D.**, a specialist in anti-money laundering and counter-terrorist financing (AML/CFT), was sent by the World Bank and the United Nations Office on Drugs and Crime (UNODC) for a three-year assignment in Almaty, Kazakhstan to spearhead this work. Her key tasks are helping Central Asian countries draft their first AML/CFT laws so they meet international standards and improving implementation of international and UN Treaties.

**Anna Carulas, '86 J.D.**, of Roetzel and Andress in Cleveland, Ohio, has been selected as an Ohio Super Lawyer by the *Law and Politics* magazine and the *Cincinnati Magazine*.

**Tom Clements, '75 B.A., '86 J.D.**, was named the quarterback coach for the Green Bay Packers.

**Scott Cessar, '87 J.D.**, was named the member in charge of the 140-lawyer Pittsburgh office of Eckert Seamans Chrin & Mellott, L.L.C.

**Todd Gale, '87 J.D.**, has joined Dykema in Chicago, Ill. Gale has joined the firm's litigation department.

**Wayne County Chief Circuit Judge Mary Beth Kelly, '87 J.D.**, was reappointed to a two-year term by the Michigan Supreme Court.

**Honorable Daniel P. Ryan, '87 J.D.**, has recently published two books: *Ryan's Essential Evidence Outlines* (Universe, 2005) and *Essential Principles of Contract and Sales Law in the Northern Pacific: Federated States of Micronesia, the Republics of Palau and the Marshall Islands, and the United States Territories* (Universe, 2005).

**Charles Mustell, '89 J.D.**, celebrated his eighth year with the firm of Mustell and Borrow in Miami, Fla. The firm specializes in handling personal injury, wrongful death, and malpractice cases.

# 1990s

**Fred Fresard, '90 J.D.**, recently received the Pro Bono Service Award of the Detroit Metropolitan Bar Association. Fresard, with two other attorneys, traded law books and legal pads for tools of the building trades rather than pursue a hopeless legal pursuit of a disappearing contractor. They assisted an elderly widow in the completion of a home remodeling project.

**Cynthia Hardy, '90 J.D.**, was recently named the president of Encompass Insurance, a division of Allstate.

**William F. Stewart, '90 J.D.**, a member of Cozen O'Connor in Philadelphia, Penn., was recently appointed to the Supreme Court of Pennsylvania Civil Procedural Rules Committee.

**Jay Lewis, '86 B.A., '91 J.D.**, has joined Magnetech Integrated Services Corporation in South Bend, Ind. as their vice president-general counsel.

**Ginny Kaye Mikita, '91 J.D.**, completed her first triathlon in Ludington, Mich. this summer. Additionally, she was invited to speak on "Practicing in Your Bathrobe: Effectively Operating Your Law Practice from Home" in October 2005 at the State Bar's second Annual Solo and Small Firm Institute.

**Daniel M. Fitzgerald, '89 B.S., '93 J.D.**, has been elected to partnership at the firm of Armstrong Teasdale in St. Louis, Mo.

**David Gardey, '93 J.D.**, has joined the United States Attorney's Office. He will be working in the Eastern District of Michigan.

**Rob Mitchell, '93 J.D.**, has retired from the United States Air Force JAG Corps and is transitioning into the civilian sector.

**Judge Mary Yu, '93 J.D.**, was named the Washington state Judge of the Year by an organization of prominent trial lawyers.

**Kurt Kjelland, '94 J.D.**, is a shareholder at Heller Ehrman in San Diego, Calif.

**Elizabeth Niemi, '94 J.D.**, has joined Downey Brand in Sacramento, Calif. Her practice will focus on family law with an emphasis on the negotiation and preparation of cohabitation, premarital, and post-marital agreements, and the dissolution of marriage actions involving complex property division disputes.

**Marty Foos, '92 B.A., '95 J.D.**, is a partner at Faruki Ireland and Cox in Dayton, Ohio

**Karen Guenther, '95 J.D.**, and **Mike Sitori, '95 J.D.**, were married at St. Patrick's Church in downtown Portland, Oreg. on November 12, 2005.

**Dione Ludlow, '95 J.D.**, is continuing her career in public service as a prosecutor. She recently took on a new position at the Pierce County Prosecuting

Attorney's Office, the second largest prosecutor's office in the state of Washington.

**John Rehn, '95 J.D.**, announced that he is a candidate for Knox County Circuit Court Judge in Illinois.

**Chris Russell, '95 J.D.**, was re-elected as the Commonwealth's Attorney for the City of Buena Vista, Va.

**Zulfiqar Bokhari, '93 B.A., '96 J.D.**, was elected to partnership at Sidley Austin Brown & Wood in Chicago, Ill. Bokhari is a partner in the banking and financial transactions practice.

**Andrew Feske, '96 J.D.**, is currently serving in the US Army in combat-arms (Military Occupational Specialty) of Company 13B (Field Artillery) and has been deployed in Iraq since November 3, 2005.

**Jimmy Allen, '97 J.D.**, has been elected a shareholder of Larson & Larson, P.C. in Leawood, Kans. Allen will also be heading a new subsidiary of the firm Allen & Associates. Allen will focus on representing plaintiffs in a variety of personal injury matters. His practice is concentrated in products liability, medical malpractice, other professional malpractice, prescription drugs, and propane and natural gas explosions.

**David Butler, '94 B.B.A., '97 J.D.**, has been named an Ohio Rising Star by *Law and Politics* magazine.

**Kevin Espinola, '97 J.D.** has been promoted to partner at Latham and Watkins in Orange County, Calif.

**Steve McBride, '97 J.D.** has joined Southeastern Asset Management in Memphis Tenn. as legal counsel.

**Michael P. Rittinger, '97 J.D.**, has been named partner at the law firm of Klehr, Harrison, Harvey, Branzburg and Ellers in Philadelphia, Penn.

**Raymond J. Tittmann, '97 J.D.**, has been named partner at the law firm of Carroll, Burdick and McDonough L.L.P. in San Francisco, Calif.

**Richard C. Bell, '98 J.D.**, and his wife, Diane, welcomed their second child, Emily Rose Bell, on May 19, 2005. Bell was also made an officer at his law firm.

**Tomas Longo, '94 B.A., '98 J.D.**, has recently accepted the position of assistant director of licensing at the Andy Warhol Foundation for the Visual Arts, Inc. in New York, N.Y.

**Jim Neumeister, '98 J.D.**, has joined the Office of Student Conduct at the University of Maryland.

**Kevin O'Scannlain, '98 J.D.**, formerly senior Counsel to the US Senate Judiciary Committee, has joined the government affairs practice group of DLA Piper Rudnick, Gray Cary in Washington, D.C.

**Tom Shumate, '98 J.D.**, and his wife, Wendy, welcomed their first child, Grayson Thomas, on September 13, 2005.

**Patricia Galvao Ferreira, '99 LL.M.** has begun as the deputy representative of Open Society Initiative for Southern Africa/OSISA, an international foundation that works to build and strengthen the values, practices, and institutions of an open society throughout southern Africa.

**Stephanie Hale, '99 J.D.**, joined the Baker and Daniels intellectual property group in Indianapolis, Ind. and will focus on trademark, copyright, and e-commerce law.

**Tracy Warren, '99 J.D.** recently joined Seltzer Caplan McMahon Vitek in San Diego, Calif.

# 2000s

**Joseph M. Butscher, '00 J.D.**, has written "Suggestions for the Pre-Appeal Brief Conference Pilot Program" *Intellectual Property Today* 12 (2005): 24.

**Meghan Collins, '00 J.D.**, is with the Office of the Public Defender Appellate Division in Daytona Beach, Fla.

**Ellen Cook, '00 J.D.**, married Michael Sacco on July 30, 2005 in Whitehouse, Tex.

**Justin M Crawford, '00 J.D.**, has joined the firm of Miller, Canfield, Paddock and Stone P.L.C. in Kalamazoo, Mich. as an associate.

**John Geelan, '00 J.D.**, married Megan Feeney in July.

**Jing He, '00 J.D.**, and his wife, Catherine, welcomed their first baby, Zipei, in May 2005. He is a senior associate at Baker & McKenzie in their Hong Kong and Beijing offices. His area of expertise is patent litigation, negotiation, and government lobbying.

**Eushuk Hong, '00 J.D.**, is working as intellectual property counsel for the semiconductor division of Samsung Electronics in Korea.

**Roger Mattioli, '00 J.D.**, is an appellate government attorney with the Navy-Marine Corps Appellate Review Activity in Washington, D.C. Mattioli and his wife, Isabel Cruz Mattioli, welcomed a son, Rodrigo Francisco, on October 23, 2005.

**Sandy Dermody, '01 J.D.**, and her husband, John, are pleased to announce the birth of their daughters Grace Marie and Elizabeth Diane, who were born on May 31, 2005. Dermody has also moved to Jacksonville, Fla., where she is with CSX Transportation, Inc. as employment counsel.



# CLASS NOTES

**M. David O'Guinn, '01 J.D.**, was named as an Ohio Super Lawyer–Rising Star by Law and Politics Media. O'Guinn is an attorney with Dinsmore and Shohl in Cincinnati, Ohio.

**Sunil Bhuta, '02 J.D.**, has accepted an in-house attorney position at Syndicate Films International, L.L.C., a division of the Los Angeles based Yari Film Group.

**Brian Skaret, '02 J.D.**, trial attorney for the Domestic Security Section of the Criminal Division of the US Department of Justice, is prosecuting a case against foreign nationals who attempted to provide material support to terrorists and alien smuggling.

**Katherine Whalen, '02 J.D.**, is an associate with the firm Edwards & Angell, L.L.P. in Providence, Rhode Island.

**Bill Whitman, '98 B.A., '02 J.D.**, is a candidate for the Ninth Congressional District seat in Tenn.

**Keith E. Eastland, '96 B.B.A., '03 J.D.**, has joined the law firm of Miller Johnson in Grand Rapids, Mich. as an associate.

**Kevin Gingras, '03 J.D.**, recently completed a clerkship with Judge Mary Briscoe in the US Court of Appeals for the 10th Circuit and has since joined the US Department of Justice in Washington, D.C., as part of the Attorney General's Honors Program. Gingras will be working in the Criminal Section of the Civil Rights Division, prosecuting violent civil rights crimes.

**Kristie McCann Passalacqua, '99 B.A., '03 J.D.**, recently married Jason A. Passalacqua in Providence, Rhode Island. Passalacqua also joined Hinckley, Allen & Snyder L.L.P. in May as an associate in the litigation group.

**Fernando Narvaez, '03 J.D.**, has recently opened his own practice, Narvaez & Yoshida, Inc. in Quincy, Mass. He is practicing immigration, disability, real estate, and family law. He will also be specializing in consulting services for Japanese foreign exchange students in the Boston, Mass. area.

**Brian Seki, '03 J.D.**, has joined the firm of Fulbright and Jaworski L.L.P. as an associate in San Antonio, Tex.

**Elizabeth Anderson Spinney, '03 J.D.**, and husband Bruce welcomed their daughter, Catherine Rose, on September 12, 2005.

**Francisco J. Valenzuela, '03 J.D.**, recently moved from Miami, Fla. to Dallas, Tex.

**Larry Ward, '03 J.D.**, proposed to **Julissa Robles, '04 J.D.**, on June 17, 2005 in Coronado, Calif.

The couple married on September 10 in Redondo Beach, Calif. Ward is currently doing contract work at Shea Stokes and Carter in San Diego, where Robles is an associate with the firm.

**Laura Bauer, '04 J.D.**, has joined the firm of Bradley Arant Rose & White L.L.P. in Birmingham, Ala., as an associate in the labor and employment practice group.

**Nicole A. Bayman, '04 J.D.**, has joined Drinker Biddle & Reath in Princeton, N.J. as an associate in the real estate group.

**Anna Benjamin, '01 B.A., '04 J.D.**, is an associate with the firm of Ungaretti & Harris in Chicago, Ill. Her specialty practices include general commercial litigation and municipal litigation.

**Katie Koenig, '04 J.D.**, has joined Kirkland & Ellis L.L.P. in Chicago, Ill. as an associate.

**Trebbie Allendorph, '05 J.D.**, married Steve Valancius on September 17, 2005.

**Matthew S. Arend, '05 J.D.**, has joined Dinsmore and Shohl in Cincinnati, Ohio. He will practice in the litigation department.

**Nikole Canute, '05 J.D.**, has become an associate at the law firm of Mika Meyers Beckett and Jones P.L.C. in Grand Rapids, Mich.

**Brian Comerford, '05 J.D.**, is with the New York State Courts Appellate Division Fourth Department in Rochester, N.Y.

**Courtney Eschbach, '05 J.D.**, is in the Office of Legislative Services in Concord, N.H.

**Josh Heideleman, '05 J.D.**, is an associate in the litigation department with Bell and Boyd in Chicago, Ill.

**Tim Hubach, '05 J.D.**, recently joined Strasburger & Price L.L.P. in Dallas, Tex., in the corporate and securities practice area. Hubach previously worked for Strasburger in the summer of 2004.

**Xavier D. Jordan, '02 B.S., '05 J.D.**, has joined the law firm of Baker and Hostetler in Cleveland, Ohio, as an associate.

**Chris Kubiak, '05 J.D.**, is an associate with the firm of Shearman & Sterling L.L.P. in San Francisco, Calif.

**Jack Palma, '02 B.A., '05 J.D.**, is with the firm of Paul, Hastings, Janofsky & Walker L.L.P. in Stamford, Conn.

**Vince Pecora, '05 J.D.**, has passed the Michigan Bar Exam.

**Meghan Rhatigan, '01 B.B.A., '05 J.D.**, is an associate with Choate, Hall & Stewart L.L.P. in Boston, Mass. She is in the firm's litigation department and the bankruptcy and creditors' rights practice group.

**Michael Rogers, '05 J.D.**, has joined Bose McKinney and Evans in Indianapolis, Ind., as an associate in the firm's litigation group.

**Chad D. Silker, '05 J.D.**, has joined the firm Armstrong Teasdale. His practices will focus on tort litigation and insurance defense.

**Gregory Wright, '05 J.D.**, has joined Dykema Gossett P.L.L.C. in Chicago, Ill. as an associate.

## IN MEMORIAM

### '42 B.S.

**Leo A. Lanigan Jr.** passed away June 25, 2005. He received his undergraduate degree from Notre Dame in '42 and received his J.D. from Northwestern University.

### '48 B.A.

**John J. Hudacsek Jr.** passed away Saturday, April 16, 2005 in Ambridge, Penn. He received his undergraduate degree from Notre Dame in '48 and a J.D. in '51 from the University of Pittsburgh Law School.

### '65 B.B.A.

**Raymond H. Siegfried II**, a longtime member of the University's Board of Trustees, passed away Thursday, October 6, 2005 in Tulsa, Oklahoma. Siegfried was a '65 undergraduate of ND and in May 1995 received an honorary doctor of law degree from ND. Siegfried had been battling amyotrophic lateral sclerosis (Lou Gehrig's Disease), but maintained an active schedule, including regular visits to the Notre Dame campus. Siegfried was the father of Terrell Siegfried, 3L at NDLS.

### '49 J.D.

**James B. Rice** passed away June 20, 2005. He received his B.S. in '44 from ND as well as his J.D. in '49.

### '55 J.D.

**Paul Jackman** passed away on December 24, 2005. Jackman suffered from congestive heart failure.

### '83 J.D.

**Jay Moses** passed away on Saturday, January 14, 2006, in Springfield, Ill.

### '86 J.D.

**Kritsa A. Miller** passed away suddenly December 31, 2005, in Evanston, Ill.

## CLOSING ARGUMENTS

One of my earliest classroom memories of my first year of law school at Notre Dame is a simple, but meaningful, exercise that Dean Emeritus Link facilitated at the outset of his legal ethics course. Dean Link asked our group of fledgling students to proffer a series of synonyms for “lawyer” in an effort to amplify the multi-dimensional nature of a lawyer’s role. Of the panoply of words that flowed forth, the two that resonated most with me were “advocate” and “counselor.” These words seemed to me to lie at the core of what it means to be an ethical, empathetic, and effective lawyer.



Discussions like the one Dean Link fostered pervaded the curriculum during my Notre Dame Law School experience. The Law School faculty were (and still are) superb practitioners of what Rev. Theodore Hesburgh, CSC, preached when he explained that “Notre Dame does more

than teach its students to learn how to make a living—it teaches them how to live.” Although it has been many years since I have practiced law, the lessons the Law School instilled still have a purchase on my daily life. This was never more evident to me than last September.

After watching the surreal television images of Hurricane Katrina and its aftermath, I felt compelled to try to provide direct assistance to the evacuees. The plaintive visage of a young girl, standing outside the Louisiana Superdome holding a sign with “help us” scrawled on it, was particularly galvanizing. On Sunday afternoon, September 4, I scanned the website of the *Houston Chronicle* and learned that volunteers with wireless laptop computers were urgently needed at the Astrodome Complex to help evacuees locate missing loved ones. I redeemed some frequent flyer miles and flew to Houston that night.

Early the next morning, I arrived at Reliant Center (part of the Astrodome Complex where several thousand evacuees had just arrived from Louisiana) with my laptop in tow. I was immediately put to work with a handful of other volunteers to assist the many evacuees who had become separated from family members during the nightmarish days of flooding and confusion following the disaster.

My job consisted of interviewing evacuees and registering their information on the database created for the Astrodome Complex. Next, I searched a variety of missing persons Internet databases created in the hurricane’s wake in an effort to locate the lost: fathers, mothers, husbands, wives, children, fiancées, brothers, sisters, grandparents, grandchildren, cousins, and close friends. The geographical scale of the diaspora that ensued from the hurricane zone was staggering. Nearly all of the evacuees with whom I worked were African Americans who resided in New Orleans’ Ninth Ward and lived in abject poverty prior to the storm.

During the next four long days and nights, I was able to help a significant number of evacuees locate and reunite with their loved ones. In several cases, I witnessed the unbridled joy of personal reunions; on many other occasions, I observed as family members spoke to each other on the cell phones we provided. As the father of two small daughters, perhaps the most moving successful outcome was finding Jeraneisha, the 12-year-old daughter of a woman who had not seen or heard from her in five days. Serendipitously, Jeraneisha was housed in another building of the Astrodome Complex, allowing her mother and two sisters to be reunited with her immediately. The gratitude they expressed as they embraced me in tears is a memory I will always cherish.

Although the work in which I was engaged was not “lawyering” per se, I was able to employ reasoning and research skills that I honed in Law School to accomplish the challenging task of finding missing persons. More importantly, I had the chance to be an advocate for, and a counselor to, people who desperately needed assistance. The psychic trauma that the evacuees had suffered as a result of being dislocated and separated from family members was intense. Patient, empathetic counseling was





## CLOSING ARGUMENTS



imperative, particularly during those disconcerting situations in which I was unable to locate a loved one.

It was difficult, even emotional, to leave Houston with so much work yet to be done. Even now, thousands of people remain missing. My experience there marked me like few others in my life. Yet I departed with a visceral sense of fulfillment that I had been able to make a difference by helping people recover someone precious in their lives. The evacuees' dignity, courage, and resiliency will always stay with me, as will their beautiful, exotic names.

I will never forget the eight-year old girl whose mother was missing who proudly showed me the little notebook she had titled "My Story of Hurricane Katrina." I told her that she was going to be a famous writer someday, and she nodded sagely and solemnly. Nor will I forget my last walk across the vast floor of Reliant Center as I departed for the airport. Two boys were playing basketball by shooting at a laundry basket that had been erected on a makeshift pole. (James Naismith would have been delighted!) As I strode past, one of the boys, probably about 10,

picked up his dribble and walked purposefully to me. He said nothing, just smiled and shook my hand. Through my tears, I returned his smile. Words, a lawyer's stock-in-trade, would have unjustly intruded on the moment.

As I reflect on my time in Houston, I am reminded of the stirring 1966 speech Robert Kennedy delivered to students at the University of Cape Town in a South Africa gripped by apartheid. He counseled that, "Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest wall of oppression and resistance." Houston animated that eloquent credo for me like no other experience; more than ever, it is at the very heart of what it I believe it means to be a Notre Dame lawyer.

Glenn Rosswurm  
Director of Law School Advancement  
Notre Dame Law School



# ND ALUMNI—JOIN IRISH ONLINE!

## What is Irish Online?

Irish Online is a website that allows you to update your contact information, search for a new career, find classmates or other alumni, and much, much more!

Irish Online is a convenient way to connect Notre Dame alumni, to the University, and to each other.

It features an Online Directory, Alumni e-mail addresses, Career Networking, Career Mentoring, Job Postings, and Job Searches—and the best part? These services are provided entirely free. Over 41,000 alumni have already registered for Irish Online, and the numbers are still growing.

## Who can join?

All Notre Dame Alumni are able to register. Each alum has an 10-digit University ID number. Because this number is unique to you, this is the number used to reserve your space on Irish Online.

## Why would I use Irish Online?

- ✓ Have you recently moved and need to update your address?
- ✓ Are you in between jobs and searching for a good company?
- ✓ Do you want to establish a mentoring relationship with someone working in the career you're interested in?
- ✓ Do you want to reconnect with old friends?
- ✓ Do you want to have an e-mail address that never changes regardless of how often you change jobs or Internet service providers?

## What is an Alumni E-mail Address?

You can get an Alumni E-mail Address in the form `yourname@alumni.nd.edu`. The Alumni E-mail Address is a forwarding address only, not an e-mail account. Just select an Alumni E-mail Address and indicate a permanent e-mail address (e.g. aol.com, yahoo.com, or a work e-mail address) you would like to forward your Alumni E-mail Address to. If your permanent e-mail address changes (e.g., you change service providers or change jobs), simply indicate in Irish Online what your new permanent e-mail address is and Irish Online will immediately begin forwarding your e-mail to your new address.

## How do I access Irish Online?

1. Go to <http://irishonline.nd.edu>.
2. Click on "New User."
3. Enter your 10-digit University ID number and last name.
4. Accept the User Agreement.
5. Select a login name and password.

It's that easy!

## You will have access immediately upon registering.

How do I get my 10-digit ID number?

Your 10-digit ID number is on the mailing label of most University mailings to alumni.

If you don't have a University mailing handy, you can send an e-mail to [onlinehelp@alumni.nd.edu](mailto:onlinehelp@alumni.nd.edu) for assistance.

## Questions?

For questions about Irish Online, please send an e-mail to [onlinehelp@alumni.nd.edu](mailto:onlinehelp@alumni.nd.edu).

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