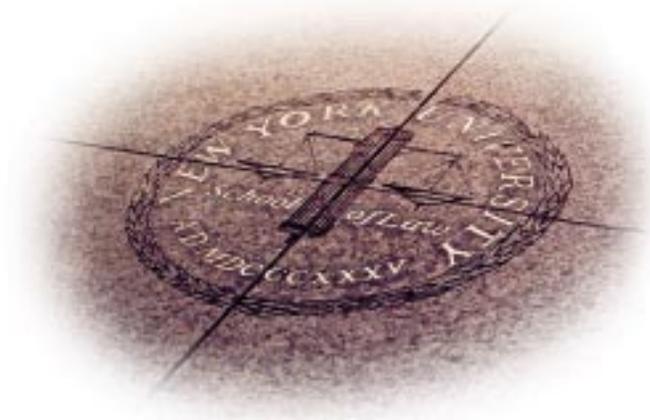


Still More From Vanderbilt Hall



The Law School defines itself as a community engaged in a conversation about the most important legal issues of the day. Faculty, students, graduates and leading thinkers and practitioners literally from around the world gather at Vanderbilt Hall to participate in that conversation. The conversation takes place in the classroom, in colloquia which meets on a regular basis, in the give and take accompanying a major lecture, and in informal conversations over a meal, in an office, or in our residence halls. Indeed, our community today sustains this conversation on a constant basis, seven days a week. The following pages provide just a sample of this intellectual engagement found at the Law School this past term.



NYU Law Grads Named First World Court Law Clerks

In an historic announcement, Dean John Sexton reported that NYU School of Law, in cooperation with the International Court of Justice (the World Court), has established the first judicial law clerk/intern program in the Court's history. The first phase of the program will send five graduates of NYU's J.D. or LL.M. programs to the Court in each of the next five years.

The clerk/interns will perform research and analytical work to assist with the international disputes on the World Court's docket. They will be available as a pool on behalf of all the justices. As with the judges, no country will have more than one clerk.

The internships were announced in November 1999. A faculty committee reviewed the applications and recommended thirteen candidates to the Court, which selected five: Robert Dufresne of Canada (LL.M.'00), Edda Kristjansdottir of Iceland ('98), Wiebke Ruckert of Germany (LL.M.'98), Ludivine Tamiotti of France (LL.M.'00), and Jeremy Zucker of the U.S. ('00). The five interns will have nine-month appointments at the Court, starting in September 2000.

According to Stephen Schwebel, who was the Court's president at the time, the new law clerk/internship program will "meet a serious and urgent need: to provide the Members of the Court with a pool of highly qualified clerks, drawn from a representative range of nations and legal systems, on which they can draw to assist them in their judicial work. In recent years, the Court's docket has burgeoned. The Court requires a kind of assistance which heretofore it lacked."

"The clerkships will be analogous to a federal appellate clerkship," says Professor Norman Dorsen, faculty chair of the Global Law School Program, who worked with Judge Schwebel in establishing the clerkships and led the NYU screening committee.

Jeremy Zucker ('00), said: "I am very excited to be at The Hague for this term of

the Court. I feel particularly fortunate that this opportunity was available to me. It confirms for me the wisdom of my decision to pursue international law at NYU School of Law."

NYU is particularly well situated to provide clerks to the World Court, due in large part to its Global Law School Program. This program, begun in 1994, has created at the Law School an unparalleled community of legal scholars, jurists, academics, practitioners, and students from around the world. The foundation of the program is the global law faculty, which includes up to twenty scholars and academics annually from across the globe. They teach together, learn from one another, and maintain an ongoing dialogue among themselves and with NYU's domestic faculty and students about the rule of law and its increasing importance in the global community.

Two additional components of the program are the Hauser Global Scholarships and the recently created Global Public Service Law Scholarships. These scholarships, which cover the cost of tuition, living expenses, and round trip travel, are provided to up to twenty-five of the best law graduates in the world, and enable them to spend an academic year studying and working together in conjunction with the global faculty and NYU's domestic faculty. In part because of these efforts, it is not surprising that the Law School now enrolls students from more than fifty countries.

The International Court of Justice is the principal judicial organ of the United Nations. Its seat is at the Peace Palace in

The Hague, Netherlands. Under the United Nations Charter, the Court has a dual role: to settle in accordance with international law the legal disputes referred to it by States and to give advisory opinions to duly authorized international organs and agencies. Currently the Court is comprised of fifteen judges from Algeria, Brazil, China, France, Germany, Hungary, Japan, Jordan, Madagascar, The Netherlands, Russia, Sierra Leone, the United Kingdom, the United States, and Venezuela. ■

First World Court Law Clerks

Robert Dufresne (LL.M.'00), Canada

Edda Kristjansdottir ('98), Iceland

Wiebke Ruckert (LL.M.'98), Germany

Ludivine Tamiotti (LL.M.'00), France

Jeremy Zucker ('00), United States



ICJ Clerkships for 2001-2002

Applications are invited for the NYU-ICJ Clerkships for 2001-2002.

Current students and graduates of the J.D., LL.M. and J.S.D. programs from 1996-2000 are eligible to apply. The deadline is December 1, 2000.

For further information, contact the Global Law School Program office: (212) 998-6691; law.global@nyu.edu

Three Others Head to Supreme Court Clerkships

This Fall, three NYU graduates will begin clerkships on the United States Supreme Court. Jen Mason ('98) will clerk for Justice Sandra Day O'Connor; Alex Reinert ('99) will clerk for Justice Stephen Breyer; and Andy Siegel ('99) will clerk for Justice John Paul Stevens.

According to Professor Michael Wishnie, Chair of the Clerkship Committee, "more and more NYU students are receiving the most competitive clerkships." Wishnie speculates that this increase in representation "reflects the growing respect in the ability, talents, and education NYU students are receiving. Justices are recognizing able people and snapping them up," said Wishnie.

"It was always a dream I had even before law school," said Mason regarding her up-

coming clerkship with Justice O'Connor. After graduation from NYU two years ago, Mason, former Managing Editor of the *Law Review*, clerked with Judge Alex Kozinski, of the United States Court of Appeals for the Ninth Circuit.

Reinert had never heard of clerkships before he came to law school. When presented with the idea of clerking for the Supreme Court, he really "didn't give it much thought" because he "saw it as a fantasy;

something impossible to achieve." His fantasy comes true this Fall as he begins his clerkship with Justice Breyer. Reinert most recently clerked for Chief Judge Harry T. Edwards of the United States Court of Appeals for the District of Columbia Circuit. As a Root-Tilden-Kern Scholar at NYU, Reinert was heavily involved in public interest activities, such as working with Research Education and Advocacy to Combat Homelessness (REACH), the Coalition for Legal Recruiting (CoLR), and the civil rights clinic.

"I always had it in the back of my mind as a distant goal," said Siegel regarding his clerkship with Justice Stevens. "Gradually, over the course of law school, as my credentials shaped up well, it became more and more of a possibility," he added.

While at NYU, Siegel was a Root-Tilden-Kern Scholar, and involved in public interest activities, including an internship with the American Civil Liberties Union. Upon graduating from NYU, he clerked for Judge Pierre Leval of the United States Court of Appeals for the Second Circuit in New York. ■

...and 22 to Prestigious Public Service Fellowships

Law School graduates have been incredibly successful this year in securing public interest fellowships across the country. These fellowships involve the recipients in various projects working on impact litigation or policy issues, providing research, or providing direct client services.

Center for Environmental and Land Use Law

Isaac Flattau ('00), Coffin Fellowship in Family Law
Rebecca Henry ('99), Pine Tree Legal Assistance, Portland, ME

echoing green

Cecilia Aranzamendez ('00), Lutheran Family and Community Services, Refugee & Immigration Program

Equal Justice Initiative of Alabama

Kevin Black ('99)
Jayne Drowns ('00)

Georgetown/E. Barrett Prettyman Fellowship

Vida Johnson ('00)

Gibbons Fellowship in Public Interest and Constitutional Law

Risa Kaufman ('97)

Kirkland & Ellis New York City Public Service Fellowship

Sejal Zota ('00), NY State Defenders Association

Lawyer's Committee for Human Rights Fellow Margaret Satterthwaite ('99)

NAPIL

Jennifer Guilfoyle ('00), New York Association for New Americas
Maya Grosz ('99), Neighborhood Defender Service of Harlem

NAPIL (continued)

Sheryl Harris ('00), Employment Law Center, Legal Aid Society of San Francisco
Michelle Light ('00), Children & Family Justice Center, Chicago

NOW Legal Defense and Education Fund

Ilizabeth Gonchar Hempstead ('00)

Skadden Fellowships

Mary Anderson ('98), Law Project of the Chicago Coalition For the Homeless
Jennifer Ching ('00), American Civil Liberties Union of NJ
Megan Lewis ('99), New Haven Legal Assistance Association
Mara Peters-Quintero ('99), Employment Law Center, Legal Aid Society of San Francisco
Sarah Stevenson ('99), Lawyers Alliance for New York
Jennifer Weiser ('00), Education Law Center, Newark, NJ

Soros Justice Fellowship

Andrea Black ('96), Florence Immigrant and Refugee Rights Project, Florence, AZ
Lisa Holder ('00), Alternative Public Defender's Office, Los Angeles, CA

Inside the Law Returns to NYU

Law professors as Hollywood celebrities? The idea may not be as far-fetched as it sounds. This past Spring, students and faculty participated in taping the public television series Inside the Law – all filmed in NYU's Greenberg Lounge. Sixteen episodes have been taped so far.



Program One: Civil Litigation Arising from Genocide and Other Atrocities (l-r): Peter Murray, Luc Thevenoz, Kenneth Jacobson, Larry Kramer, Burt Neuborne, and Raymond Brown

Last year, the first four programs (each consisting of two thirty-minute episodes) were taped, entitled "Making Law Work for the Twenty-first Century." This past spring, *Inside the Law* returned to Vanderbilt Hall and filmed four more programs (again, each program consisting of two thirty-minute episodes), this time focusing on international

law and human rights as part of a series entitled "Justice, Retribution and Reconciliation in a Violent World." The panels consisted of experts from around the world – writers, diplomats, and legal academics – and included NYU Professors Thomas Franck, Norman Dorsen, Larry Kramer, and Burt Neuborne.



Program Two: International Crimes and International Tribunals (l-r): Raymond Brown, John Bolton, Norman Dorsen, Madeline Morris, and Gabrielle Kirk McDonald

"It looks like a high quality program," said Madeline Morris, a Duke law professor who participated in two of the panels. "It's well organized and insightfully produced," she said. "There are some real experts on the panels who know how to get to the heart of the matter," Morris added.

Dean John Sexton agreed. "*Inside the Law* offers our community a rare opportunity to view first-hand a TV presentation on substantive issues of law presented in a cogent, objective manner," he said. "And it offers a chance to feature some of the cutting-edge work being done by our faculty."

Raymond Brown, CourtTV anchor and special correspondent for international law, moderated the panel discussions. The topic of justice and reconciliation in international law was, he said, a timely one. "But I suppose the search for justice is the central question you must confront as a lawyer," said Brown, who had over two decades of experience as a trial attorney before moving into legal journalism. "You have to be willing to commit resources to achieve this justice," he noted.

The first panel discussed the litigation brought by Holocaust survivors against European banks and insurance companies, as well as negotiations for reparations from German industrialists who profited from Nazi era slave labor. The panel featured NYU Law Professors Burt Neuborne and Larry Kramer, as well as Kenneth Jacobson of the Anti-Defamation League, Professor Peter Murray of Harvard Law School, and Professor Luc Thevenoz of the University of Geneva. Neuborne was lead counsel in the litigation.

Another panel discussed nation building in the context of post-authoritarian societies, looking to countries such as Chile, Rwanda, and South Africa as examples of the strengths and limits of democratic consolidation in post-conflict periods. Panelists included Professor Michael Byers of Duke University, Philip Gourevitch of *The New Yorker*, Professor Diane Orentlicher of American University, Geoffrey Robertson, author of *Crimes Against Humanity*, and Professor Anne-Marie Slaughter, who was visiting NYU School of Law from Harvard Law School.

The panelists disagreed on the ability of international law to prevent such crimes as genocide and torture, with some taking the hopeful view that new norms would deter criminal behavior. Byers was pleased by current trends in international law.



Program Three: Nation Building (l-r): Anne-Marie Slaughter, Michael Byers, Geoffrey Robertson, Philip Gourevitch, and Diane Orentlicher

"International law is becoming more effective as we demand greater accountability from states," he said.

Another panel addressed the international tribunals established to prosecute wartime atrocities and featured John Bolton of American Enterprise Institute, Hans Corell of the United Nations, NYU's Norman Dorsen, Professor Madeline Morris of Duke University, and David Scheffer, U.S. Ambassador-at-Large for War Crimes. At issue was the effectiveness of recent ad hoc tribunals for Rwanda and the former Yugoslavia, as well as the recently signed treaty establishing a permanent international criminal court, an agreement opposed by the U.S. government.

The final panel raised questions related to international intervention in local conflicts. Developments in international law have challenged traditional concepts such as state sovereignty, thereby making the issue of the legality of military force against states committing crimes such as genocide a pressing legal and moral question. Panelists included Bolton, Byers, NYU's Thomas Franck, Morris, and Robertson.

NYU students played important roles during the show's pre-production process. Gloria Mshelia (LL.M.'00) was one of five NYU students who worked with the show's production staff to research topic areas for the programs. Mshelia was particularly interested in nation building. "I read a lot of articles on the subject and recommended possible panelists for the show," she said. "It relates to my own studies, so I was pleased to help."

"I used to be a journalist," said Jacoba Brasch (LL.M.'00), another student who volunteered to prepare outlines on the show's major topics. "I'm also interested in these issues. So it made sense for me to do some research for the programs." ■

Inside the Law: Justice, Retribution, and Reconciliation in a Violent World

Program One: Civil Litigation Arising from the Holocaust

Kenneth Jacobson
Anti-Defamation League

Larry Kramer
NYU School of Law

Peter Murray
Harvard Law School

Burt Neuborne
NYU School of Law

Luc Thevenoz
University of Geneva Faculty of Law

Program Two: International Crimes and International Tribunals

John Bolton
American Enterprise Institute

Hans Corell
United Nations, Office of Legal Affairs

Norman Dorsen
NYU School of Law

Gabrielle Kirk McDonald
International Criminal Tribunal for the former Yugoslavia

Madeline Morris
Duke University School of Law

David Scheffer
U.S. Department of State

Program Three: Nation Building: Moving Beyond Injustice

Michael Byers
Duke University School of Law

Philip Gourevitch
The New Yorker

Diane Orentlicher
Washington College of Law, American University

Geoffrey Robertson QC
Crimes Against Humanity

Anne-Marie Slaughter
Harvard Law School & Visiting Professor,
NYU School of Law

Program Four: International Intervention in Local Conflicts

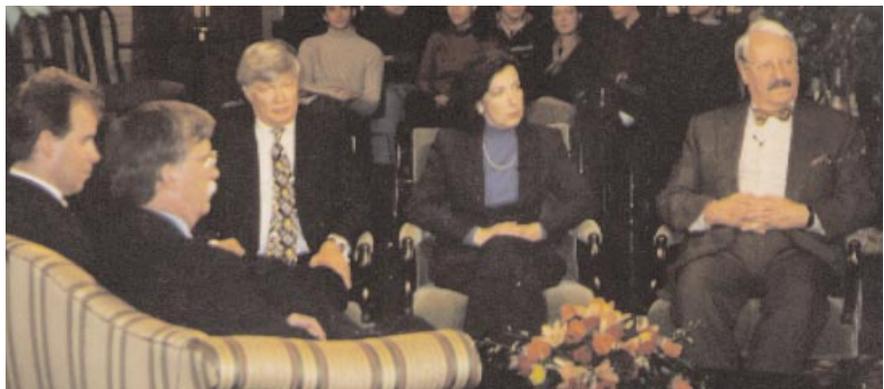
John Bolton
American Enterprise Institute

Michael Byers
Duke University School of Law

Thomas Franck
NYU School of Law

Madeline Morris
Duke University School of Law

Geoffrey Robertson QC
Crimes Against Humanity



Program Four: International Intervention in Local Conflicts (l-r): John Bolton, Michael Byers, Geoffrey Robertson, Madeline Morris, and Thomas Franck

Vice President Gore and Secretary Rubin Visit the Law School

Vice President Al Gore visited Vanderbilt Hall this Spring to meet with faculty and students – and in the process received a formal endorsement of his bid for the presidency from former Treasury Secretary Robert Rubin, who lauded Gore for his role in shaping economic policy during the Clinton Administration.

"I have no question who is better equipped to lead our country into the next century," Rubin said. "I believe that Al Gore should be the next president of the United States."

The event, which was timed to coincide with a Labor Department report that worker productivity has seen a record increase over the last seven years, sought to give Gore a share of the credit for the nation's current economic prosperity. The endorsement from Rubin, who is widely seen as a guiding force in the economic upturn, sought to lend credence to Gore's economic policies.

Rubin, currently Chairman of the Executive Committee at Citigroup, served as Secretary of the Treasury from 1995-1999. He recalled working closely with Gore as an Assistant to the President for Economic Policy prior to his appointment as Treasury Secretary. "I have seen Al Gore advocate and join in the hard decisions on economic

policy that were often not politically popular but were deeply in the economic interest of the United States," Rubin said.

If elected president, Gore said he would continue the bulk of the Clinton Administration's economic policies, thereby hoping to ensure continued economic prosperity. "Bob Rubin helped make the American economy the envy of the world and I intend to keep it that way," Gore said in a statement.

Gore used his speech to offer a three-part economic policy, consisting of deficit reduction; tax breaks, job training and education; and encouragement of free trade. He said that his fiscal plans would ensure continued prosperity and productivity growth – even if the number of retired Americans swells to fully half the number of working Americans.

"Recently, the technical advisory board for social security extended the anticipated American life span. That's great, but it's a mixed blessing because it will further the burden on the social security system," he said.



Vice President Al Gore presents his three-part economic policy during his visit to the Law School.

Gore criticized his opponent primarily for plans that he said would squander the current budget surplus. "Governor Bush now has a special interest tax break that is bigger than any Newt Gingrich ever would have proposed," he said. "Their theory is that if the economy ain't broke, let's break it."

Gore's remarks were followed by a question-and-answer period with the audience. When asked by one examiner to contrast his position on gun control with Bush's, Gore guffawed. "Governor Bush, believe it or not, has said we need more protection for gun manufacturers. He's concerned that they are facing too many lawsuits. I am for more protection for those who have suffered from gun violence." Gore said he supports a ban on cheap, "Saturday night special" handguns and the Brady Bill and further gun-control legislation. ■

...as Does Senator John McCain

Last February, a federal judge ordered that presidential candidate Senator John McCain (R-AZ) be given a place on the ballot in New York's Republican primary. The Brennan Center for Justice, together with the law firm Emery Cuti Brinckerhoff & Abady, represented McCain in a lawsuit that challenged the constitutionality of New York's ballot access rules. Without the lawsuit, McCain would have been omitted from the ballot in half the state's congressional districts.

The Brennan Center represented McCain as well as Staten Island Borough President Guy Molinari, who chaired McCain's campaign in New York, and Larry Rockefeller. The lawsuit, *Molinari v. Powers*, was filed in federal district court in Brooklyn.

In his findings, Federal District Judge Edward Korman said, "The ballot-access scheme adopted by the New York State Republican Party, poses an undue burden on its totality on the right to vote under the First Amendment."

In settlement negotiations, the legal team insisted that any candidate of national stature appear on the ballot. As a consequence, Alan Keyes, who, unlike McCain, had not gathered any signatures in New York, also appeared on the ballot throughout the state. In an ironic twist, the legal team also held out for a settlement which restored presidential candidate George W. Bush's place on the ballot in one district where he was removed due to fraud, even though his campaign was instrumental in the efforts to keep McCain off of the ballot.

"This case has yielded the first perfect primary in the history of New York State,"

according to the Brennan Center's Joshua Rosenkranz. "Elections are supposed to express the voters' choice. A law that arbitrarily restricts that choice to one or two candidates – and excludes the leading challenger – is blatantly unconstitutional."

The lawsuit asserted the same legal claims that persuaded a federal court to order that Steve Forbes be placed on the primary ballot in 1996. The McCain suit reunited the legal team that secured that victory.

The barriers challenged in this case required candidates to collect more than 20,000 signatures from across the state's 31 congressional districts – all in a 37-day window during the holiday season. Signatures are often challenged by rivals on bizarre technicalities, leading to costly and lengthy legal fights. A Brennan Center investigation of ballot access rules, authored by Rosenkranz, found that New York's Republican presidential primary is by far the most restrictive in the nation.

In addition to declaring the overall burden of these rules unconstitutional, Judge



(L-r): Richard Emery, Guy Molinari, Senator John McCain, Joshua Rosenkranz, and Burt Neuborne

Korman also struck two specific provisions: a prohibition barring circulators from gathering signatures outside of their congressional districts, and a rule that invalidated a signature if the signer accidentally wrote his village (such as Montauk) rather than his town (East Hampton).

These rules were, Judge Korman said, deliberately designed to disadvantage candidates who do not have the support of the Republican State Party.

Before the successful legal effort to allow Steve Forbes to appear on the 1996 primary ballot, New York had never had a contested Republican presidential primary. The state's ballot restrictions ensured that only the hand-picked party favorite could run.

New York's rules – criticized for decades by voters, civic leaders, reform-minded officeholders, and editorial boards – have come under renewed attack as a supposed overhaul, enacted in the wake of the 1996 litigation, left intact the most onerous burdens. *The New York Times* called New York's ballot access rules "a corrupt system that is a national embarrassment."

"This ruling has an immediate impact by giving New York voters an opportunity this year to choose from the same array of candidates as the rest of the nation," Rosenkranz said. "But this victory has implications far beyond 2000. The court has sent the Republicans back to Albany with a clear directive: Restore democracy to New York State with a real overhaul of ballot access laws – or the court will do it again in 2004." ■

SEC Chairman Arthur Levitt Discusses New Rules with Investment Community



SEC Chairman Arthur Levitt (right) with Professor William Allen, Director of the Center for Law and Business

During a visit to the Law School this past spring, SEC Chairman Arthur Levitt called for increased oversight of accounting firms and new rules on conflicts of interest at the firms, saying that both are necessary to keep auditors independent and standards of financial reporting in the United States high. In his speech, which was organized by NYU's

Center for Law and Business, Levitt argued that accounting professionals are tempted to lower auditing standards to keep paying customers happy. "Too many auditors are being judged not just by how well they manage an audit, but by how well they cross-market their firm's nonaudit services," he said, referring to consulting services that now make up the bulk of revenue at large accounting firms.

Auditor independence and reliability is at the heart of investor confidence in corporate financial statements. "With our markets at their present level and with international competition being more a factor than ever before, it's critical that we do not lose the public confidence that has made our markets the greatest in the world," he said in an interview. "The surest way to lose that confidence is to step back from the commitment to full disclosure and accurate numbers."

Under the new rules, the S.E.C. will require accounting firms to examine their past conduct and detail any violations of independence rules that may have occurred. It also wants to see greater oversight of the accounting profession by the Public Oversight Board, an independent accounting industry review organization set up by Congress more than twenty years ago. As envisioned, the oversight board would better shape the agenda and the code of conduct for the profession and conduct special reviews of practices when needed.

The S.E.C. staff also will prepare new rules about which consulting services may be offered by accounting firms to their corporate clients and which should be forbidden given the conflicts they pose, Levitt said.

The issue of auditor independence has grown thornier in recent years as accounting firms have remade themselves into full-service operations, in which auditing takes a back seat to more profitable consulting services. According to the S.E.C., auditing now represents 30 percent of accounting firms' revenue, down from 70 percent in 1977, while consulting and other advisory services represent more than half of revenue, up from 12 percent. ■

Annual Survey Dedicated to Senator George Mitchell



Senator George Mitchell shares his experiences as a public servant at the *Annual Survey* dedication.

The *Annual Survey of American Law* dedicated its Millennial Volume to former Senator George Mitchell (D-Maine) at a ceremony attended by students, faculty, and other members of the NYU community. The event included remarks by Dean John Sexton, tributes by friends of the former Senator, and a formal dedication of Volume 2000 by Jeff Neurman, Managing Editor of *Annual Survey*.

Mitchell, whose career in law included service as a small-town private practitioner, a Federal District Court judge, and eight

years as Senate majority leader, is now a practicing lawyer who serves as an international peacemaker; he brokered the Good Friday agreement that moved Northern Ireland's troubles toward resolution.

Annual Survey Editor-in-Chief Diane Bui praised Mitchell, describing him as a "distinguished statesman" with a history of public service, both domestic and internationally. She then introduced each of the Dedication speakers.

The first, Norman Dorsen, Stokes Professor of Law at NYU and founding faculty director of the Global Law School Program, described Mitchell as "probably the leading contemporary American statesman," adding that he threw in "probably" out of a lawyerly fear of absolutes. "He has an unmatched combination of intelligence, judgment, temperament, and diligence, not to mention wit," Dorsen added.

He personally had observed Mitchell's diplomatic skills in the context of the 1989 controversy surrounding the Supreme Court's decision in banning flag burning. Dorsen, as president of the ACLU, urged then-majority leader Mitchell to fight against a constitutional amendment or a statute banning flag burning. But the Senator explained to Dorsen that if a statute were passed, the call for an amendment to the Constitution would cease, and the statute probably would be invalidated by the

Supreme Court. Although Dorsen disagreed with Mitchell's strategy and fought legislation criminalizing flag burning, he said that in retrospect Mitchell was correct. The statute passed, Senators lost interest in the subject, the Supreme Court struck down the statute one year later, and no new statute or constitutional amendment has been passed.

Berl Bernhard, chairman of Washington's Verner, Liipfert, Bernhard, McPherson and Hand, and friend of Mitchell's for over 35 years, praised his patience, discipline, and ability to confront the possibility of defeat. Then Harold Pachios of Portland's Preti, Flaherty, Beliveau, Pachios & Haley, where Mitchell is senior counsel, pointed to the Senator's uncommon patience, ability to listen, use of common sense, and reliance on the rule of law. These, he said, are "the qualities of a great lawyer that have made George Mitchell a great man."

George Bain, vice chancellor of The Queen's University of Belfast, where Mitchell serves as chancellor, added that Mitchell is a "principled pragmatist" who earned praise from both sides for his work in the Northern Ireland peace negotiations. "He is known for his warm authority and quiet dignity and grace – even his opponents find him hard to dislike," observed Bain.

Each year, *Annual Survey*, a 58-year-old, student-edited journal, dedicates a volume to a person who has made an important contribution to American law. Recent dedicatees have included Hillary Rodham Clinton, Ruth Bader Ginsburg, and Desmond Tutu and Alexander Boraine. ■

Judge Martha Daughtrey Delivers Madison Lecture

Martha Craig Daughtrey, Judge of the Sixth Circuit Court of Appeals, delivered the James Madison Lecture entitled "Women and the Constitution: Where We Are at the Turn of the Century," to over 200 members of the Law School community. In her talk, Judge Daughtrey examined the history of gender equality litigation in the United States. She began with a brief discussion of the Equal Rights Amendment

(ERA), first introduced into Congress in 1923 and finally defeated in 1982 after falling three states short of ratification. After noting that a new amendment has been proposed, she asked if such an undertaking is necessary, concluding that "the answer depends on how far we have come and how far we have to go."

To answer that question, Daughtrey described Susan B. Anthony, Elizabeth



Judge Daughtrey provided a thoughtful examination of the history of gender equality and the law at this year's James Madison Lecture. Judge Daughtrey is pictured here with Professor Norman Dorsen.

Cady Stanton, and the efforts of the early suffragists. Anthony was arrested in 1872 for attempting to vote and was not allowed to testify at her own trial; indeed, the judge directed the jury to return a conviction. These early activists were limited to piecemeal campaigns, “spending millions of dollars with little success.”

After universal suffrage was achieved with the passage of the 19th Amendment in 1920, the feminist movement split into two camps, according to Daughtrey. One continued to fight for greater reforms, while the other sought to use the newly acquired right to vote to change the system from within. Under this framework, the ERA was introduced into Congress in 1923, amended in 1943, and passed by both houses of Congress in 1972. When it was not ratified by the required number of states within the time limit, the amendment died in 1982.

Daughtrey devoted the next portion of the speech to an examination of the landmark Supreme Court decisions dealing with the issue of gender equality, focusing on the efforts of current Supreme Court Justice Ruth Bader Ginsburg while she was with the American Civil Liberties Union. Ginsburg’s main focus in a series of cases before the Supreme Court, according to Daughtrey, was to persuade the Court to abandon the rational basis test of discriminatory state statutes and adopt a strict scrutiny analysis. After detailing the history and results of several cases from the 1970s, Daughtrey concluded that although Ginsburg did not succeed in convincing the Court to adopt strict scrutiny, she did persuade them to adopt the higher standard of “substantially relating to important governmental objectives,” and this is where the law stands today.

Returning to the issue of the ERA, Judge Daughtrey noted that many of the “horrors” in the 1970s – unisex bathrooms, women in the military, and the abolition of spousal support – already have become common. Without taking a definitive stand on the need for reviving the ERA, Daughtrey, in conclusion, described the flag burning and ten commandments amendments already proposed this year and expressed her opinion that a new ERA would not be in good company.

Daughtrey is the 31st jurist to deliver the Madison Lecture at NYU. The first address was delivered by Justice Hugo L. Black, who presented his theory of the First Amendment for the first time. Since then, the speech has been delivered by many of the most prominent judges of the later 20th Century, including more than a dozen Supreme Court Justices. ■

...and Chief Justice Abrahamson Delivers Brennan Lecture

Self-consciously disagreeing with most who have addressed the issue, Shirley Abrahamson, Chief Justice of the Wisconsin Supreme Court, argued in favor of the popular election of judges in this year’s Justice William J. Brennan, Jr. Lecture on State Courts and Social Justice. Abrahamson argued that the need for judicial independence is not necessarily less well served by the election of judges than by a system favoring political appointment. The address, titled “The Ballot and the Bench” and sponsored by The Institute of Judicial Administration and The Brennan Center for Justice, was the sixth annual Brennan Lecture.

In her address, Abrahamson described Wisconsin’s system for electing judges. Appointed in 1976, she has stood for reelection every ten years beginning in 1979. Wisconsin’s system involves a non-partisan vote, with judges on the ballot without any political affiliation. Despite several difficult campaigns where her opponents vigorously attacked her judicial decisions, Abrahamson believes that the advantages of a judicial election system

outweigh the disadvantages in several states, including Wisconsin.

“Election of judges increases citizens’ understanding of the political process,” argued Abrahamson in support of the Wisconsin system.

Critics of an elected judiciary often cite its affect on judicial independence. Abrahamson responded to this argument by claiming that a self-confident judge “will not let public opinion shape the result of a case.” Furthermore, she noted, judicial independence is not compromised under an electoral system because judges are not willing to compromise the institution they swear to protect, and because, in any event, shaping decisions to reflect public opinion is impossible because there is no way to determine which issues will matter the most in a future election. Moreover, she said, even if a judge could determine the most explosive issues, there is no way to predict which side will enjoy majority support years later.

Moving to the offensive, Justice Abrahamson argues that the Federal system, with its lifetime appointments, is not



Chief Justice Abrahamson argued in favor of the popular election of judges at this year’s Brennan Lecture.

without problems of judicial independence. Federal judges must survive a rigorous selection process which is very political in nature. Furthermore, many appointed judges have ambitions to move up in the judicial hierarchy and are therefore very concerned with what politicians think of them.

In concluding, Abrahamson, admitted that uninformed voters, the increased importance of campaign contributions, and the difficulty of regulating campaign conduct all weigh against public election of the judiciary. However, she contended, these problems could be addressed by public outreach and better rules, not the elimination of the electoral system. ■

NYU Hosts Workshop for Federal Judges

A "Workshop on Employment Law for Federal Judges," sponsored by NYU's Institute of Judicial Administration and Center for Labor and Employment Law (in cooperation with the Federal Judicial Center) brought federal judges from around the country to the Law School for two days last Spring.



Co-chaired by NYU's Professor Sam Estreicher, Director of both the IJA and the Labor Center and John Cook, Director of the Federal Judicial Center's Judicial Education Division, the Law School's third annual Workshop on Employment Law for Federal Judges provided an opportunity for the judges to examine the labor and employment issues which increasingly dominate their dockets.

In the opening session, Judge Denise Cote (United States District Court for the Southern District of New York), NYU Professor Laura Sager, Michael Curley of O'Melveny & Myers, and Pearl Zuchlewski of Goodman & Zuchlewski, led the judges in a discussion of sexual harassment law and theory, with a focus on the adequacy of company anti-harassment policies and

issues of sex stereotyping, family and medical leave, disentangling the Supreme Court's leading cases in *Ellerth* and *Faragher*, "disparate impact" challenges to subjective promotion systems, and personal liability of corporate officers.

The second session centered around the law and theory of employee benefits. Judge Raymond Dearie (United States District Court for the Eastern District of New York), Associate Dean Susan Stabile ('82) of St. John's University Law School, and Willis Goldsmith ('72) of Jones, Day, Reavis & Pogue discussed ERISA remedies and liability of HMOs, claims by independent contractors, §510 retaliation claims, and the multitudinous problems that downsizing and benefit cutbacks present for firms and their employees.

Next, Judge John Walker (Second Circuit), Professor Deborah Malamud from the University of Michigan Law School, and Daniel Clifton of Lewis, Greenwald, Clifton & Nikolaidis led the participants in a discussion of the Fair Labor Standards Act. The focus was on regular rate, salary basis test, "white-collar" exemptions, "window of correction" defense, good faith defense, liquidated damages, and "opt-in" collective actions.

The following session included Judge Jerry Smith (Fifth Circuit), Professor George Rutherglen of University of Virginia Law School, and Michael Delikat of Orrick, Herrington & Sutcliffe. Panelists focused on the relevance of "stray" remarks, the use of mental health experts, economists and CPAs, and *Allison v. Citgo* and the viability of Rule 23 class actions after the Civil Rights Act of 1991.

The final session of the day was led by Judge Diana Motz (Fourth Circuit), Professor Howard Eglit of Chicago-Kent College of Law, and Jerome Kauff ('61, LL.M.'65) of Kauff, McClain & McGuire. Participants explored the role of disparate impact challenges, ADEA class actions, downsizing, age-bias claims, and statistics in ADEA legislation.

The next day began with a session on disability law in a panel led by Judge Rosemary Barkett (Eleventh Circuit), Professor Arthur Leonard of New York Law School, and Scott Baken and Andrew Peterson (LL.M.'85), both of Jackson Lewis. The faculty emphasized "qualified" individuals with disabilities, the role of curative measures, ADA disparate impact claims, reasonable accommodation, insurance discrimination, and the relationship to workers compensation/SSI.

The next panel, entitled "Arbitration and Employment Claims," took a close look at *Gilmer v. Interstate/Johnson Lane* and its aftermath. Faculty for this session were William Bedman of the Halliburton Company, Judge Nancy Gertner (United States District Court for Massachusetts), NYU Professor Sam Estreicher, and Eugene Friedman of Friedman & Levine.

The workshop closed with a study of mediation of employment disputes by Judge Patti Saris (United States District Court for Massachusetts), Frederick Braid (LL.M.'79) of Holland & Knight, Mindy Farber ('77) of Jacobs, Jacobs, & Farber, and Margaret Shaw ('72) of Wittenberg, Shaw & Ross. ■

...and Summer Seminars for Appellate Judges

Appeals court judges from as far away as Hawaii, Saskatchewan, and Australia converged on the Law School this Summer for two seminars sponsored by NYU's Institute of Judicial Administration.



(Front, l-r): Ben Eisenman, Shirley Park ('02), Parvin Daphne Moyne ('03), Judge Rosemary Barkett, Professors Sam Estreicher and Burt Neuborne, and Alison Kinney (Middle, l-r): William McGeeveran ('02), Judges Diarmuid O'Scannlain and Harriet Lansing, and Brian Hochleutner ('02) (Back, l-r): Judges Bea Ann Smith and Martha Craig Daughtrey

The sessions – a week-long program aimed at judges with less than three years' tenure on an appellate bench and a three-day course for those with more experience – explored both emerging legal issues and the craft of effective judging.

"These Summer seminars are examples of what NYU Law does best," said Professor Samuel Estreicher, IJA's executive co-director. "By bringing together the perspectives of the judiciary and the academy, IJA creates an incredible intellectual synergy. That synergy has made this the nation's leading program of its kind. And it is how we continue to draw federal and state appellate judges, jurists from other countries, and eminent scholars from NYU and other leading law schools."

Judges from nine state supreme courts and six federal circuit courts joined three dozen other appellate judges as participants in the sessions. Those in attendance includ-

ed perhaps the first pair of siblings at an IJA seminar, Judge Carl E. Stewart of the U.S. Court of Appeals for the Fifth Circuit, and his brother, Judge James E. Stewart of the Louisiana Court of Appeals. Among the many judges on faculty was former New Jersey Supreme Court Justice Stewart Pollock, the judicial director of IJA.

Legal topics tackled at the Advanced Appellate Judges Series in June included the Internet, tort reform, and developments in employment law. The judges also considered the increasing importance of state constitutional law and the complexities of statutory interpretation. The program expanded beyond the traditional boundaries of the law with a luncheon address by Carol Gilligan, who explained how a Harvard psychology professor has ended up teaching at NYU Law. She discussed the development of the groundbreaking theories about gender and perception which became the thesis of her

book, *In a Different Voice*. Over dinner, participants heard from John Wiedman, the celebrated author of Broadway musicals such as the Tony Award-winning *Contact*. Wiedman, a graduate of Yale Law School, told his listeners how he left the law for the theater immediately after he passed the bar, but now finds himself poring over legal documents as president of the Dramatists Guild.

The New Appellate Judges Series, supported in part by a grant from the West Group, allowed new judges to reflect on the challenges particular to appellate adjudication, and to gather ideas and perspective from colleagues in other courts. Participants came to NYU for a week in July and immersed themselves in a skills-oriented curriculum including workshops on handling oral argument, conferencing effectively, writing opinions, and court administration. Panels also covered the most recent developments in crucial areas of substantive law such as criminal procedure, statutory interpretation, and constitutional adjudication.

Law school alumni and judges who attended previous IJA seminars had the opportunity to join the discussion at a breakfast session reviewing the Supreme Court term, which featured Kenneth W. Starr, the former independent counsel, judge, and solicitor general; Andrew Frey of Mayer, Brown & Platt; Glen Nager of Jones, Day, Reavis & Pogue; Professor Burt Neuborne; and Estreicher. Amidst the heady intellectual discourse, the seminar participants also managed to unwind at a performance of the critically acclaimed Broadway revival of *Kiss Me, Kate* and enjoyed a twilight dinner cruise on the Hudson River.

This year, Professor Oscar Chase, who has served as IJA's secretary, joined Estreicher as the new executive co-director and moderated a number of the seminar panels. Four first-year students at NYU were selected as IJA Summer fellows to assist the seminar faculty with research and preparation: Brian Hochleutner, William McGeeveran, Parvin Daphne Moyne, and Shirley Park.

For judges burdened by heavy dockets, the opportunity to engage in thoughtful dialogue about their role is a welcome one. Texas Supreme Court Justice Craig T. Enoch, a former participant who returned to IJA this year as a faculty member for the Advanced Series, summed it up by saying: "I welcome the opportunity to come here and step back and think about these issues. It's really a treat." ■

NYU's Brennan Center for Justice Activities Flourish

In its five years of existence, the Brennan Center for Justice at NYU School of Law has distinguished itself with an ambitious agenda and an innovative approach to its work. As a result, it has attracted the highest caliber lawyers and scholars to its enterprise. The Center's presence at NYU is unique on law school campuses.



William J. Brennan, III, Chair of the Brennan Center's Board and E. Joshua Roesnkrantz, President of the Center

The Brennan Center is set apart from other public interest law firms, think tanks, and advocacy organizations by employing the methods of all three. Its mission is to "develop and implement an innovative, nonpartisan agenda of scholarship, public education, and legal action that promotes equality and human dignity, while safeguarding fundamental freedoms." This tripartite approach, at the core of the Center's work, provides rich opportunities for collaboration with NYU faculty and expands upon the variety of activities found at NYU.

The Brennan Center is best known for its litigation, and for good reason. The Center, together with the law firm Emery Cuti Brinkerhoff & Abady, challenged the ballot access rules that were keeping Senator John McCain off of New York's Republican presidential primary ballot (see story page 84); and the effort resulted in

the first presidential primary in the history of the state where every serious candidate was on the ballot.

In Missouri, a campaign finance contribution limit of \$1,075 fell under attack in federal court. Foes of campaign spending reform pressed the case with the hope of tearing down all limits on contributions. The Brennan Center stepped in to defend the limit – all the way to the United States Supreme Court – and it won the case, convincing the Court to adopt a rule that was proposed in the Center's brief.

This Fall, the Brennan Center for Justice will be before the Supreme Court again, arguing *Legal Services Corporation v. Velazquez*, a case about the legal rights of the poor. At issue are restrictions imposed by Congress on the arguments available to legal services lawyers who represent the poor, and the principle that justice should, indeed, be equal for all.

Conversations on Poverty

Welfare Reform: A National Perspective on Employment and Work Policies

Amy Brown, Senior Research Associate, Manpower Demonstration Research Corporation

New York City's Working Poor: Troubling Trends and New Strategies

Gregory DeFreitas, Editor, *Regional Labor Review* & Professor of Economics, Hofstra University

Solo Practitioners as Public Interest Lawyers

Deborah Howard, Director, Law School Consortium Project

Fred Rooney, Project Director, Community Legal Resource Network & CUNY Law School

Privatization, Welfare to Work and City Contracts

Kathleen McGowan, Senior Editor, City Limits magazine, Race & U.S. Welfare Policy

Race and U.S. Welfare Policy

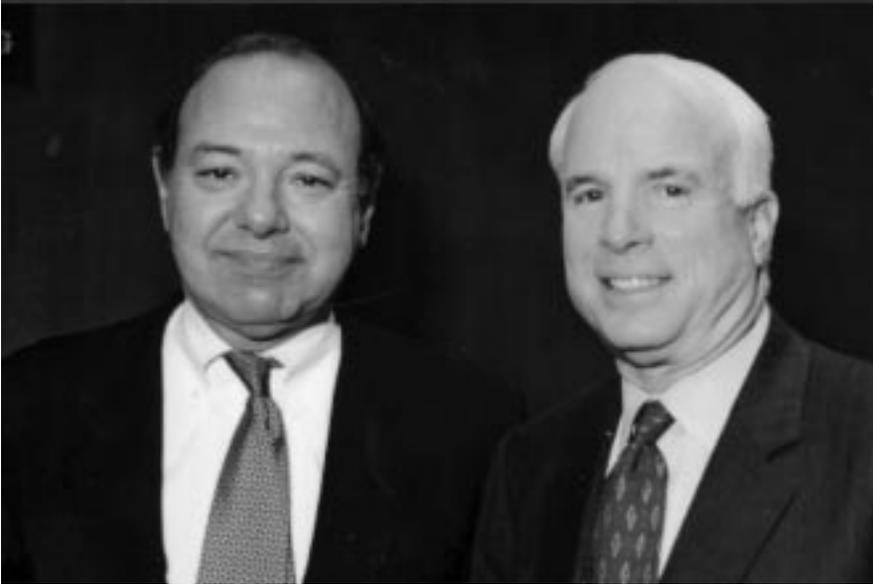
Kenneth J. Neubeck, Professor of Sociology, University of Connecticut

Welfare Reform: Next Steps Offer New Opportunities

Michael C. Laracy, Senior Associate, The Annie E. Casey Foundation

The courts are not the only places to make a case, however, and the Center acknowledges this through its public education and scholarship. *If Buckley Fell*, a book calling for a systematic rethinking of this 1976 Supreme Court decision, is part of the Brennan Center's ongoing effort to encourage dialogue between leading free speech scholars and campaign finance experts. *Writing Reform* is a manual that helps campaign finance reformers throughout the country draft legislation that will withstand challenges in court.

The Brennan Center study, *Buying Time: Television Advertising in the 1998*



Senator John McCain (right) with NYU Professor Burt Neuborne and Legal Director of the Brennan Center for Justice

Congressional Elections, analyzed data from more than 300,000 ads aired in 1998 and created the first national overview of candidate, party and interest group advertising. It is the most comprehensive study of television campaign advertising ever compiled. But providing data and analysis is only part of the Brennan Center mission; scholarship and public education must be followed by action and advocacy. To this end, the Center convened a blue ribbon panel of scholars, former Members of Congress, and practitioners of law and politics. Building on the unprecedented factual underpinning provided by *Buying Time*, the panel has developed a series of new recommendations for reform.

The discussion in the media and the debate among opinion leaders that has been sparked by *Buying Time* typifies the public education agenda at the heart of the Brennan Center's mission. Center staff are often resources for the press on background, as journalists try to understand issues more fully. Sometimes they appear on camera or as quoted sources for comment on issues. In other cases the Brennan Center's arguments find their way into print as op-ed pieces or letters to the editor. As a result, the Center has appeared in hundreds of newspapers, as well as on ABC, CNN, PBS, and NPR.

The Brennan Center is also considered a resource on Capitol Hill. The Brennan Center has frequently testified before Congress at

hearings on the subjects of representation, enfranchisement and campaign finance reform. Outside of the hearing room, the Brennan Center works directly with elected officials and their staffs to provide expert analysis of important legislative issues.

Here at NYU, the Brennan Center provides fora throughout the year that bring together NYU faculty and students, as well as scholars, lawyers, and journalists from beyond the law school. Monthly "Conversations on Democracy" and "Conversations on Poverty" are intimate, informal opportunities to discuss issues of the day, while more formal lectures, such as the annual Brennan Lecture on State Courts and Social Justice, have brought a number of speakers to the NYU campus including, most recently, Wisconsin Supreme Court Chief Justice Shirley Abrahamson (see story, page 87).

Five years ago, when the Brennan Center was founded, it was impossible to know for certain the role this new institution would play in the life of NYU. Now the picture is much clearer. The staff of two has grown to more than 30. The Democracy and Poverty Programs are being joined by a Criminal Justice Program. The Brennan Center's tripartite approach – combining scholarship, public education, and legal action – has been a defining characteristic of the Center and a source of much of its success. The Brennan Center's faculty advisors and other mem-

Conversations on Democracy

Autumn 1999

The Political Impact of Suburbanization

Eric Oliver, Princeton University

Ethnic and Racial Coalition Building

Victoria Hattam,

New School for Social Research

Educating Immigrants and Ethnic Minorities

Jane Junn, Rutgers University

The Boundaries of Blackness: AIDS and the Breakdown of Black Politics

Cathy Cohen, Yale University

Spring 2000

The "Right" Books and Big Ideas

Eric Altman, *The Nation*

Independent Judges, Independent Judiciaries

John Ferejohn, Stanford & NYU School of Law

Larry Kramer, NYU School of Law

Affirmative Action Before Affirmative Action: Notes on New Deal Social Policy

Ira Katznelson, Columbia University

Political Parties and the Constitution

Larry Kramer, NYU School of Law

Legislation by Assembly

Jeremy Waldron, Columbia Law School

bers of the NYU faculty have become deeply enmeshed in the Center's programs. Law professors, other scholars, and practicing lawyers have found in the Brennan Center a place to collaborate and to address important policy issues. Brennan Center sponsored fora have become a regular feature of the NYU landscape. And the diversity of activity found at the Brennan Center has added to the NYU community, just as NYU has supported the accomplishments of the Brennan Center. ■

NYU Law Hosts Annual Meeting of the American Law and Economics Association

The annual meeting of the American Law and Economics Association (ALEA), the leading forum of academic exchange for economic analysis of law, was hosted by NYU this year. Lewis Kornhauser, the Alfred and Gail Engelberg Professor of Law at NYU and president of ALEA for academic year 1999-2000, was instrumental in bringing the Tenth Annual Meeting to NYU. Two hundred fifty participants, including more than thirty scholars from abroad and almost all of the field's most distinguished researchers, gathered in Vanderbilt Hall for the two day event. The interest among members in presenting their work on one of this year's 28 panels at NYU was extraordinary, and the application process was heavily oversubscribed. Some members even suggested that in light of such high demand, ALEA should consider introducing a presentation fee!

Founded in 1991, ALEA quickly became the principal organization of the law and economics movement among practicing attorneys, the judiciary, and legal academics. Members of ALEA include academic and practicing lawyers and economists, who apply economic analysis and empirical techniques to the study of legal rules and institutions.

As one of the handful of law schools whose professors authored five or more

papers presented at the conference, NYU enjoys a central position in the field of law and economics. Of the seven professors who authored or co-authored more than one paper, four worked in residence at NYU during the 1999-2000 academic year. Marcel Kahan, a professor at NYU, has become one of the leading scholars in the discipline. Henry Hansmann, Yale Law School, taught two courses related to the economic analysis of corporate and organizational law at NYU as a visiting professor this Spring. Reinier Kraakman, Harvard Law School, had been in residence at NYU and is currently working on a corporate law casebook with NYU professor William Allen. Steven Shavell, Harvard Law School, taught a course on law and economics at NYU last Fall.

The papers presented at the conference covered the wide range of topics to which the law and economics approach has been applied, including contract, antitrust, tort, administrative, criminal, corporate and securities law, as well as social welfare policy, civil procedure, evidence, intellectual property and positive political theory.

Professor Kahan's presented paper, titled "An Economic Analysis of Rights of First Refusal," developed a detailed mathematical model of rights of first refusal and rights of first offer. By analyzing the effect of such

rights on bargaining strategies, transaction prices, and efficient and inefficient outcomes under a range of circumstances, Kahan's work provides a useful and precise model.

NYU Professor Robert Daines' paper "Does Delaware Law Improve Firm Value?" provided the first clear empirical answer to this question at the very center of the race-to-the-top versus race-to-the-bottom debate regarding corporate law. The Delaware Court of Chancery, of which NYU Professor William Allen was Chancellor, is by far the leading court for corporate law in the U.S. Daines' research supports the race-to-the-top position, which suggests that Delaware is the leading corporate law jurisdiction because it best serves the ultimate interests of shareholders. By examining a measure of the value of a large number of firms (Tobin's Q) over several years, Daines finds that shareholders are willing to pay approximately 5% more for firms incorporated under Delaware law than for their peers incorporated under the laws other states. Although Daines is still working to ferret out the precise source of Delaware law's advantage, his results to date suggest that shareholders benefit because Delaware law makes it difficult – relative to the law of other states – for managers to resist takeovers.

NYU Professor Barry Adler presented a paper on consumer bankruptcy law, which is the subject of a heated debate before Congress. Adler, along with his coauthors Alan Schwartz and Ben Polak, modeled discharge in bankruptcy as insurance against financial hardship, insurance that both protects the individual from such hardship and increases the probability that hardship will occur. The authors conclude that the liberal availability of insurance, including broad protection of the individual's interest in property, may be particularly disadvantageous to the least well off in society. Daniel Shaviro, an NYU professor of tax law, also presented a paper on a topic of much current concern: social security reform.

Michael J. Whincop, Professor of Law at Griffith University in Australia, presented the results of the first independent empirical test of Marcel Kahan and Michael Klausner's model of standardization for contract terms, also known as a model of the "economics of boilerplate." Examining standardization in Australian corporate charters over the first half of the 20th century, Whincop finds support for Kahan and Klausner's model. ■



NYU's Impressive Array of Symposia

Rarely a week goes by that there is not at least one (sometimes there are two or three) major symposia at the Law School. By contrast to the weekly "colloquia," which are ongoing courses (attended by both participating faculty, students, and guests) running weekly in a given area of study (such as Legal History, or Constitutional Theory, or

Tax Policy), the symposia are one or two-day conferences devoted to a single topic. Whereas the colloquia feature a single "guest" scholar whose paper is dissected by the faculty and students in attendance, the symposia typically bring panels of experts from around the world to exchange ideas with each other and the faculty and students

in attendance. Sometimes, student papers provide the background for a symposium. Each symposium is organized by faculty and students at the Law School, and each provides a special opportunity for collaborative work, though not for academic credit.

What follows is a sample of this past term's symposia. ■

The Law and Economics of *United States v. Microsoft*

The Law School and the Stern School of Business sponsored a conference this Spring entitled "The Law and Economics of *United States v. Microsoft*." The event was organized by Professor Nicholas Economides of Stern and was held under the auspices of The Center for Law and Business, The Salomon Center, and The Center for Information Intensive Organizations.

The conference examined the legal and economic issues arising from the *United States v. Microsoft* antitrust trial. Prominent legal and economics scholars and practitioners analyzed the application of antitrust law in the Microsoft case, and drew conclusions on the application of antitrust law and its business implications in the software industry and other network industries.

The U.S. Department of Justice, 19 States, and the District of Columbia have sued Microsoft under sections 1 and 2 of the Sherman Act, alleging that Microsoft monopolizes the market for operating systems for personal computers ("PCs"), attempted to monopolize the Internet browser market, anti-competitively bundled its Internet Explorer with the Windows operating system, and engaged in a number of other anti-competitive acts.

The District Court found for the plaintiffs in almost all allegations. In particular, the Court found that Microsoft monopolized the market for operating systems for Intel-chip-based PCs and used its market power in that market to attempt to drive Netscape out of business in the market for Internet browsers. The Court found that Microsoft's actions against Netscape were anti-competitive because Netscape's browser was a "platform" that could be used to create a rival operating system for PCs.

In summary proceedings, the District Court adopted the government's proposal on remedies and ordered Microsoft to be split into two companies, an operating systems company, and an applications company. The District Court also imposed a number of severe business conduct restrictions on Microsoft for an extensive period. Microsoft appealed and won a stay of the execution of all parts of the District Court decision until the appeal is heard. Although the Washington, D.C. Appeals Court expressed its willingness to hear the case in plenary session, the District Court agreed with the government's proposal to petition the Supreme Court to hear the case immediately. ■

The Law and Economics of *United States v. Microsoft* Participants

William Allen, Director, Center for Law and Business, NYU School of Law

William Baumol, Economics Department, NYU

Nicholas Economides, Stern School of Business, NYU

Harry First, NYU School of Law & Attorney General's Office, NY State

Eleanor Fox, NYU School of Law

Robert Gertner, Graduate School of Business, University of Chicago

C. Boyden Gray, Wilmer, Cutler and Pickering

Michael Kwatinetz, Azure Capital

Stanley Liebowitz, University of Texas at Dallas

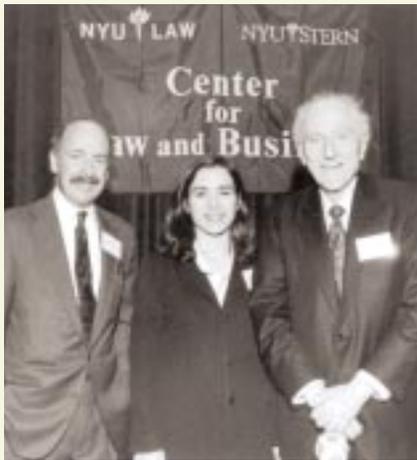
Doug Melamed, Antitrust Division, Department of Justice

Daniel Rubinfeld, University of California, Berkeley

Charles Rule, Covington and Burling

Lawrence White, Stern School of Business, NYU

Business and International Security Symposium



(L-r): Professor William Allen, Director of the NYU Center for Law and Business, Juliette Bennett, President of the International Peace Forum, and Dr. David Hamburg, President Emeritus of the Carnegie Corporation.

One of the realities of doing business in the global marketplace is that managers in multinational corporations find themselves operating in areas of armed conflict, indigenous cultural disputes, epidemic disease and other kinds of social upheaval. This new challenge requires business managers to undertake roles formerly reserved for diplomats such as applying conflict resolution and peace-building strategies in situations where promoting peace is an essential element of successful business operations.

Thus, the International Peace Forum in conjunction with the NYU Center for Law and Business sponsored a conference titled "Business and International Security," which addressed the challenges of companies working in partnerships with organizations, multilateral institutions, and governments in international conflict situations.

The conference brought over two hundred people from around the world to discuss such topics as Corporate Accountability of Business Working in Areas of Cultural Conflicts; The Role of Governments Working with Corporations for Peace, Security and Stability; Conflict Prevention Based on Corporate Interests; and How the

Private Sector can Partner with Non-Governmental Organizations. Nine workshops allowed corporate representatives to sit, for the first time, with non-governmental representatives to discuss issues such as human rights, peacebuilding, and the environment. Private sector professionals, who have already formed partnerships with the public sector on how business can promote peace and work to prevent deadly conflict, gave examples from their own initiatives. Dr. David Hamburg, President Emeritus of the Carnegie Corporation discussed "The Role of the Media and other Business in Preventing Deadly Conflict." Gabrielle Kirk McDonald, former Judge of the International War Crimes Tribunal for the Former Yugoslavia spoke about her role as Special Counsel to the Chairman of Freeport-McMoRan Copper & Gold Inc. Bennett Freeman, Deputy Assistant Secretary of State for Democracy, Human Rights and Labor talked about his initiative to bring oil and mining companies together with non-governmental organizations to address human rights, security and other governance issues. Colonel George Oliver, Director of the U.S. Army Peacekeeping Institute who came directly from Kosovo discussed ways that business can help rebuild war torn societies.

Several basic conclusions came out of the conference for what business can do to prevent or reduce conflict situations. First, create initiatives that promote working partnerships on both sides of conflicted borders or ideological divides through increased trade initiatives and joint ventures. Second, companies may contribute technology or agricultural equipment to facilitate economic and political development. Likewise, companies can be proactive in making monetary or technical investments to trigger the growth of local companies, or improve the local infrastructure. Lastly, companies can promote good government policies that respect human rights, integrate environmental and social policies for sustainable development, and provide education and training for preventing conflict. ■

The Graduate Tax Workshop



Professor John Steines

In response to numerous requests by alumni for the resumption of the NYU Graduate Tax Workshop, the Graduate Tax Program sponsored the Workshop this Spring. The event brought more than 130 alumni of the Graduate Tax Program back to Vanderbilt Hall to learn about current developments in six different areas of tax practice: corporate reorganizations, estate planning, financial instruments, international transactions, partnership tax and tax ethics. Alumni were thrilled to have the opportunity to attend sessions with some of their favorite former professors including full-time faculty Jim Eustice, Deborah Schenk, and John Steines as well as adjunct faculty Les Castleberry, Steve Gardner, Tom Humphreys, and Carlyn McCaffrey. And, participants received CLE credit to boot.

The proceeds from the original Graduate Tax Workshop provided the initial funding for the Gerald L. Wallace Fund that provides scholarship aid to students in the Graduate Tax Program. In keeping with tradition, the net proceeds from this year's Workshop were dedicated to the Gerald L. Wallace Fund.

Current Developments in Tax

The NYU/Tax Analysts Government Tax Policy Workshop brought together at NYU School of Law leading government tax policy officials, full-time and adjunct NYU faculty, and invited speakers to discuss major tax policy issues facing the country.

The event was cosponsored by the Graduate Tax Program and Tax Analysts, the publisher of Tax Notes and Tax Notes International. At the request of government officials, two topics were covered in the day-long session: the future of the estate and gift tax system and the role of subpart F in the United States international tax system.

Professors James Repetti, Boston College Law School, Laura Cunningham, Cardozo

Law School, and Len Schmolka of NYU presented papers which were then discussed by invited commentators and the audience. Representatives from the Treasury Department's Office of Tax Policy, the Internal Revenue Service, the staff of the Joint Committee on Taxation and the staff of the House Ways and Means Committee participated in a lively and insightful discussion.

Professor David Bradford of NYU School of Law and Princeton University gave a provocative luncheon address on the international aspects of a broad-based consumption tax.

The afternoon session was devoted to the subject of international taxation. Professors Reuven Avi-Yonah of Harvard

Law School and Roseanne Altshuler of NYU School of Law and Rutgers University presented the current state of research on subpart F and possible future directions for changes in the provisions.

All papers were placed on a Tax Analysts chat room following the workshop to allow any interested person to comment on them. In addition, Tax Notes and Tax Notes International published the papers. Professor Paul McDaniel, Director of the Graduate Tax Program stated that government officials were pleased with the workshop and that he expected it to be continued. "It is a remarkable opportunity for representatives from government, education and the private sector to exchange views while at the same time opening the proceedings to everyone who is interested in seeing cutting edge work on current tax policy issues," McDaniel said. ■

Private Foundations Reconsidered

The Law School's National Center on Philanthropy and the Law (NCPL) hosted the foremost experts, practitioners, and regulators of the nonprofit sector to discuss the topic "Private Foundations Reconsidered: Policies and Alternatives, Old and New." Professor Harvey Dale, Director of the NCPL, skillfully moderated the discussion generated by presentations from Thomas Troyer of Caplin & Drysdale ("Historical Retrospective: Special Federal Tax Treatment of Private Foundations"), Professor John Simon of Yale Law School ("Policy Tensions and Fault Lines: Do Distinctions in the Universe of Charities Make Sense?"), Robert Ferguson of Patterson, Belknap, Webb & Tyler ("Avoiding Private Foundation Status: Operations and Income"), and Victoria Bjorklund of Simpson, Thacher & Bartlett ("Avoiding Private Foundation Status: Private Foundation Alternatives" and "Donor Advised Funds: Distinctions between Commercial Funds and Noncommercial Funds"). Each presentation was followed by commentary by two experts who then opened the forum for general discussion by the conference participants. Among the commentators were NYU School of Law Professors Jerome Kurtz and Paul McDaniel.

The Internal Revenue Code treats private

foundations differently from public charities: The former have been more heavily regulated since 1969 due to perceived abuses by privately funded foundations. The conference participants analyzed the history of private foundations before and after the 1969 Tax Reform Act, and they examined the practice of operating a foundation under the current law as well as ways of avoiding private foundation status. The underlying theme that resurfaced throughout the conference was whether divergent treatment of private foundations and public charities is necessary and appropriate, or whether circumstances have changed such that the 1969 private foundation rules have become unnecessarily burdensome. The participants ultimately considered whether the strict regulatory regime should be repealed, remain in effect for private foundations, or be applied to both public charities and private foundations.

The final three panels, based on papers by Ferguson and Bjorklund, considered various alternatives to, or "escape routes" from, private foundation status. Chief among these alternatives are donor-advised funds, including those operated by community foundations and the newer version operated by charities created by commercial banks and other financial companies. These donor-



Victoria Bjorklund presented alternatives to private foundations and discussed the distinction between commercial and noncommercial funds.

advised funds have escaped regulation as private foundations by qualifying for treatment as public charities, which are much less heavily regulated by the Service. Donor-advised funds have become quite popular in recent years, receiving yearly contributions in amounts similar to amounts received by such venerable institutions as the Red Cross and Salvation Army.

The conference was a success by any measure, thanks to the hard work of Professor Jill Manny, Executive Director of the NCPL, and her assistants Cathy Tufariello and Niamh O'Brien. ■

Free Information Ecology in the Digital Environment

The Law School's Information Law Institute hosted a conference entitled "A Free Information Ecology in the Digital Environment," organized by the Institute's Director, Professor Yochai Benkler.

The conference focused on whether the free exchange of information on the Internet is sustainable, or merely indicative of the Net's own adolescence. Scholars and participants speculated about the normative implications of the free ecosystem: will it enhance democracy and personal autonomy or will it fragment discourse? How will it affect the way we think about the First Amendment in cyberspace, intellectual property law, privacy, and e-commerce?

Eben Moglen of Columbia Law School began the first seminar, entitled "Free Software," with the concept that the Internet is neither a place nor a thing, but rather "the social condition that everyone is connected to everyone else, without intermediation." This was followed by a presentation on free software by the originator of the concept, Richard Stallman.

In a panel on free art, Robbin Murphy of NYU presented the Net as a medium for "Net Art," the electronic art network that is largely free. Murphy observed that Net Art has been the reaction of artists who are frustrated with the traditional art market, in which few artists, but many corporations, actually benefit from copyright protection.

Vince Thomas of Intel's ArtMuseum.net defended the companies. ArtMuseum.net

takes non-Net art and puts it on the Net, such as the Van Gogh exhibit from the Van Gogh Museum and The American Century exhibit from the Whitney Museum of American Art. Thomas argued that the advertising model is the only one on the Net that is currently sustainable, and that Intel's entry into the art forum is one of "self-interested optimism." Basically, by educating consumers as to how the real world of art can be translated into the e-world, Intel can make consumers want more advanced personal computers, he said.

In a later seminar about free culture and digital music, William Fisher of Harvard Law School proffered that what happens with music on the Internet is likely to be a model for what will happen with film, games, and other content over the Net in the future. After outlining the social costs and benefits of unsecured digital music files, such as MP3, Fisher presented some "alternative trajectories." These included reinforcing the recording industry's efforts against sharing these files; taxing MP3 players, ISP services, and hard drives; using secured formats; paying "per hear"; attaching visual advertisements to music files; and government subsidies. Fisher's recommended alternative was what he termed, "doing well by doing good" – appealing to consumers' goodwill to join online fan clubs for a fee, give donations, or pay premiums online for benefits such as advance concert tickets.



Professor Eben Moglen argues that content on the Internet should be free.

Moglen depicted the costs of unsecured digital music files on the web as the problem of encryption, for which technology has to provide a "leak-proof pipe" to the consumer. The record industry and its agents, Moglen observed, are under the false assumption that consumer compliance is under their control, and that consumers have no free software to unlock what the industry has tried to secure. Legal strategies for the record industry in DVD content control cases have been charges of trade secret and Digital Millennium Copyright Act violations. Taking the side of free content, Moglen declared that unsecured digital files have spurred the "crypto wars," the first of which concerned the security interests of the United States and the second currently concerning the private war against crypt-analysts (the recording industry versus free users).

Other seminars of the Conference included "Free Content and Infrastructure," "The Politics of Open Source and Free Software," "Sustainability of Non-Market Based Information Production," "Academic Research and Publication," "The Role of Nonprofit Foundations in Free Information Ecology," and "Free Information and Democratic Discourse." NYU Law Professors Diane Zimmerman and Rochelle Dreyfuss and visiting Professor Jessica Litman also made presentations.

The Information Law Institute is currently experimenting with online publication of the conference where videos, papers, and transcripts from the conference can be accessed at www.law.nyu.edu/ili. ■



Ethical Issues for Intellectual Property Practitioners



(L-r): Patricia Martone ('73), Charles Baker, Stephen Gillers ('68), and Kevin Arquit were panelists at the Intellectual Property Seminar sponsored by Gottlieb, Rackman & Reisman.

Deception, Intrigue. Soul Searching. These are just some of the things that probably don't come to mind when you think of intellectual property law. Yet, judging from this year's Gottlieb, Rackman & Reisman Seminar in Intellectual Property, investigation of trademark infringement requires all these qualities – and more.

The impact of ethics on the professional conduct of lawyers is the topic of considerable discussion in intellectual property circles these days, and a panel of distinguished panelists was convened to discuss it in the context of both trademark and patent law. The experts included Charles P. Baker, a partner at Fitzpatrick, Cella, Harper & Scinto; Patricia Martone ('73), a partner at Fish & Neave and Adjunct Professor of Law at NYU School of Law; and Kevin J. Arquit a partner at Rogers & Wells. The panel was moderated by the Law School's Vice Dean Stephen Gillers ('68), a leading expert in legal ethics.

After brief introductions by Professor Rochelle Dreyfuss, Director of the Engelberg Center on Innovation Law and Policy, which organized the event, and

by Vice Dean Gillers, the participants addressed the subject matter.

Holding up an insulated winter jacket, Baker began his discussion with a hypothetical. "Suppose your client sells these for a living," he said. "Suppose someone is selling the same coats on the street for half the price. Your client wants the competitor out of business; not just the street salesman, but his distributor as well. It's a classic intellectual property case." So how do you find out who the distributor is without disclosing your motives? Tell the salesman who you are, and you aren't likely to get much information. Pretend you're not an attorney, or have your paralegal ask the question, and you've committed an ethical violation.

Rule 4.1 of the ABA's Model Rules of Professional Conduct demands truthfulness in all things. But, as Baker pointed out early on in his discussion, following that Rule simplistically "is not going to serve his client." When a lawyer's effort to represent his client to the best of his ability comes into potential conflict with Rule 4.1, maybe the rules need modification, Baker argued. In fact, some judges already have refused to apply a strict

definition of this rule. Citing the case of *Gidatex v. Campaniello Imports*, Baker noted that judges are looking at the spirit, rather than the letter of the law.

Ethics can play a crucial role in patent enforcement as well. Martone read an ethics-based question from her final examination in Patents II last year. In the hypothetical, an attorney learns information that may undermine her client's patent; the question posed was what measure of disclosure the attorney is obliged to make. After reading the Machiavellian machinations advocated by one of her students, Martone asserted a powerful argument for full disclosure in line with the Patent and Trademark Office Code of Professional Responsibility. The costs of cover-up will outweigh the benefits every time, she argued. "Ethical violations can leave your reputation in tatters and your client harmed," she warned. In fact, "the consequences are likely to fall more heavily on the client than on the attorney." If the ethical violations are discovered, the lawyer may manage to skirt sanctions, but the client can expect its patent to be dead in the water. In the end, Martone reminded the audience, "basic good judgment and common sense can take us a long way."

Ethical violations can have an impact in the antitrust arena as well, Arquit noted. Not only can a client lose a patent, but it may suffer "treble damages and attorneys' fee recovery." Moreover, the offending attorney can expect severe sanctions. "The antitrust laws weren't designed to prevent unethical behavior," Arquit said, "they were designed to promote competition." However, a patent constitutes a government-enforced monopoly. An attempt to enforce an invalid patent is an unfair trade practice, designed to drive competitors from the market, and it will be treated as such by antitrust and trade regulation law.

The discussion ended in a question-and-answer session with substantial commentary provided by Dean Gillers. Attendees, who were awarded NY CLE Ethics credit, left looking forward to the next annual Gottlieb, Rackman, and Reisman seminar, which will take place at the Law School on November 14, 2000. Jointly sponsored with the Law Alumni Association's Fall Lecture Series, it will explore privacy rights on the Internet. ■

Labor Organizing and the Internet

The Center for Labor and Employment Law symposium, entitled "Labor Organizing and Employee Caucuses on the Internet," featured a debate by several prominent attorneys in the labor law field, and was moderated by Samuel Estreicher, NYU School of Law Professor and Director of the Center.

After discussing the history of the law pertaining to union access to work sites, the discussion highlighted union organizing on web sites, and discussed the future of the law as it pertains to unions' use of the Internet and email. Gene Eisner ('61) of Eisner & Hubbard, a firm specializing in representing labor organizations, spelled out the history and current state of the law regarding union organizing and access to employees at work, noting that the Supreme Court has always distinguished between union solicitation by

employees and solicitation by non-employee union workers. He added that the current law distinguishes verbal solicitation from distribution of printed material, and allows employers to prohibit union activism in work areas.

Jerry Kauff ('61, LL.M.'65) and Laura Putney, both of the management-side Kauff, McClain & McGuire, continued the program with a visual presentation on how labor unions are using the Internet to spread their message. Utilizing a personal computer and a projector, the two displayed several web sites maintained by both unions and union-supporting employees. Putney showed the audience a chat room for employees and union supporters, noting that such a resource is useful for spreading pro-union sentiment, but also may be used by management

to gather evidence of unfair practices by labor organizations.

Following the presentation, the panel engaged in a free-for-all discussion of the legal issues associated with this new and increasingly prevalent form of union organizing. However, the panelists made few predictions on how the courts will treat this issue. Instead, they focused their energies on discussing which issues will be at the forefront in the future. Bob Batterman ('66), senior partner at Proskauer Rose, noted, "Rules of union campaigning have changed dramatically," and concluded, "The fundamental issue is the employer's right to control access to private property."

The panel presentation and debate was followed by a reception for the participants, students, and attorneys in attendance. The symposium was organized to coincide with the annual meeting of the Center for Labor and Employment Law's Advisory Board. ■

Legislating Morality: Human Cloning

This year's *Journal of Legislation and Public Policy* conference took up the timely issue of human cloning, as recent scientific advances have made many ideas previously only possible in science fiction a reality. When researchers announced the cloned sheep, Dolly, to the world, it created unprecedented

debate over the proper role of scientists, given their newfound abilities. Does the capacity to clone a living thing give us the right to do so?

While the true limits of this new technology are tested, Congress has been debating legislation which would prevent cloning of humans, or even human cells, indefinitely. This legislative reaction has sparked a wide range of debate and reflection into the proper role moral objections should have in the Legislature. Should Congress be able to regulate the progress of science? What influence do religious entities have in the formulation of such legislation? Who should decide what is in the public's best interest in this area? These were the questions addressed by the panel of experts.

The first panel focused on morality in legislation, and featured Frank Grad, Professor of Law and Bioethics at Columbia, Lori Knowles of the Hastings Center, Professor John Robertson of the University of Texas Law School, and Professor Donald Shapiro of NYU.

The second panel explored these concerns in the field of the growing national debate over the ethical implications of the science of human cloning. Panelists included Dr. Charles Aswad, Executive Vice President of the Medical Society of NY State, Professor Frances Myrna Kamm of NYU, and Dr. Lee Silver, Professor of Molecular Biology at Princeton.



Students from the *Journal of Legislation and Public Policy* gathered experts at NYU to examine the moral implications of human cloning.

Risks and Regulation of GMO Food Products

Calestous Juma, former Executive Secretary of the Convention on Biological Diversity, Professor Richard Stewart, and Frank E. Loy, U.S. Undersecretary of State for Global Affairs, discussing international regulation of genetically modified foods.

The Law School's Center on Environmental and Land Use Law held an international Symposium on the Risks and Regulations of Genetically Modified Food Products. Government officials, industry and environmental group representatives, scientists, and legal academics and practicing lawyers from Europe, the United States, and developing countries met to exchange views on this controversial subject.

Proponents of the new agricultural biotechnologies, which use gene splicing techniques to enhance crop productivity and nutritional values and enhance pest resistance, argue that they provide significant consumer and environmental benefits. Critics claim that the technologies present uncertain and potentially serious risks of harm to consumers and the environment, and threaten traditional agriculture and the interests of developing countries. Because genetically modified (GM) products are traded globally, these different views have created sharp political and legal conflicts between exporting countries, such as the U.S., and many European nations and the developing countries, that wish to ban or sharply restrict GM products.

In the United States, the regulatory structure has allowed development of the new technologies and products to proceed rapidly; labeling of GM foods as GM is not required. In Europe, the public is much more concerned about health and ecological risks. A number of European countries have already imposed restrictions and requirements on GM food products. The EU is beginning to impose such restrictions and is also considering labeling requirements. There is accordingly a real prospect of an international trade war over GM regulation.

Many nations are also currently negotiating a Biosafety Protocol to the International Convention on Biodiversity that could result in restrictions on GM crops and food products. Recently there have also been high-level proposals to establish a new interna-

tional institution to address the health and environmental risks of crops and food.

The Symposium participants included Frank Loy, U.S. Under Secretary of State for Global Affairs; Louise Gayle of Greenpeace, the leading environmental group opponent of GM technologies; Linda Fisher and Willy de Greef of Monsanto and Novartis Seeds, leading GM multinationals; and Calestous Juma, former Executive Secretary of the international Convention on Biological Diversity. These and other participants discussed the science regarding GM risks, the social and regulatory dimensions of risk assessment, current regulatory systems for GM foods in Europe and the U.S., international environmental and trade laws governing GM products that are traded globally, intellectual property and food labeling issues, and the implications of GM technologies for developing countries.

The symposium was organized by professors Dorothy Nelkin, Philippe Sands, and Richard Stewart. Under their direction, the Center on Environmental and Land Use Law now will develop a program of research and consensus-building to develop improved international mechanisms to deal with risk assessment of new technologies and resolve conflicts over their regulation. To address these issues. Papers presented at the Symposium will be published in the *NYU Environmental Law Journal*. ■



Alternative Dispute Resolution in the Employment Arena



Panelists discussing arbitration and peer review of statutory employment claims include (l-r): William Bedman, Eric Taussig, Marc Kartman, and George Leopold.

More than 150 attorneys, faculty members, and students from around the country gathered in Lipton Hall to attend the NYU Labor and Employment Center's 53rd Annual Conference on Labor, the nation's preeminent employment issues forum. The conference addressed the theme, "Alternative Dispute Resolution in the Employment Arena." The two-day program, chaired by Professor Samuel Estreicher, brought together some of the most respected employment and labor law attorneys to discuss the trials and tribulations of using alternative dispute resolution processes to resolve workplace disputes.

Distinguished panelists representing both management and employees made presentations relating to the use of alternative dispute resolution processes within the workplace. After each panel presentation, other guests served as commentators. Many of the presenters were members of the NYU Labor Center's Advisory Board which hosts monthly roundtable discussions and workshops for NYU faculty, students, and other practitioners interested in the fields of labor and employment law.

The initial panel featured presentations from leading companies with extensive experience in developing ADR systems for their employees. Presenters included senior

employment attorneys William Bedman (Halliburton), Keith Borders (Lencrafters), Jonathan Boxer (TRW), Eugene Clark (Salomon Smith Barney), K.C. Hartop (DaimlerChrysler), Marc Kartman (Rockwell), George Leopold (McGraw Hill), Elizabeth Millard (Credit Suisse), John Pekar (International Paper), and Eric Taussig ('71) (Phillip Morris), representing the range of ADR programs, from ombudspersons, peer review, mediation coupled with binding arbitration, and mediation coupled with arbitration binding only at the employee-claimant's request. This was followed by presentations by prominent scholars assessing the empirical literature on employment ADR, including Lisa Bingham (Indiana), David Lewin (UCLA), and Stewart Schwab, David Sherwyn, and Katherine Stone (all from Cornell). Panelists discussed whether employers who frequently use an ADR system are likely to enjoy a systemic advantage over employers who use it in a more limited sense, and whether the social costs of litigation favor or disfavor the use of alternatives to litigation. The first day of the Conference concluded with a panel discussing "leading edge" legal issues such as the proper interpretation of the Federal Arbitration Act exclusion for "contracts of employment" of certain workers, the role of labor unions and

collective bargaining in employment arbitration, and the proper scope of review of arbitration of statutory claims. Presenters included Ernest Cohen ('59), Jerome Kauff ('61, LL.M.'65), Scott Wenner ('75), and Professor Aleta Estreicher (New York Law), as well as Labor Center board members and leading plaintiff counsel Dan Berger and Pearl Zuchlewski.

The second day of the Conference focused on the more informal method of dispute resolution: mediation. An overview of the process was provided by mediation professionals from the NASD, the EEOC, JAMS, a leading provider of labor arbitrators, and ADR Associates, a leading provider of private employment mediators. These ADR professionals discussed the most effective methods of designing and implementing ADR systems and the role of a neutral third party in ensuring that employer-promulgated systems satisfy minimum standards of due process. Following this discussion, the mediators and arbitrators led a two-hour mediation advocacy training session highlighting various techniques used to nudge parties to resolve their disputes amicably.

The Conference also featured three prominent luncheon speakers, each of whom placed a high value on the use of alternative dispute resolution processes. Two members of the National Labor relations board and NYU Labor Center board members, Sarah Fox and Peter Hurtgen, spoke on the first day of the Conference; and Ida Castro, Chairwoman of the Equal Employment Opportunity Commission delivered a speech on the second day. Castro delivered an impassioned speech about the benefits of alternative resolution processes. Noting that during a six month period during the last fiscal year, more than 5,000 outstanding EEOC charges were resolved through the mediation process, she observed that mediation will play a critical role in the future of dispute resolution. In response to a question on the role of mediation in the EEOC's future, she responded: "We will do all we can to convince the parties to mediate because, in fact, it is in their best interest to mediate."

Castro's comments were consistent with the overriding message sent by the Conference participants that the rising financial and social costs of litigation are resulting in the devotion of increased attention and resources to the development of other ADR methods. ■

Race and Dispute Resolution

Alternative Dispute Resolution (ADR) has become very popular because of growing dissatisfaction with traditional ways of adjudication. However, the increasing use of ADR has raised questions about the neutrality of the process. The Law School's Project on Negotiation and Dispute Resolution (PNDR), together with NYU's Institute for Law and Society, hosted a symposium in the Fall for an in-depth examination of these issues.

ADR has an "egalitarian" appeal and this is one of several factors behind its growth in popularity, according to Sara Trenary ('00). It is often argued, said Trenary, that "because racism is largely an unconscious process," the very foundations of ADR – its egalitarian and neutral elements – are called into question.

Trenary is the founder and co-president of the PNDR. Together with her colleagues she managed to gather an impressive panel of experts on the topic. The discussions concentrated on the impact of race on ADR.

In the Symposium's first panel, entitled "Justice v. Neutrality: A Line in the Sand," one of the moderators, Stuart Rankin,

director of the Educational Outreach Department at the American Arbitration Association, asked the panelists to address why it is so important to look at race issues within a dispute negotiation.

Bridget Regan, director of the Brooklyn Law School Mediation Clinic, responded: "We need to know how race intervenes in the dispute resolutions because mediation per se creates a responsibility for the mediator to deal with these issues in a correct manner."

Cheryl Howard, general counsel of the New York City Commission on Human Rights, emphasized the need for a fair system. "ADR is an opportunity to make sure that we don't repeat the mistakes of our institutions from earlier times," she said.

Dr. Howard Gadlin, director of the Center for Cooperative Resolution at the National Institutes of Health, said, "We need to know more about the interplay of the conscious and unconscious minds of the parties involved."

Gadlin described the goal of mediation as "social justice." But, Gadlin added, a person cannot be perfectly neutral. In an ADR process, though, neutrality is implied by the

nature of the process. "Neutrality is an ideal and we will never reach it," said Gadlin.

Howard agreed with Gadlin, adding, "Everyone has a racial designation, whether or not we are fully aware of it. This, of course, includes the mediator. But it is imperative that the mediator become aware of this fact and consider how the race issue plays a part in his or her mind," said Howard.

The second panel, entitled "Considering Race in the Implementation of Mediation," concentrated on how the racial questions should be dealt with within the process of ADR. Wallace Warfield of George Mason University's Institute for Conflict Analysis and Resolution talked about the "interest approach" as a way of solving the problems. "If the arbitrator can determine people's interests, he may easily solve the dispute," he said.

"On the one hand, ADR offers a new and alternative method for dispute resolution. ADR is faster, fairer, cheaper and more accessible as a means of resolving disputes," Trenary noted in her closing remarks. But on the other hand, she added, "because ADR is increasingly advanced as a tool for social justice, it is necessary to examine general propositions about the influence of race on people, and therefore, on the ADR process." ■



Student editors of the *Review of Law and Social Change* organized the annual symposium which brought to Vanderbilt Hall experts from around the nation to examine Fourth Amendment jurisprudence.

NYU's student-edited journal, the *Review of Law and Social Change*, held its annual symposium this past Spring, entitled "Are the People

Fourth Amendment Jurisprudence

Secure?: The Fourth Amendment and Modern Police Practice." The symposium was timely, given recent Supreme Court decisions, technological developments, and public outcry over aggressive policing tactics. Participants critically re-examined current Fourth Amendment jurisprudence.

In the opening panel, which focused on DNA databanks and other technological developments as well as searches in prisons and schools, four students presented their written work. Barry Steinhardt, Associate Director of the ACLU, David Harris of the University of Toledo College of Law, and Paul Shechtman of Columbia Law School offered comments on the students' papers.

Next, a roundtable discussion took up racial profiling and the impact of the Supreme Court decision in *Illinois v. Wardlow*. Participants includ-

ed Andrew Celli ('90) of the New York State Attorney General's Office, Professor Harris, and Tracey Maclin of Boston University Law School. The roundtable was moderated by NYU's Professor Anthony Thompson.

The afternoon panel: "Criticism of the Fourth Amendment and New Approaches," presented the police's understanding of Fourth Amendment rules, state constitutional protections, and alternative approaches to protecting freedom of movement in public spaces. Professor Morgan Cloud of Emory University School of Law joined Professor Maclin on the panel to discuss these issues.

The symposium closed with a Keynote Address by Noël Ann Brennan, Deputy Assistant Attorney General in the United States Department of Justice.

New Directions in Housing Policy



Panels explored local, national, and global perspectives on housing and community development.

The Center For Real Estate and Urban Policy joined the New York City Department of Housing Preservation and Development and several other local institutions including the Local Initiatives Support Corporation, the Enterprise Foundation, the New York City Partnership and Chamber of Commerce, Fleet Bank, Chase Community Development Corporation, First Union Securities, Greenberg, Traurig, LLP and the Ford Foundation, in co-sponsoring a two day housing conference at the Law School. The conference, "Building on a Solid Foundation: New Directions in Housing Policy in New York City and the Nation," attracted over 250 participants.

The conference's first day focused on global perspectives on housing and commu-

nity development. Speakers from England, Ireland, and The Netherlands shared ideas with their American counterparts on innovative approaches to fostering housing and economic development in inner cities. Following lunch and a keynote address by Richard T. Roberts, Commissioner of the New York City Department of Housing Preservation and Development, conference participants boarded buses for tours of housing developments in Harlem, the South Bronx, and Brooklyn.

The next day began with a panel featuring together, for the first time, four former housing commissioners – Paul Crotty, Abraham Biderman, Felice Michetti, and Deborah Wright. The former commissioners reminisced and shared their perspectives

on the city's pathbreaking five billion dollar investment in housing that began with Mayor Edward Koch ('48), and continued through the mayoral administrations of David Dinkins and Rudolph Giuliani ('68).

A second panel featured housing commissioners from across the country. Each commissioner commented on how the New York City experience compared with challenges and initiatives in his or her own city.

Following lunch and a keynote address by former Representative Floyd Flake, a final panel considered issues of community and economic development. The panel which was moderated by Paul Grogan, Vice President of Harvard University and former President of LISC, included Roland Anglin, Vice President of Seedco, Edward Blakely, Dean of the New School's Milano School, John Kromer, Director of the Philadelphia Office of Housing and Community Development, and Kathryn Wyld, President and CEO of the New York City Investment Fund.

"Building on a Solid Foundation" is the fourth conference the Center For Real Estate and Urban Policy has sponsored since 1996. In previous years, the topics have included the future of rent regulation and the housing and neighborhood conditions in New York City. In 1999, a book based upon one of these conferences, *Housing and Community Development in New York City: Facing the Future*, was published by the State University of New York Press. The book was edited by Center Director and NYU School of Law Professor Michael Schill. ■

Symposium Examines Mass Incarceration in the U.S.

The massive growth of the U.S. prison population over the last twenty-five years is a social phenomena without precedent. America's prison system has increased every year for the last twenty-five years, producing a rate of imprisonment that is the highest of any western democratic nation. There are now nearly two million people incarcerated in the United States, and on any given day, one in 150 Americans is locked up. Moreover, an African American male born

today stands a one in four chance of spending time in prison in his lifetime.

The current state of incarceration in the United States was the focus of a day-long symposium on the causes and consequences of mass imprisonment, sponsored by the Institute for Law and Society, the Law School, and the Faculty of Arts and Science, in association with *Punishment and Society: The International Journal of Penology*. The symposium aimed to examine what is known



NYU's Professor David Garland brought the conference to a close with his comments on the new iron cage.

about the political and penological causes of incarceration and discuss its impact upon crime, the minority communities most affected, social policy, and, more broadly, the national culture.

The symposium began with an examination of the growing rate of incarceration. Marc Mauer, Assistant Director of the Sentencing Project, presented his paper on the causes and consequences of prison growth, and Professor Jonathan Simon, of Miami University discussed the politics of prison growth.

The second session set the context of incarceration in the U.S. Professor Katherine Beckett of Indiana University analyzed welfare and race among prison populations at a state level. Professor David Downes of the London School of Economics provided a comparative perspective of the penal econo-

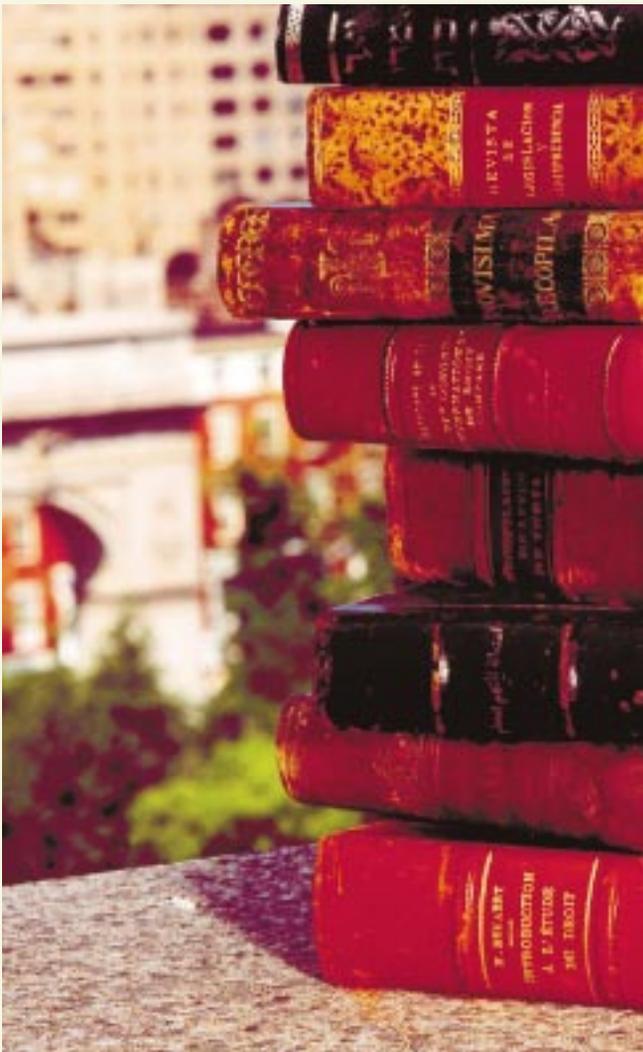
my in the U.S. Professor David Greenberg of NYU commented on Beckett and Downes' presentations.

In the third session, entitled "The Racial and Social Consequences of Mass Incarceration," Professor Loic Wacquant of University of California at Berkeley presented his work: "Deadly Symbiosis: When Ghetto and Prison Meet and Merge," and Professor Elijah Anderson, University of Pennsylvania, presented "Going Straight: The Experience of an Inner City Ex-convict." Jerome Miller of the National Center on Institutions offered comments.

The final session of the day offered prospects for the future of incarceration in the U.S. Professor Franklin Zimring of the University of California at Berkeley discussed the dynamics of expanding and

contracting prison populations, suggesting that rates will continue to climb. Professor Michael Tonry of the University of Minnesota School of Law argued that rates of incarceration are cyclical and reflect the varying levels of intolerance found in society. NYU Law Professor James Jacobs commented on the ideas set forth by Zimring and Tonry, agreeing with Tonry that the current rate of growth is not inevitable. This session also included a commentary by Professor Alex Lichtenstein of Florida State University in which he offered a historical perspective to the present state of incarceration.

The symposium organizer, Professor David Garland of the NYU School of Law concluded the conference with closing remarks on what he identified as "the new iron cage." ■



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Drug Sentencing and Race

The Black Allied Law Students Association (BALSA) sponsored a symposium titled: "Crack Cocaine Versus Powder Cocaine Sentencing Differentials: Racial Discrimination or Scientifically Based?" Panelists included Dr. Steven Belenko, a Senior Research Associate at the National Center on Addiction and Substance Abuse; Paul D. Butler, Associate Professor of Law at George Washington University Law School; and Zachary W. Carter ('75) a partner at Dorsey & Whitney and formerly the United States Attorney for the Eastern District of New York.

In his opening remarks, Professor F. Michael Higginbotham, who served as mod-

erator, laid the foundation for the symposium. Both powder cocaine and crack cocaine are derivatives of the leaves of the coca plant. Yet, despite this common origin, proponents of tougher laws for crack cocaine possession and trafficking believe that there are numerous differences between the two drugs that make crack a more dangerous form of cocaine and thus warrant tougher sentences. As a result, Congress enacted the Federal Anti-Drug Abuse Act of 1986, the first federal legislative attempt to deal with what was characterized as the rapidly increasing crack problem in the nation's inner cities. The Act established a substantially lower threshold amount for crack than for powder cocaine to trigger mandatory minimum federal sentences. Approximately 90 percent of all those convicted of federal crack violations and sentenced according to the guidelines are black, while only four percent are white.

According to Belenko, the racial disparity arising from the differential treatment of powder and crack offenders stems from the mid-1980s media image that emphasized that crack was a "horrendously terrible drug" that "led to violent crime." This notion gained further support from political rhetoric, particularly during the 1988 presidential election.

Belenko supports equalization, based on the idea that there is not scientific difference between the two substances. In addition, Belenko said there was no longer "heavy violence" associated with crack, thereby providing another reason to revisit the sentencing differentials for modification.

Butler divided his argument for equalization into three components: principles, race and morality. He agreed with Belenko that the biggest fault with the differential is the lack of scientific evidence. In addition, he claimed, Congress arbitrarily established the 100:1 ratio in a bidding process when Republicans wanted to prove that they were tougher on crime. Butler outlined how Congress bargained between 20 and 50 to 1 before settling on a 100 to 1 ratio.

Carter's views were substantially different from those of the other two panelists. He reported that, as a former prosecutor, he saw firsthand the devastation caused by crack in communities. Before crack, mothers didn't have to "counsel kids to crawl on their knees to avoid stray bullets," he said.

Although he has seen the real dangers of crack's impact on inner city communities, Carter was not sure a 100:1 ratio was appropriate. But, he said, "equalization trivializes the differences." Carter, in conjunction with a group of black prosecutors, analyzed the issue and came up with a recommended 10:1 ratio. ■



Law and the Media

The apparent tension between a desire for a responsible, credible press and a desire to safeguard First Amendment protections was the theme throughout the Annual Survey of American Law's symposium on the law and the media. Keynote speaker Martin Garbus ('59), partner at Frankfurt, Garbus, Klein & Selz, highlighted the relationship between corporate media interests and First Amendment ideals, saying as the public begins to think less of the media, the media less and less is seen as the guardian of truth.

In the first panel, the discussion centered on the recent passage of the California Privacy Protection Act which, according to panelist Erwin Chemerinsky, professor of law, legal ethics and political science at the University of Southern California, prohibits invasive

activities such as taking pictures inside private residences without consent, but does not prohibit publication of those pictures.

Richard Masur, President of the Screen Actors Guild, explicitly voiced support for the California law, saying it simply prohibits activities which involve elements of trespass.

NYU's Professor Amy Adler, moderator for the panel, asked what the relevance of the California law was to non-celebrities. It is hard to have sympathy for someone like actress Sharon Stone, she said, since celebrities, have made a "deal with the devil" that in exchange for fame their privacy will be invaded.

Nathan Siegel, attorney for ABC, and Kevin Goering, a partner at Coudert Brothers, also sat on the first panel. Siegel dis-

cussed the ways in which plaintiffs are attempting to stretch "general laws" such as "intrusion upon seclusion" and "breach of duty of loyalty" to deal with reporters, citing as an example the recent Food Lion case on which he worked as counsel for ABC. Goering spoke on the differences in newsgathering law in the U.S., France, and England.

The second panel focused on what panelist Alan Vinegrad ('84), assistant U.S. attorney for the Eastern District of New York, called the "uncooperative coexistence" between media and law enforcement.

Following presentations by Vinegrad and Adam Liptak, senior counsel for *The New York Times*, on the various ways in which news organizations and law enforcement officials interact, the panelists discussed recent court decisions. In one, the Southern District of New York held that New York City was liable when police

removed a suspect from the police station, drove him around the block, and then walked him back into the precinct all over again in front of Fox news cameras. Panelist Benjamin Weiser, a reporter for *The New York Times*, called Fox's behavior in the "perp walk" case "horrible journalism," but said perp walks of some sorts might curb police brutality.

The day concluded with a discussion of the effects of media concentration; that is, an increase in the share of news outlets owned by a small number of companies.

Donald Hawthorne, adjunct professor at Cardozo School of Law and an associate at Paul, Weiss, Rifkind, Wharton & Garrison, traced the history of government regulation of media content and concentration and said that the deregulation of the Reagan era and beyond is based on a questionable assumption that there is less need for regulation.

"What's happened in the last thirty years," said NYU School of Law Professor Burt Neuborne, "is that the First Amendment has been turned into a tool for deregulation of the communications

industry." Neuborne said what is dangerous is that news organizations have been swallowed up by corporations such as General Electric which are not "speaker-driven" and do not view themselves as protectors of the public trust. The result, he said, is market-driven dissemination of news that ignores issues of the poor.

Paul Washington, counsel for Time-Warner, responded, "It sounds like your complaint is more with democracy than with the media, because democracy is market-driven." ■

Lesbian, Gay, Bisexual, and Transgender Law

The Bisexual, Gay, and Lesbian Law Students Association (BGLLSA) joined forces with the Lesbian and Gay Law Association of Greater New York (LeGal) to sponsor a conference on current issues in lesbian, gay, bisexual, and transgender law. Over a dozen panels covered a range of topics, ranging from issues facing student groups to the portrayal of gay issues in the media and employment. Students and professors from several New York area law schools, in addition to a large contingent of community advocates, participated.

"BGLLSA does a lot of career-oriented programs," explained Richard McKewen ('01), one of the chairs of BGLLSA. "We organized some of the panels and several members served as moderators for the discussions," he said. Transcripts will be published in an upcoming issue of the *Review of Law & Social Change*.

Current political debates were at the heart of several of the panels, including the issue of gay marriage. "It's not about marriage," urged Bob Pileggi, who works on the Marriage Project of the Lambda Legal Defense and Education Fund. "It's about discrimination against a group of people."

Yuval Merin (JSD '00) discussed legal models for recognizing same-sex partnerships. He reported that, while no country recognized "marriages" between lesbian and gay couples, some European countries have programs that recognize registered partnerships, according same-sex committed relationships most of the protections

and benefits that accompany civil marriage. Several American municipalities have enacted domestic partnerships, which are less comprehensive in terms of benefits as well as in their social and legal significance. A final model for recognition comes in the form of cohabitation agreements in certain jurisdictions, which uphold limited rights for couples living together. Both domestic partnerships and cohabitation agreements may be entered into by either same-sex or heterosexual couples.

Another panel addressed recent developments in international law affecting gays and lesbians. Michael Heflin, director of Amnesty International's OUTFRONT program on gay issues, spoke to the emerging awareness in his organization of the rights implications of sexual orientation. "The evolution has not been as fast as we'd like it to have been, but you have to think about the nature of the organization," he said. Heflin noted that Amnesty amended its definition of "prisoners of conscience" to include arrests on the basis of sexual orientation in 1991.

Scott Long, policy director at the International Gay and Lesbian Human Rights Commission, observed that norms of sexual behavior and gender have been troubling issues for international lawyers and activists, who frequently encounter resistance to change.

Kristen Walker of Columbia Law School then discussed recent cases on sexuality decided in the European Court of Human Rights (ECHR). Although a series



Bob Pileggi argues that resistance to gay marriage is discrimination.

of ECHR cases have held that only marriages between persons of opposite sex are protected under the European Convention on Human Rights, some of the Court's jurisprudence stands in stark contrast to American law.

Returning to the issue of the rights of same-sex couples, Lavi Soloway of the Lesbian and Gay Immigration Rights Task Force discussed a recent proposal before the U.S. Congress – the Permanent Partner Immigration Act – to equalize immigration protections for homosexual partners. "The laws provide no avenues to same-sex partners to immigrate," he observed, while married spouses encounter little difficulty.

Other topics included the changing legal landscape of "queer" New York City, labor and employment issues, perspectives on welfare reforms, gays and the Internet, the role of "mainstream" bar associations in lesbian and gay issues, and advocacy for at-risk youth. ■

Former Editor of *Financial Times* Addresses Business Law Center

Sir Geoffrey Owen, senior fellow at the Institute of Management, London School of Economics, presented the first annual James Fogelson Lecture in Law and Business on the topic of Britain's post-war industrial performance.

Sir Geoffrey built his distinguished career as a journalist at the *Financial Times*. In 1968 he joined the Labour government's Industrial Reorganisation Corporation, a merger-promoting agency. Before he returned to the newspaper in 1973, Sir Geoffrey worked for three years at British Leyland. He became the *FT's* editor in 1981 and was knighted in 1988. HarperCollins has recently published his book, *From Empire to Europe: the Decline and Recovery of British Industry Since the Second World War*.

Study of Britain's economic lag in the first three decades after 1945 converges on the financial system, training and education, and labor relations. Differences with France and Germany, which

had more prosperous economies in the same period, are often cited. While reviewing each system and its weaknesses, Sir Geoffrey argued against pinning blame on any one factor in isolation or in combination.

Finance was not a sole determinant of industrial success or failure. British competitive losses are often blamed on a shortage of capital. "If there was a weakness in the system during these years," said Sir Geoffrey, "it was that large, established companies found it almost too easy to raise finance without sufficient scrutiny." Nor was the climate of takeovers in Britain, which accompanied companies' move in the post-war period from private to public ownership, inherently bad. There was a down side to the German system where firms acquired shares in other firms in a pattern of "cross-holdings" that, said Sir Geoffrey, proved "ineffective in situations where industrial restructuring is needed." The 1980s ushered in a new post-war wave of mergers in Britain and, he said, "made a helpful contribution to the efficiency of British industry."

Critics have also faulted the country's vocational education and managerial training. Sir Geoffrey said he did not regard deficiencies in vocational training "as a distinctively British weakness." Managerial training in Britain lagged behind the U.S. because "the professionalism of management came later, and took a different form." Sir Geoffrey did not think that an earlier expansion of management education would have necessarily boosted British industrial performance.

Lastly, Sir Geoffrey considered the role of labor relations in industrial performance. Though strikes occurred frequently, "there has been a tendency to exaggerate their importance," he said. He again cautioned against blaming the system. France outstripped British industry in the first three decades after the war, without reforming its labor relations and also experiencing many strikes in the '50s and '60s. In Britain, said Sir Geoffrey, labor reform "would have been desirable but



Sir Geoffrey Owen

would not in itself have transformed British industrial performance."

Managerial shortcomings deserved at least equal blame. Strikes, he said, actually harmed the economy less than management's inefficient use of labor.

In the 1980s reform became a necessity. New policies emboldened employers to challenge entrenched custom and practice. Sir Geoffrey credited Thatcherism with concern for, at the macro level, "a focus on price stability rather than maintaining full employment," and at the micro level, "much greater emphasis on competition, deregulation, and privatization."

Root causes are inherently hard to pinpoint, said Sir Geoffrey. "It is easier to find a link between a country's institutions and its success or failure in particular industries, than it is to establish a link between institutions and economic performance in aggregate." The home market may greatly influence but still does not determine firms' capacity for international competition. "These conditions include policies and institutions – and the size and character of domestic demand for their products." All the factors may be considered and particular explanations found and yet much mystery remains as to why firms succeed or fail. ■



Richard Delgado Delivers Bell Lecture on Race

In his 1984 essay "The Imperial Scholar: Reflections on a Review of Civil Rights Literature," Richard Delgado expressed concern over the lack of a minority voice in civil rights scholarship. He noted that leading texts in the field had all been written by white men; a closer inspection disclosed that these scholars cited one another exclusively, ignoring contributions by minority authors. "Much of their scholarship, however, now has been consigned to oblivion," Delgado lamented.

How times have changed. Delgado, currently on the faculty of the University of Colorado School of Law, is considered one of the leaders in the field of critical race theory, and he certainly is one of the most prolific authors on the subject. "He's likely produced more books and law review articles than almost any law professor or law faculty," quipped an ebullient Derrick Bell, whom Delgado honored by delivering the fourth annual Derrick Bell Lecture on Race in American Society, and whom Delgado credited as an important mentor in his work.

Delgado's talk, entitled "Derrick Bell's Toolkit: Fit to Demolish That Famous

House?," focused on a chapter of Bell's 1998 *Afrolantica Legacies* which analogized the American race movement to Béla Bartók's "Duke Bluebeard's Castle." Bartók's opera features a woman whose new husband brings her to his mysterious castle, a castle which contains seven locked rooms. The curious bride finds keys to the locked doors and encounters horrors and surprises as she conducts her exploration. As she enters the final chamber, inhabited by the duke's ghoulish previous wives, she realizes her destiny: She will remain as her husband's captive.

Delgado suggested a need to "knock on the castle door to question the black-white binary of race." He argued that this binary view pits racial groups against one another. He wondered whether exceptionalist or nationalist strands of rhetoric advanced by various minority groups could bring about effective change. "Binary thinking impairs our ability to understand history," Delgado said. "Minority groups should abandon all binaries," he said, donning a headband to illustrate the radical nature of his suggestion.

Delgado's talk was well received by students in the audience. "His work has contributed much to discussions of minority rights," said Beth Rothman ('99), the Law School's Derrick Bell Fellow and research assistant for Bell's textbook on race in American society.

"Professor Delgado's lecture had substance," said Janet Dewart Bell, Professor Bell's wife, who conceived of the lecture in 1995 to help celebrate her husband's sixty-fifth birthday. "The lecture is a wonderful opportunity to provoke, inspire, and encourage others by bringing forth outstanding scholars of the day to discuss issues of race," she said. Previous lecturers include Charles Ogletree, Charles Lawrence III, and Patricia Williams.

In keeping with the original purpose of the lecture – to honor Professor Bell – Dean John Sexton opened the evening with a chorus of "Happy Birthday" in honor of the now sixty-nine year old scholar. ■



Richard Delgado

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Alex Boraine Delivers Weiss Public Service Lecture



Dr. Alex Boraine discusses the new identity of South Africa.

Describing his work as the Vice Chair of South Africa's Truth and Reconciliation Commission, Dr. Alexander Boraine delivered the Seventh Annual Melvyn and Barbara Weiss Public Service Lecture. As Boraine put it, the work of the Commission was rooted in the answers to three questions. The first, "Who am I?," explained Boraine, was one that "we had to ask ourselves as a country." This was essential, he said, before South Africa could move toward healing.

The second was "Who are you?" Boraine further defined this inquiry, saying that South Africa had to deal with the question of "the other person" and "to

whom we might respond." Listening to the stories of those who had been hurt by the system of apartheid was critical to ensuring that South Africa might heal the wounds caused by that system, he said.

The final question, according to Boraine, was "Who are we together?" This question looked toward the future, and attempted to envision how society should look when the work of the commission was completed.

To answer these questions, Boraine asserted, was a difficult endeavor. The system of apartheid was like a room, he said; "sometimes you have to visit that room, with all of its attendant horrors, to deal with it."

Boraine reported that, as it began, the new South African government explored the options of both complete amnesty for those who were offenders during the apartheid era, and the traditional system of trying people for crimes committed. In the end, the government settled on a third option: the Truth and Reconciliation Commission. The goal of this Commission, according to Boraine, was to "unveil the truth – in all its starkness."

The Commission held its meetings in public in an effort to make sure that the truth-seeking process worked well, and, after

having heard the stories of people wounded during the apartheid era, "there was a new pride, a new freedom, a new beginning in recognizing the fellow South African not on the basis of race, but as a neighbor."

In spite of Boraine's remarks about how well transitional justice worked in South Africa, he noted that there still are wounds that need to be healed around the world, pointing to such places as Bosnia, Rwanda, East Timor, Nigeria, and Sierra Leone. He suggested that, while a Truth and Reconciliation model could be effective in these situations, "perfect justice is never possible." Although "perfect justice" might not be possible, according to Boraine, the essential nature of transitional justice will play a vital role in any country forced to deal with a past characterized by atrocities and terror.

Boraine is becoming a regular face around Vanderbilt Hall. This past academic year marked his second year in residence at the Law School, and he now directs a new Law School endeavor: the Project on Transitional Justice. There are three main components to the Project: a year-long course on the history and current state of transitional justice, Summer internships for students with non-governmental and governmental organizations in countries dealing with issues of transitional justice, and an international conference on the subject which will bring together the world's leading thinkers and practitioners. ■

Governor Siegelman Delivers Abrams Public Service Lecture

Alabama Governor Don Siegelman gave the Attorney General Robert Abrams ('63) Public Service Lecture this spring in a roller-coaster evening that turned from love-fest to intense grilling, and back to amiable gathering, all in less than two hours.

Siegelman began by discussing his accomplishments as governor of Alabama, reporting that "Alabama has led the nation in getting children into health care," and touting his "tough-love" welfare reforms that have led thousands off the welfare rolls and into "our wonderful growing economy."

His policies, he said, have brought new jobs to the state, and eliminated the portable classrooms that have for years "stood as monuments to Alabama's historical disregard for children's welfare." Overall, he appeared as a centrist Southern politician from a conservative state, enjoying the opportunities afforded by the nation's economic boom.

In the question period, several questioners criticized his criminal justice policies: first asking a question about popularly-elected judges converting jury's life-sentences to impositions of the death penalty;



Alabama Governor Don Siegelman describes recent changes in his state.

then examining the state's use of the hitching post as punishment for prisoners on work crews who refuse to work; then asking about Alabama's failure to guarantee public defenders for post-conviction appeals. One student after another asked questions about Siegelman's tough poli-

cies, and one after another got answers from the Governor, who gave no ground.

In response to the inquiry about public defenders, he declared his intention to increase funding for representation, but concluded: "If we have to choose between counseling for a person beaten or raped and providing inmate services, we're going to go for the victim."

Overall, about a half-dozen students asked questions, most of them drawn from a list drafted by Ben Wizner ('00). The audience grew tense as the questions continued. Some murmured about the students' intense focus on criminal justice and the death penalty.

Jerome Del Pino ('01) confronted the governor with Alabama's policy of permanently disenfranchising convicted felons. Citing estimates that project that up to 40% of the state's African-American males will be

without the vote in the next few decades, Del Pino asked Siegelman whether he would support changing the state constitution. Siegelman had no interest in the proposition: "In Alabama, when you commit a felony, you lose the right to vote." Later, Del Pino said that Siegelman answered his questions, "not satisfactorily, but adequately."

Gene Kowel ('01) of Huntsville, Alabama asked the last question. After listing the state's tourist attractions, he asked, in what sounded like a rebuke to the previous students, about the governor's ideas on compromise in politics. Siegelman responded with a story analogizing politics to a rowboat ride across a lake and compared political decision making as the choice of when to take water aboard and how much to take. "With each issue confronted," he said, "your capacity to take more is diminished." ■

Appellate Defenders' First Monday in October Mock Supreme Court Argument

The Office of the Appellate Defender (OAD) returned to Vanderbilt Hall again this year for its annual First Monday Moot Court. The event brings together New York lawyers with state and federal judges in a mock Supreme Court argument based on two current cases. This year, the cases concerned the Constitutional implications of police stops.

Participants included the winners of this year's Milton S. Gould Awards for Outstanding Oral Advocacy awarded by the OAD: Charles Stillman ('62) of Stillman & Friedman served as counsel for the accused, and Elkan Abramowitz ('64) of Morvillo, Abramowitz, Grand, Iason, & Silberberg played the role of Solicitor General of the State of New York. Stillman and Abramowitz argued *Dickerson v. United States*, an invented case drawn from real issues on the Court's docket. The case posed two key criminal procedure questions: First, when a person in a high-crime area turns and runs upon seeing approaching police officers, can the officers stop and

search him without further probable cause? And second, does the little-known statute 18 U.S.C. 3501 take precedence over the Supreme Court's decision in *Miranda v. Arizona* when it declares "voluntary confessions" admissible regardless of whether the suspect had been informed of his or her rights?

The panel began by asking Abramowitz how the police stop could comport with *Terry v. Ohio's* requirement that the police stop and search only people they suspect of specific crimes. They then asked how a suspect could be shown to have waived rights voluntarily if he was not aware of them. A few of the faux justices found fault with the original *Miranda* ruling, but in the end the court decided in favor of the defense on both issues, 8-1 on the stop and search question and 6-3 on the *Miranda* question.

The bench for the mock argument was chaired by the Honorable Francis Murphy, former Chief Justice of New York State

1999-2000 Root-Tilden-Kern Monday Night Speaker Series on Public Interest Law

William Beardall, Jr., Texas Rural Legal Aid

Marisa Demeo ('93), Mexican American Legal Defense Fund

Beatrice Dohrn, Lambda Legal Defense and Education Fund

Karl Franklin, New York City Police Watch

Daniel Greenberg, The New York Legal Aid Society

Babe Howell ('93), The Legal Aid Society, Criminal Defense Division

Mark Izeman ('92), Natural Resources Defense Council

Dorchen Leidholdt ('88), Center for Battered Women's Legal Services

Ethan Nadelmann, The Lindesmith Center, Open Society Institute

Mark Soler, Youth Law Center

Bryan Stevenson, NYU School of Law & Equal Justice Initiative of Alabama

Supreme Court Appellate Division, First Judicial Department. Other members of the bench included Zachary Carter ('75), co-chair of the white-collar crime co-practice group of Dorsey & Whitney and former U.S. Attorney, Eastern District of New York; John Cooney, Jr., a member of Davis, Polk & Wardwell's white-collar crime group; Michael Cooper, litigation partner at Sullivan & Cromwell; Paul Curran, special counsel with Kaye, Scholer, Fierman, Hays & Handler; Robert McCarthy, Senior VP, General Counsel, and Secretary of Time, Inc.; Paul Saunders, litigation partner at Cravath, Swain & Moore; Audrey Strauss, litigation partner at Fried, Frank, Harris, Shriver & Jacobson; and M. Sue Wycoff, attorney in charge of Criminal Appeals Bureau, New York Legal Aid Society. Henry Miller, senior member of Clark, Gagliardi & Miller served as commentator for the evening. ■

Marden Moot Court Competition Final Argument

In the final round of this year's Marden Moot Court Competition, the two teams argued before Chief Judge Harry Edwards, United States Court of Appeals for the District of Columbia, Judge Leonard I. Garth, Senior Judge, United States Court of Appeals for the Third Circuit, and Stephen Reinhardt, Judge, United States Court of Appeals for the Third Circuit.



Eugene Kowel makes his point at the Marden Moot Court final argument.

Beverly Farrell ('01) and Eugene Kowel ('01) represented the petitioner, the Town of Sleepy Hollow. Farrell argued that a previous court was incorrect in denying the right to intervene to a third party, a national non-profit organization. Kowel argued that minors did not possess the "right of freedom of movement during

day," and therefore the town's curfew did not violate the Equal Protection Clause of the Fourteenth Amendment.

Brooke Dombek ('00) and Chris Schwegmann ('01) represented the respondent, Joanne Carson, whose son was arrested in violation of the town's curfew when he stopped off to buy groceries while

returning from basketball practice. Dombek argued that standing is required for all full parties, not just plaintiffs. Schwegmann addressed the Fourteenth Amendment issue, arguing that "kids have a fundamental right to move freely, that the curfew prohibits, and parents have the right to raise their child as they see fit."

After the argument, Dean Sexton announced the decision of the judges. The Respondents, Dombek and Schwegmann won the argument; Farrell won the Best Oralist Award. Said Chief Judge Edwards, "We didn't expect any less. The advocates – all four of them – did especially well. It was very interesting to us, because the issues were difficult."

"I was totally surprised by the results," said Farrell in response to her win as Best Oralist. "I thought everyone had argued well, and I had no clue whom the judges would select."

"I wasn't the least bit surprised by the results," said Kowel. "Beverly was so darn good at arguing her case. I have been impressed with her every time I have seen her argue." Schwegmann concurred, "I had the opportunity to see Bev argue earlier in the semi-final round – she's a fantastic oralist, has great poise, and has the ability to listen and respond like no other."

Farrell also had secured the Oral Advocacy Award for the Marden Competition Fall Elimination Round. The Semifinal Advocacy Awards winners were Jeanne Fugate, Tarek Helou, Lisa Mahowald, Suzanne Meiners, Dierdre Norton, Radha Pathak, Robert Shull, and the four finalists. Dombek and Kowel, who were partners during the semi-finals round, both tied for writing the outstanding brief in the Semifinal Round. Caroline Harris Crowne received the Spring Open Advocacy Award.

The finalists were informed after spring break as to which side they would argue, and with whom they would be partnered. Each finalist referred to the experience, including arguing in semi-finals rounds and practicing for the finals round, as a great learning opportunity. Dombek, a third year student, "saw the final round last year and thought it looked like such a thrill that I decided to enter." She concluded: "I'm glad I did. It was a culmination of my law school experience at NYU." ■

Public Service Auction

The Sixth Annual Public Service Auction proved once again to be a successful source of funding for students interested in pursuing public interest Summer employment.



Alex Bongard won the privilege of creaming the Dean.

The auction raised a total of \$94,000 – \$74,000 from the live and silent auctions combined, and over \$20,000 in law firm donations – according to Auction Chair and Root-Tilden-Kern Scholar Suzanne Meiners ('01).

The items up for bid varied, ranging from leather handbags to two VIP tickets to the Super Bowl. The most expensive item of the evening, an all-inclusive week-long trip to Jamaica, sold for \$7,250.

Although many items at the live auction were beyond the means of most students, there were some that motivated students to pool their resources. Shirley Sperling ('01) was one such student, pooling her money with nine friends to purchase a weekend at a country home. Unfortunately, many students could not outbid the big spenders in the audience. After being outbid twice, Sperling commented, "I guess we're just too cheap. We keep losing."

Former New York Mayor Ed Koch ('48), who has served as the first auctioneer of the evening for the last three years,

kicked off the bidding with the first item – a pre-paid pub-crawl that went for \$1250. "When one of the organizers asked me to be an auctioneer three years ago, I said sure," Koch said. Koch often demonstrated his mayoral might as an auctioneer, raising his voice when the bidding stalled, and compelling the crowd to respond with higher bids.

Chosen from a group of approximately twenty student candidates to serve as auctioneers, Alex Granovsky ('02) and Gene Kowel ('01) proved their abilities in a pre-auction competition by auctioning off a pair of car headlights and a NASCAR calendar.

Although neither had previous auctioneering experience, both Granovsky and Kowel appeared confident in their roles and the crowd seemed pleased with their performances. "Granovsky sounds just like a Christie's auctioneer!" commented one unidentified auction attendee. Kowel also kept the crowd enthralled and the money rolling in. At one point, Kowel made what

appeared to be an unscripted decision – by auctioning off a date with his counterpart, Granovsky. While the crowd roared with laughter and disbelief, several attendees launched a bidding war for Granovsky. The winner, Dean John Sexton, generously bid \$200. After receiving a hug from Sexton, the crowd erupted again when Granovsky said to Sexton, "I hope you'll be a gentleman on our date."

The night came to a close as it always has, with the highest bidder buying the right to throw a pie in Dean Sexton's face. Another new addition to the auction brought SBA President, Rafiq Kalam Id-Din ('00) to the podium as auctioneer for this final "lot." The privilege fetched \$2,100 after a very competitive bidding war between Alex Bongard, son of Associate Dean Debra LaMorte, and trustee Bella Linden. The two decided to split the cost, and Linden graciously gave Bongard the honor of throwing the pie at Sexton. Meiners was rewarded with a chance to pie Kalam Id-Din, who graciously sacrificed himself in an effort to generate higher bids. Bongard, who said he has wanted to throw the pie at Sexton for the last four years, took special joy in his win. "I was bidding on the Super Bowl tickets, and the Dean took them from me, so I really wanted to throw the pie in his face!"

After costs, all of the money raised from the auction funds fellowships for students who have Summer positions with public interest organizations. ■



Mayor Ed Koch ('48) wields the auctioneer's gavel.

Dean's Roundtable Welcomes Distinguished Grads

In an effort to encourage students to widen their notions of possible career choices, Dean John Sexton holds a luncheon each week to introduce students to alumni who have taken alternative roads to success. The luncheons are limited to ten students, providing a more personal opportunity for give-and-take between the speaker and students.



(L-r): Dean Sexton with Laurie Silvers, Guo Guiying, and Mitchell Rubenstein (LL.M.'79)

Lisa Davis ('85), a partner at Frankfurt, Garbus, Klein & Selz, an entertainment and media law boutique, returned to Vanderbilt Hall last Fall as the guest at one of the Roundtables. Davis has been at Frankfurt, Garbus for twelve years.

Once she decided that she wanted to pursue entertainment law, she used contacts and networking to make the transition from litigation associate to entertainment lawyer. One lead came from an NYU alumna who formerly worked at Frankfurt, Garbus and was willing to push her candidacy through at the firm. A second contact came from her work in democratic politics. During a casual conversation one day with a fellow political

activist, she discovered that his wife worked at another well-known entertainment law firm. After applying to both, Davis found herself "in the enviable position of having two offers from two entertainment firms." Another of Davis' NYU connections was the filmmaker Spike Lee. While Davis was at the Law School, Lee was attending the Tisch School of the Arts. They met through mutual friends and he eventually became a client after she moved to Frankfurt, Garbus.

Over the years, Davis has had "scores of people come through the office who want to do entertainment law because they think it's glamorous and they think it's easy." To dispel the common misconceptions about

entertainment law, Davis always tells them: "You wouldn't just decide that 'Tomorrow I'm gonna be an antitrust lawyer with no experience.' And yet, people do that in entertainment and they think 'I don't need to know anything.' It's a practice area like any other practice area." And, she adds, "You are not hanging out poolside with Denzel Washington." Rather, "entertainment law is as much about knowing the business as about knowing the law."

Substantively, entertainment law involves understanding intellectual property and contract law. "If you don't understand copyright, you're committing malpractice every day because that's what you are doing. You are selling and licensing copyrights," she said. Prior experience is also key because many entertainment law firms are smaller and do not offer the same training opportunities as larger law firms. In addition, client contact and client development take on much bigger roles. Therefore, lawyers need to have more developed skills. To be an effective advocate, it helps to understand what your client wants to accomplish.

Paul Francis ('80), the Chief Financial Officer of Priceline.com, was another guest at the Dean's Roundtable, where he mesmerized students with the story of his career since law school and his thoughts on life, business, and the law.

Francis' career path is full of what many would consider to be odd choices. He left Skadden, Arps as a sixth year associate, shortly before he would have made partner, to go to Merrill Lynch. After several successful years at Merrill, where Francis rose to the level of Managing Director, he decided to become the chief financial officer of one of Merrill's clients, the then-struggling clothing manufacturer Ann Taylor, and in the process took a sixty percent pay cut. Now, Francis is the CFO of Priceline.com, an online retailer which has been one of the hot stocks of the year.

Francis attributes his success to many things. He noted a number of instances in his career that led him in new directions. During his time at Skadden, he spent several months working out of their Sydney, Australia office. While there he was struck by the differences in lifestyle and work culture, and decided that he needed a change. Shortly after returning to New York he "crossed the street" and got a job at Merrill Lynch.

At Skadden and later at Merrill, Francis focused on leveraged buyouts. Over time,

however, he began to believe that LBOs were largely bad ideas for the companies involved, and rather than continue facilitating them, he moved over to management, this time as the CFO at Ann Taylor. His last months at Ann Taylor, however, were marked by an illness that forced him to again reevaluate his career, a process which eventually sent him off to Priceline.

Francis had several pieces of advice for young attorneys. Despite his successful career in management, he said he believes young lawyers should practice law for a few years before moving into business, noting that "once you do, you will be a lawyer forever." Also, for those who are worried that they will be getting out in the world just as the Internet wave is subsiding, he assured that "there's always another wave. Don't worry if you think you have missed the Internet wave, something else will come along."

Francis said he credits his ability to change jobs with living modestly. Even as an investment banker, he still "lived like an attorney," which enabled him to take the lower-paying Priceline job.

Kenneth Munoz, Executive Vice President for Business Affairs and General Counsel for Madison Square Garden (MSG) also visited the Dean's Roundtable this past semester.

Munoz, who joined the Garden in 1978 after a three-year stint at a Wall Street firm, said he became intrigued by the notion of going in-house for what was then "a relatively modest sports company" because he "very quickly realized that a law firm was not where I wanted to be for the rest of my life." At the time, MSG's primary businesses were its two sports teams, the New York Knicks and Rangers, with just the beginnings of a cable programming business. The company grossed about \$60 million in total revenues. "Profitability was at about zero, unless the Knicks or Rangers made the playoffs."

Munoz's initial work as a staff attorney revolved around the two teams, "signing players and negotiating employment and radio agreements for the rights of those teams." To a lesser extent, he got involved with building matters such as negotiating collective bargaining agreements with seventeen different unions.

MSG has recently begun producing Broadway shows. And Broadway has gotten Munoz involved in a whole new world. As a Broadway producer, MSG does not own the

shows. "MSG is merely licensing the shows from creative people who have created the songs, the scripts, the choreography and the sets. Those individuals own the shows," explained Munoz.

MSG is also heavily involved in television programming. "With the exception of the New York Giants and Jets, we own all rights to all games of all sports teams in the metropolitan area. So whenever you see one of the 600 sporting events on cable or over the air – Yankees, Mets, Nets, Islanders, Knicks, Devils, Rangers, seven teams total – you are seeing a Madison Square Garden production," Munoz said.

All this activity keeps MSG's eight lawyers very busy. As General Counsel, Munoz oversees everything. "Most of the lawyers, including myself, had big firm experience. But all have a passion for the business. It doesn't mean they have to be sports fans," said Munoz.

Munoz feels that he has been very fortunate in making the decision to sign on with MSG twenty-one years ago.

"I could walk away from the Garden tomorrow and be very happy with my years of experience there. It's fun and it's difficult. I'm really involved in extraordinary matters," he said. ■

Dean's Roundtable Guests 1999-2000

George Borey (LL.M.'59)
President, The Privatization Group

Stephen Brenner ('73)
Co-President, USA Networks

Vicki Cherkas ('80)
Vice President, Miramax Films

Lisa Ellen Davis ('85)
Partner, Frankfurt, Garbus

Laureen DeBuono ('81)
Chief Financial Officer, More.com

Harriette Dorsen ('66)
Vice President, Bantam Doubleday Publishing

Fred Drasner (LL.M.'72)
Chief Executive Officer, *New York Daily News*

Robert Fogelson ('93)
Associate, Wasserstein Perella

Paul Francis ('80)
Chief Financial Officer, PriceLine.com

James Gorton ('86)
Vice President, Global Crossing LTD

Sara Kelsey ('63)
Deputy Superintendent and Counsel,
New York Banking Group

Robert Klatell ('71)
Executive Vice President, Arrow Electronics

Kenneth Munoz ('75)
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Law Revue Parodies All

At times, it may be hard to believe, but the "reasonable man" is alive and well at NYU School of Law. Indeed, those who made it to the latest Law Revue extravaganza had the rare privilege of seeing him dance and sing across the stage in Tishman auditorium.



"The Dean" shows Lee and Terry the meaning of law school.

Appearing in the scene entitled "Dodge City," the reasonable man was played by Steve Goldberg ('00). An anonymous audience member commented: "That guy looks exactly how I imagined the reasonable man would look." No matter, the reasonable man applied his judgement to rule on several matters, all to song and dance.

This year's show, entitled "An Amazing Journey Through Time and Space," ran from Wednesday, April 12 through Saturday, April 15. Judging from attendance and audience laughter, the show's humorous take on Law School life was a hit. "It was such a great show. I never knew my classmates were so talented," said Seth Paretta ('01).

The journey began with "The Dean" (Mike Denyszyn '01), armed with advice and hugs, coming to the aid of two third-year students, Lee (Tony Saur '02) and Terry (Julie Schwartz '01), as they worried about the impending bar exam. Always ready to

help a student, the Dean decides to teach Terry and Lee a lesson by taking them on an expedition through time via a magical Mercer Street Residence elevator.

Along the way, the three travelers come upon such figures as Socrates, a hippie Bill Clinton, and Hillary Rodham Clinton, who bore a striking resemblance to Britney Spears as she sang "I Can't Take the 1L Grind." And they met other memorable, albeit less famous, characters straight out of everyone's favorite Lawyering assignments: Victims of torts and breaches of contract such as Kelly (Amy Harman '01), whose swimming pool contractor did everything wrong, and Alice Leon (Allison Gardner '01), president of the tenant's association, joined others of Lawyering fame in song and dance.

Of course, the Law Revue would not be complete without poking fun at several favorite Law School personalities. In one scene, playing a young Professor Christopher

Eisgruber, Goldberg, of "Reasonable Man" fame, sang "Eis-Eis-Gruber" to the tune of Vanilla Ice's "Ice, Ice, Baby." In a pre-recorded video, Alex Simon ('01) gave "Marty Lipton" a voice that sounded remarkably similar to The Simpson's Mr. Burns. The imitation had the audience roaring with laughter as Simon narrated the history of how he (as Lipton) and "the dean" converted downtown Manhattan into a theme park that funded the Dean's dream of a tuition-free law school.

In order to pull the almost three hour show together, the cast prepared for months. In the beginning, rehearsals were held several times a week. Closer to the show however, the cast rehearsed six hours a night, five times a week, built the set, and prepared the lighting.

Lane McFadden ('02) was surprised by the commitment required, but in the end he did not mind. "I'll definitely do it again. I had fun portraying Alexander Hamilton as a drunken buffoon." Also shocked by the amount of time needed to prepare for the show, Schwartz felt it was well worth it. "The cast is like a big family. I'm definitely doing it again next year."

As an especially busy member of the cast, Denyszyn served as the director, an actor, a writer, and a producer. Now that he has had a chance to recuperate and reflect on his experience, Denyszyn said he was impressed with the dedication and talent of the cast members. "There was an embarrassingly rich supply of talent. There were so many talented people; everyone was underused." ■



Lawyering personalities came to life onstage at this year's Law Revue.

Spring Fling

At the end of each semester, just before final exams, students take a break from studying and gather at the Law School for an evening of fanfare and fun. These biannual festivities transform Vanderbilt Hall into a multi-level party hall. Music pours throughout the building with a D.J., jazz band, student singers, and Karaoke. Elsewhere students are dazzled by magicians and fortune tellers and try their luck at games of chance.

