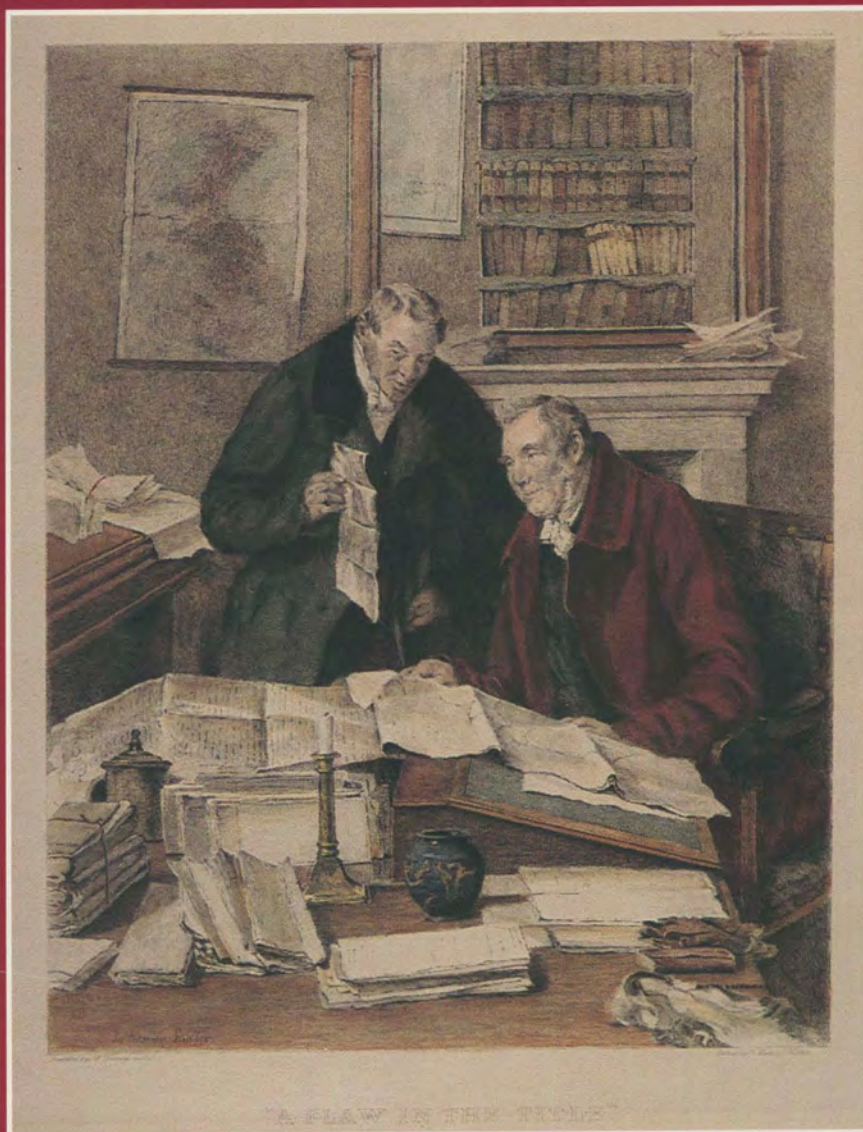


# *Duke Law Magazine*

WINTER 1992



A FLAW IN THE TITLE

# Duke Law Magazine

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**About the Cover**

The cover features a photograph of a piece from the Law School's collection of legal art entitled "A Flaw in the Title." It was etched by R. Wallace Hester and painted by W. Dendy Sadler. Dan Crawford of Chapel Hill took the copy photograph.

## From the Dean

### Building Addition and Renovation

The Law School is nearly ready to begin the construction of its \$14.5 million building addition and renovation project. The construction documents are completed and ready to be circulated for bidding. We are awaiting the University Board of Trustees' final approval of the project financing before proceeding to the bidding and contracting stages. At this time, the Law School still needs about \$500,000 in commitments from its alumni and friends to complete the financing of the project.

### The Campaign for Duke

The three and one-half year University-wide Campaign for Duke ended on December 31, 1991. Preliminary figures indicate that the University surpassed its \$400 million goal by raising over \$500 million. The Law School's total Campaign goal of \$12.5 million was met earlier in 1991. Our *preliminary* figures for the Law School's component of the Campaign are shown in the box below.

I will provide you a complete report on the Law School's Cam-



Dean Pamela Gann

campaign as soon as we have finished the paperwork and record keeping for the Campaign.

This successful Campaign is a significant event for the Law School. First, it contributed the necessary funds for the Law School to finance a large addition to its present building. Second, and just as important, the Campaign has increased the understanding of our alumni and friends of the financial requirements

of a national, private law school. You can be justifiably proud of your contributions during the Campaign and the increased level of fund raising achieved by the School. We look forward to the celebration of the Campaign's success and the beginning of our building construction at The Barristers Week-

end on April 10-11, 1992, and at the fall Alumni Weekend on September 18-19, 1992.

### Student Affairs

**New Dean of Student Affairs and New Director of Admissions.** Beginning in January 1992, two new administrators joined the Law School. Susan M. Sockwell is our new Associate Dean for Student Affairs. She joins us from Emory University Law School, where she has been assistant dean and adjunct professor since 1986. She also served Emory as director of student affairs for two years, and coached their national championship moot court team. Elizabeth Johnson Gustafson, a 1986 graduate of Duke Law School, is our new Director of

CAMPAIGN FOR DUKE	GOAL (IN MILLIONS)	FUNDS RAISED
		(preliminary figures)
Annual Fund	\$1.5	\$1,884,000
Research and Program Support	No goal	\$1,758,000
Building Program	\$8.0	\$7,973,000
Endowment	\$3.0	\$2,437,000
<b>Total</b>	<b>\$12.5</b>	<b>\$14,052,000</b>

Admissions. She has practiced intellectual property law at Dow, Lohnes & Albertson in Washington, D.C. since 1987.

Susan Sockwell replaces Associate Dean Gwynn T. Swinson, who has taken a leave of absence from the University for 1991-92, to spend the year in Japan with her family. (See more detailed story on our new administrators on p. 14.)

**Admissions.** For the fifth year, the number of applications to the Law School increased, although the increase for the class entering in the fall of 1991 was only slightly higher than that of the previous year. From an applicant pool of 4,345, 195 students enrolled in the 1991 entering class. This group had an LSAT median of 44 (96th percentile of test-takers), and an GPA median of 3.65.

The number of applications at the top private law schools likely will decline fairly significantly for the fall 1992 entering class. It will be difficult to determine the exact causes, but speculation already exists. First, some law school administrators believe that the recession and changes in the profitability of law firms have lowered the number of lawyers being hired by many firms and have caused starting salaries to decline or to remain constant. Because of these factors, more applicants to law schools may choose to attend public law schools rather than private law schools in order to avoid borrowing substantial sums of money to pay for their legal education. The public school choice lowers the economic

risk associated with attending law school. Second, a new form of the LSAT test was given for 1992, and the number of high scores on the test is noticeably lower. It is speculated that because of the lower scores, pre-law advisors may be steering more applicants to slightly less competitive law schools, without fully appreciating that nearly all of the top law schools will inevitably enroll students yielding lower median scores for the 1992 entering class.

**Placement.** The decline in the number of lawyers being hired by large law firms has impacted our placement services, primarily in two ways. First, somewhat fewer firms chose to conduct on-campus interviews. Second, significantly fewer firms interviewed any third-year law students while on-campus, choosing instead to hire all of their first-year associates from among their summer associates.

Notwithstanding the increased difficulty in obtaining employment, at least eighty percent of the current third-year class was employed by the end of 1991, and the class should attain the usual achievement of having over ninety percent employed by the time of their May graduation.

**Loan Forgiveness.** During the fall semester of 1991, the faculty agreed to enhance the coverage of our Loan Assistance Program. It expanded the coverage of the plan to include government employment in addition to public interest jobs. It also created more lenient eligibility requirements. These enhancements

were made to increase the likelihood of accomplishing the two primary goals of the program. The first goal is to enable graduates to select their employment without the preclusion of options due to substantial student loans. The second goal is to encourage Duke law graduates to choose public interest careers. The faculty recognizes that the legal profession has a responsibility to provide public service, and student indebtedness should not prevent the graduates of the most expensive private law schools in the country from careers in government and public interest employment. (I discuss further these issues in *Encouraging Public Service* at p. 7.)

### Long-Range Planning

With the completion of The Campaign for Duke and the fund raising for our building addition, it is appropriate that the Law School pause to assess what it wants to accomplish during the next five years. This long-range planning will also provide the Law School's input into the University-wide long-range planning presentation required by the University Board of Trustees at its May 1992 meeting. Thus, in our next *Magazine*, I will provide you a summary of the goals identified by the Law School's faculty, administrators, students, and Board of Visitors that should be achieved over the next few years.

*Pamela B. Gann '73*

# Forum

# Remembering the Bible Teacher: An Essay on Prayer and the Constitution

Walter E. Dellinger, III



Andrew Dellinger

*Professor of Law, Duke University. Professor Dellinger has been at Duke since 1969. He teaches constitutional law and history, and is a frequent commentator on constitutional law issues before the Supreme Court. This piece is a slightly revised version of an article that originally appeared in the November 3, 1991 issue of The Washington Post, entitled "Say Amen, Or Else—Piety and the Law."*

I recall very little about the fifth grade, but to this day I remember awaking every Thursday with a dull, aching pain in the pit of my stomach. On Thursdays, the Bible teacher came to my class. When she arrived, I left the room.

In the 1950s, the public school system in Charlotte, North Carolina provided Bible instruction to elementary school children for one hour a week. The instruction was labeled "non-denominational," which meant that it was generically Protestant. Pupils whose parents filed a written statement could be "excused" during the instruction. The few Catholics in Charlotte public schools were urged by the local church not to participate. My devout Irish Catholic mother agonized over whether to write the note requesting that I be sent out of the room.

In the end she felt she had no choice: Our parish priest had told her that I would be exposed to "an occasion of sin" if she allowed me to remain in the classroom during Protestant religious instruction.

The arrival of the volunteer Bible teacher was anticipated with real pleasure by my classmates, who found her a welcome respite from arithmetic and grammar. I awaited her arrival with dread, watching the clock marching closer and closer to ten. She would sweep into the room heavily laden with Bible comics, maps, films, cookies, and Kool-Aid. And then would come the announcement from our regular teacher: "Walter and Victor should now leave the room."

I envied Victor K. Burg—the only Jew in the class—for his seat close to the door. Vic always made a quick exit into the hall. It seemed to take me forever to negotiate the aisles from my seat in the far back corner. The stares of my classmates reflected their bewilderment that Vic and I could not stay for such normal activities as eating cookies, coloring pictures of Jesus, singing hymns and reciting prayers. One girl always turned her head as I left; I knew from seeing her at Mass that she was also a Catholic.

Vic waited for me outside the door, but we always walked in silence to the school's library room. We were instructed to spend the hour shelving books. If the hour ended with unshelved books, we had to return after school and finish. Although we became close friends, I don't believe we ever spoke of our feelings about leaving the room. We were, after all, eleven-year-old boys.

I was a junior at the University of North Carolina in 1962 when the Supreme Court decided the school prayer case (*Engel v. Vitale*). A group of politically appointed state officials called the board of regents had drafted a prayer to be recited every day in the public school classrooms of New York. The Court held that this practice violated the Establishment Clause of the Constitution. Speaking for the Court, the Alabama Baptist Hugo L. Black wrote that “it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government.”

It was the first judicial opinion I ever read, and it rested on a principle that made a lot of sense to me—that government itself may not seek either to promote or discourage religion.

That principle is now in jeopardy. When the Supreme Court heard argument last fall in a public school graduation prayer case from Rhode Island, the Bush Administration urged the Court to hold that in some circumstances the government may actively promote religion. The relatively innocuous facts of the case, *Lee v. Weisman*, made it a perfect vehicle for a ruling that reverses forty years of Supreme Court precedent on government-sponsored religion in the public schools.

For years, the Providence, Rhode Island school system has invited local clergy to deliver prayers of invocation and benediction at graduation ceremonies. The clergy are given guidelines recommending that the prayers for such occasions be composed with “inclusiveness and sensitivity.” After Rabbi Leslie Gutterman prayed to open and close the 1989 ceremonies at a public middle school, a school parent, Daniel Weisman, and his daughter sued to enjoin school officials from arranging for prayer at future graduations. (The unusual fact that the 1989 prayer at one middle school was offered by a rabbi camouflages the larger truth that school prayers in Rhode Island and elsewhere are almost always offered by representatives of the dominant religion).

The decision of the federal district judge (sustained by the Court of Appeals) to enjoin the school system from including prayers in future graduation agendas was a straightforward application of settled First Amendment cases on religion in public schools. The critical distinction in each case is between private speech and governmental speech. The cases do not preclude prayer or other religious activities in public schools if the decision to pray is a matter of wholly private choice; they do, however, preclude *government officials* from making the decision, as they did in *Weisman*, that there will be prayers.

Public schools may, for example, create a moment of silence in which students who choose to pray may do so, as long as no government official suggests or encourages prayer.

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*I remember awaking every Thursday with a dull, aching pain in the pit of my stomach. On Thursdays, the Bible teacher came to my class. When she arrived, I left the room.*

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The fine, but clear line between private and governmental religious decision was drawn in 1985 in *Wallace v. Jaffree*. The majority of the Court, while suggesting that neutral moments of silence would be upheld, invalidated an Alabama statute that added the words “for prayer” to an earlier moment-of-silence law.

The seemingly trivial fact of the addition of the word “prayer” crossed the line of constitutionality precisely because it is utterly unnecessary to the goal of creating a formal opportunity for quiet reflection in which students can, if they wish, choose to pray. That purpose is wholly accomplished by a statute or policy that simply provides that a moment be set aside, as a brief, silent “open forum” for each student to use as she chooses. If a simple moment of silence is created, parents can, if they wish, suggest to their children that they use the moment for prayer. Providing in the state’s Code of Laws that “prayer” is a designated activity, however, takes the state itself across the line into the improper business of official endorsement of a religious exercise.

If a high school generally allows students to initiate their own extracurricular activities, student-initiated religious clubs are quite properly entitled to the same access to school facilities that the Teen Democrats and the Chess Club enjoy. As the Court noted in sustaining equal access in public schools for student religious groups, “There is a crucial difference between *government* speech endorsing religion, which the Establishment Clause forbids, and *private* speech endorsing religion which the Free Speech and Free Exercise Clauses protect.”

It is that “crucial difference” that is threatened in *Weisman*. Briefs supporting the school system filed by the National Association of Evangelicals and the Catholic Conference argue that prayer is a form of expression and that, even speakers who pray may not be censored. These statements are correct, but beside the point: In *Weisman*, the decision to include prayer was made by a government official. Rabbi Gutterman’s access to the podium was conditioned upon an express understanding between him and school officials that what he would offer at the beginning and end of the ceremony would be prayers.

The situation would be different if the decision had been made by a private citizen. The valedictorian, for example, would be fully within her rights in using her time on the stage



Walter Dellinger in the fifth grade.

to speak of the importance of her belief in God, and even to offer a prayer if she chooses. But that is not what happened in *Weisman*. Rabbi Gutterman was *not* invited to be a “graduation speaker”: he was brought in to pray. (Indeed, he was even instructed on what kinds of prayer would be appropriate.) It is the government’s decision to have prayers, not Leslie Gutterman’s

implementation of that decision, that is at the heart of *Weisman*.

The Solicitor General, representing the United States, recognizes the implausibility of arguing that this is merely an instance of government neutrality towards religious speech. In a brief that would undo at least four decades of carefully applied constitutional doctrine, the United States urges the Supreme Court to abandon the neutrality principle and permit active government promotion of religion.

In its brief urging the Court to hear this case, the United States argued that at least in the area of “accommodation of religious heritage in civic life” (whatever that means) government promotion of religion should be invalid only if (1) “the practice at issue provides direct benefits to a religion in a manner that threatens the establishment of an official church” or (2) it “compels persons to participate in a religion or religious exercise contrary to their consciences.”

In support of the first proposition, the United States suggests that the original understanding of the Establishment Clause permits government to promote religion as long as it does not favor a particular sect, a reading effectively rebutted years ago by Professor Douglas Laycock and others and no longer coherent in a complex world in which every government effort to promote “religion generally” would favor some religions over others.

In its second argument, the government would drain the Establishment Clause of any real function separate from the Free Exercise Clause by forbidding only those governmental promotions of religion that directly coerce individuals.

Application of this new “coercion” requirement would be particularly harsh in this case. Notwithstanding the importance students attach to participating in graduation, the government notes that attendance at graduation ceremonies is “voluntary.” The school, after all, will mail you the diploma.

Because the facts in *Weisman* are relatively benign, it may not be immediately apparent how substantial a change is being contemplated in the principle of government neutrality. Admittedly, offering benediction at a Rhode Island middle school is not going to make this country into a theocracy.

As applied by the present Court, however, it is not clear that the test would preclude state-mandated “non-denominational” religious instruction in the public schools, as long as “non-conforming” students are “permitted” (as I was) to leave. Moreover, focusing on each individual case obscures the cumulative impact on religious liberty. If the Court allows it, thousands of government-sponsored religious activities will appear across the country, no one of which, considered singly, would appear to “threaten” the establishment of an official church.

As Justice O’Connor recently argued, even in the absence of direct coercion of individuals, “governmental endorsement or disapproval of religion” is an infringement of the Establishment Clause. Government actions that “show favoritism to particular beliefs or convey a message of disapproval to others” do not “adequately protect the religious liberty or respect the religious diversity of the members of our pluralistic political community.”

Unfortunately, her views may now command only a minority of the Court. With *Weisman*, the Bush Administration may finally achieve in the Supreme Court the active promotion of religion long sought by the Reagan Administration in its unsuccessful campaign for a school prayer amendment to the Constitution.

Looking back, I now find it difficult to understand why my own experience was so painful. I suppose that most eleven-year-olds desperately want to be seen as “regular” and “normal.” By my final year in elementary school, the death of my father and the fact that we were poorer than my classmates’ families (all of which seemed in the placid ’50s to be middle class and intact) contributed to my sense of isolation. But nothing compared to the sense of strangeness that arose from my weekly exit from the classroom.

Only recently have I gained enough perspective to realize that my experience may have been of positive value. Growing up as a white male Christian in the American South afforded me few opportunities to experience what it means to be an outsider to the dominant culture.

Every Thursday for an hour, I had a glimpse.



# Encouraging Public Service

Pamela B. Gann



Ron Ferrell

*Professor of Law and Dean, Duke University. Dean Gann joined the Law School faculty in 1975, and began service as dean in 1988. From 1988 to 1991, she served on the ABA Standing Committee on Lawyers' Public Service Responsibility. This piece is a revised version of an article which originally appeared as The Deans' Roundtable: Encouraging Public Service, NC BAR QUARTERLY, Fall 1990, at 12.*

**L**aw school faculty have an obligation to prepare students to assume the public service responsibility of the profession. The following discussion describes the various programs in law schools to assist students to accept public service commitment so that students will see work for the public good not only as desirable, but as part of the normal course of their lives.

## A Historical Context

Thomas Jefferson introduced the idea of legal education as a part of a university's liberal arts curriculum in order to nurture the development of future statesmen, legislators, and judges to lead a republican nation<sup>1</sup>. This idea—that legal study was the best education for a public life and the success of republican institutions—had its origins for Jefferson in Montesquieu who thought that a republican government can be sustained only in a society of citizens who practice public virtue, which he “defined as the love of the laws and of country [that] requires a constant preference of public to private interest. . . .”

In pursuit of Jefferson's ideas, William & Mary College established the first American chair in 1799 in “Law and Police.” At this time the word “police” indicated “public policy.” The first holder of the chair was George Wythe, a distinguished Virginia lawyer, who taught law to such immortals as Thomas Jefferson, John Marshall, and Henry Clay. Wythe received a salary of eight hogsheads of tobacco per year. This in-kind compensation was more desirable during wartime inflation than the depreciating paper currency. Wythe's teaching emphasized political economy and public law. He established the teaching of constitutional law as a subject of regular instruction. The British had an unwritten constitution. The United States and the various states had written constitutions, and Wythe foresaw that these written documents would cause constitutional law to play a more important role than had occurred previously.

Most of the American colleges in existence at the turn of the nineteenth century followed Jefferson's example at William & Mary in appointing a professor of law to provide instruction in public law to develop political leadership for the new country. The first instruction in law ever presented at

<sup>1</sup>These historical materials are derived from the legal history writings of former dean Paul D. Carrington. See *The Revolutionary Idea of University Legal Education*, 31 WM. & MARY L. REV. 527 (1990).

Trinity College (the predecessor to Duke University) was given by President Braxton Craven in 1850, as part of the liberal arts curriculum of the college. President Craven's aim was not to train lawyers, but to lay a broad foundation in responsible citizenship for the further education of prospective lawyers and nonlawyers alike.<sup>2</sup>

Law, law schools, and the legal profession have changed dramatically since those early days of legal education. Now, law schools house a professional program that requires the completion of undergraduate education as a condition of admission. Much of the content of legal education is directed at training the students to be practicing lawyers. When students begin their first classes in law school, the faculty at once works with the initiates in the "new" vocabulary. They are introduced to such legal lexicon as fee tails, usufructs, springing and shifting executory interests, the writ of mandamus, pendent and ancillary jurisdiction, trespass on the case, *res ipsa loquitur*, and that most famous of all legal personae—the Reasonable Man!

The commitment to the professional aims of its students is matched in the best law schools by the aims of early legal education in the United States. Faculty attempt to introduce students to the broadest dimensions of knowledge about human affairs and institutions, to overcome any student's inclination merely to seek training rather than education, and to open their minds to the implications of law for the human condition. Educating students about their profession's public service responsibilities, whether accomplished directly by working for government and other organizations that produce public goods, or by providing volunteer public service while predominately in private practice, is a responsibility that law school faculties are at pains to accomplish.

### The Realities of Education Costs and Beginning Salaries

A comparison of the tuitions of North Carolina law schools provides a useful example of the range of differences between public and private law schools:

SCHOOL	1991-92 TUITION
Campbell University	\$8,900
Duke University	\$16,400
North Carolina Central University	(in-state) \$1,100 (out-of-state) \$7,100
UNC at Chapel Hill	(in-state) \$1,314 (out-of-state) \$8,676
Wake Forest University	\$11,650

<sup>2</sup>The new addition to the Law School will house the Braxton Craven Room for University Legal Education in recognition of the gift made by his great-granddaughter, Isobel Craven Drill, to honor President Craven.

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*Law schools are concerned that students are beginning to incur too heavy a debt burden generally, and that current debt burdens eliminate employment options with the government and public interest organizations with low starting salaries.*

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Estimated student cost for books, fees, and living expenses is approximately \$9,800 for each student. The total year-long budget for a Duke law student, for example, is approximately \$26,900. Each law school's financial aid statistics will vary. At Duke, which is the most expensive, the law school itself awards scholarship grants covering approximately twenty to twenty-five percent of tuition receipts, and student loans cover approximately fifty to fifty-four percent of total tuition. Total aid, Law School scholarships plus students' loans, thus covers seventy to seventy-five percent of total tuition receipts. The average outstanding student loan indebtedness of the fifty-five percent of the 1990 graduating class who borrowed money to pay for their legal education was approximately \$45,000.

Regardless of whether students attend private or public law schools, students increasingly depend upon student loans rather than scholarships. Students can sometimes reasonably borrow because of increased starting salaries. The starting salary data for law firms who interviewed at Duke and provided this information ranged from \$32,000 to \$83,000.

Law schools are concerned that students are beginning to incur too heavy a debt burden generally, and that current debt burdens eliminate employment options with the government and public interest organizations with low starting salaries. In contrast to the private firm beginning salaries reported in the previous paragraph, the starting salary of an attorney at Legal Services of North Carolina is between \$22,000 and \$25,000.

When one graduated from law school in the 1950s and 1960s, one could frequently begin to work for the government at a starting salary higher than that of a private law firm. This held true until about the mid-1970s. In the 1980s, starting salaries at many firms jumped ahead of those for the government and public interest organizations. I believe that this wedge between returns in the private and public sector for the delivery of legal services is a permanent discrepancy. I am not optimistic that legislators will be willing to increase the salaries of those who work in government or in legal services to bring them into greater parity with those in the private sector.

### Reaction of Law Schools, Law Students, and IOLTA

In reaction to the financial factors that are eliminating government and public interest options for some law students, the law schools, law students, and IOLTA have initiated the following types of responses.

1. *Loan Forgiveness.* The Duke Law School has established its own loan assistance program for graduating students who accept jobs in the public interest, which includes, for example, working for legal services, public defender offices, environmental organizations, and the government more generally. If a student's salary is below a specified amount, the Law School will pay all or a portion of the student's monthly student loan repayment to the bank. The students of all five law schools in North Carolina have organized a consortium to establish a loan assistance program for graduates of these schools who take public interest employment inside North Carolina. The seed money for this program has been provided by a North Carolina foundation. This program is in its initial stages and serves as a prototype program for other states.

2. *IOLTA Summer Student Fellowships.* North Carolina IOLTA provides each law school in the state with five summer fellowships to support students who accept public interest employment in North Carolina for the summer. Applications for these fellowships always exceed the number available. The reports from students who participate in these programs is always affirmative. All the law schools desire additional funds to support summer public interest employment of their students.

3. *Student-Funded Fellowships.* Law students often raise funds from students and faculty to support the summer student employment in public interest jobs. At Duke, students who are working in private firms are encouraged to give one day's salary to these student-funded fellowship funds. Last year, Duke students pledged around \$11,000. An additional \$8,000 was received from the National Association of Public Interest Law, the Duke Law Alumni Council, and from matching gifts from private law firms. Some of the funded summer public interest jobs included four public defender offices across the country, Durham's Guardian ad Litem program, the Lawyers Committee for Civil Rights Under the Law in Washington, D.C., the Legal Aid Society in New York City, the Legal Clinic for the Disabled in Chicago, and the Christic Institute South in Durham.

4. *Voluntary Pro Bono and Public Services.* Law schools are also experiencing renewed interest among students to provide volunteer public service, whether legal or not, during the regular school year. Typical nonlegal activities include children tutoring, soup kitchens, and Habitat for Humanity.

The Duke Law School has established a Student Pro Bono Project to foster a culture of public service among more

*Faculty attempt to introduce students to the broadest dimensions of knowledge about human affairs and institutions, to overcome any student's inclination merely to seek training rather than education, and to open their minds to the implications of law for the human condition.*

law students. The School's faculty believe that a vigorous program of public service during the normal academic year is the most effective way that law schools can encourage public service on a career-long basis. Moreover, getting law students involved in public service work while in school is likely to remove a number of barriers that inhibit later involvement as lawyers. Young attorneys often doubt that they are competent to handle cases different from those they handle as part of their primary employment, and they fear that pro bono cases will prove too costly in terms of their time and effort.

The need for additional legal services for those unable to pay in North Carolina is great. As of 1988, North Carolina had 1.2 million persons living at or under 125% of the federal poverty line. At the same time, there were only 110 legal services attorneys—creating a legal services attorney/indigent client ratio of 1:11,000. In contrast, the private attorney/North Carolina client ratio was 1:750. In our Triangle area, for example, low or no-cost legal services are provided by legal services offices in Raleigh, Durham and Hillsborough, along with their associated Volunteer Lawyer Programs and a variety of private firms and nonprofit groups. These existing legal resources still leave many without adequate legal services.

### Looking Toward the Future

Many of these efforts are fairly recent, and you can expect increasing law school innovation to address the need to educate law students about (i) full-time public service employment; and (ii) the responsibility of every lawyer to provide pro bono legal services throughout his or her career. A major challenge to all law schools is to address the financial factors that make full-time public service employment less attractive alternatives for young lawyers. The legal profession has always provided significant participants and leadership in our public institutions. Many of our very finest lawyers have spent their lives in public service. Without the attention of the law schools and the profession, many talented young lawyers will no longer choose this path, with the consequence of declining public institutions. We all need to take a substantial interest in these problems.

# Freedom of Expression: Who Decides What is to be Published?

David L. Lange



Dan Crawford

*Professor of Law, Duke University. Professor Lange joined the Duke Law faculty in 1971 and teaches in the areas of intellectual property, entertainment and communications law. He has had substantial experience in radio, television, cable and motion picture production, and has served as a member of the Governing Committee of the ABA Forum on the Entertainment and Sports Industries. This article originally appeared in a slightly different version in 1 ENTERTAINMENT LAW REV. 199 (1990).*

**B**efore his story comes to an end, deposed Panamanian dictator Manuel Noriega promises to have given Americans more than one lesson in what it means to live in a free society. One of those lessons lurks in the decision by the United States Supreme Court to uphold an order restraining Cable News Network from broadcasting tape recorded conversations between Noriega and his defense attorney.

The Court's order had the formal effect of suppressing publication merely until a lower court could review the tapes to determine whether their broadcast might prejudice General Noriega's defense. In fact the lower court subsequently heard the tapes and lifted the ban.

Evanescent though the Supreme Court's ruling proved to be in its impact on this case, it was also a striking instance of prior censorship. And so the decision will deserve evaluation and analysis for months, even years to come—indeed, until the Court finally has been persuaded, or forced, to reconsider.

The circumstances are no longer fresh; it may be useful to recall them so there can be no mistaking the issues. Someone (almost certainly someone in the federal government) made the tapes improperly. Someone else gave those tapes to Cable News Network. Someone at CNN decided to air the tapes. So far, so good. Perhaps the matter might best be summed up this way: someone went too far, only to confront the press in its role as watchdog and whistleblower—all in accordance with the finest standards of free expression.

But then things began to go wrong. For now someone else entered the picture—namely, Judge William Hoeweler, the federal judge assigned to try Noriega for complicity in the inter-American drug traffic. And Judge Hoeweler, acting on motion by Noriega's counsel, decided to order CNN not to air the tapes until the court had heard them, lest Noriega's right to a fair trial under the Sixth Amendment to the federal constitution be compromised.

Eventually, CNN heard from the Supreme Court and acquiesced in Judge Hoeweler's order to submit the tapes for review. Judge Hoeweler heard the tapes. CNN was once again free to broadcast them. And Manuel Noriega was still on his way to trial, his Sixth Amendment rights presumably secure.

Meanwhile, however, Americans had suffered a serious blow to free expression.

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*A cardinal lesson to be remembered from the Noriega affair is that the rights of even the most despised prisoner awaiting trial are sacred in a free society.*

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How to respond to that possibility is the principal subject of this essay. But first it is necessary to pay appropriate respect to Judge Hoeveler's actions in this case.

One must take the judge's concern for the Sixth Amendment as seriously as he did. A cardinal lesson to be remembered from the Noriega affair is that the rights of even the most despised prisoner awaiting trial are sacred in a free society. Taping confidential conversations between lawyer and client is itself despicable and cannot be condoned.

In the circumstances, then, Judge Hoeveler had to do something. The offense was serious and deserved to be redressed. The offenders needed disciplining, assuming their identities could be discovered. Meanwhile, every appropriate step had to be taken to limit the damage actually done to the defendant's case.

But was it appropriate to suppress the tapes themselves? That is actually a question in two parts: first, should the tapes have been published?, and second, whose decision was that to make?

No one could know the answer to the first question without actually hearing the tapes. The likelihood that publication would damage Noriega's case was slight; the real threat lay in the possibility, indeed virtual certainty, that someone in the federal government already had heard them and might thus have become privy to confidential plans laid, entirely appropriately, between Noriega and his counsel. Airing the tapes would have seemed unlikely to prejudice the defendant further. Meanwhile, there might be some value in bringing their contents under public scrutiny. And yet again it must be said: no one could be certain without hearing the tapes.

But do not suppose that what has just been said is in any sense at all a justification for Judge Hoeveler's ruling. No one who had not heard the tapes could know whether it would be fair or responsible to air them. But we can be certain whose decision that was to make, and it was not Judge Hoeveler's. In a free society that decision belongs not to courts but to individual citizens alone.

Perhaps there may be some cases, few in number, in which a threat to the national welfare is so grave and so imminent as to warrant an exception to this basic proposition—an exception one understands to be grounded less in law than in elementary and exigent common sense. But no one pretends that that was the situation in the CNN-Noriega affair.

This was in fact a very ordinary case in First Amendment terms. Nothing about it suggested even the remotest justification for an order like the one Judge Hoeveler entered. He was right to protect General Noriega against prejudicial conduct. But his ruling on the tapes was a simple example of prior censorship of the least defensible sort—that is to say, an order obviously calculated to avoid embarrassment or inconvenience to the prosecution of an awkward political case.

What was—and is—extraordinary about this case is the Supreme Court's decision to allow Judge Hoeveler's order to stand. Twice within the last twenty years the Court set aside lower court orders imposing prior censorship, first in the *Pentagon Papers* case in 1971,<sup>1</sup> and then again in *Nebraska Press Association v. Stuart* in 1976.<sup>2</sup> On each occasion, the Court reiterated that most elemental proposition in the Anglo-American theory of free expression, namely, that orders imposing prior censorship can be justified only upon a showing of urgent or compelling necessity.

No such showing was made in the CNN-Noriega case, nor indeed could one be made. No one except CNN and the miscreants who made them had heard the tapes. No one knew what they contained.

But then (one might argue) wasn't that exactly the point? Didn't the court have to hear the tapes to decide whether they should be suppressed? And didn't the tapes then have to be suppressed at least until the court had heard them? What else could Judge Hoeveler do but order the tapes suppressed until he heard them?

This was indeed the nature of the argument by the Solicitor General to the Court in support of Judge Hoeveler's order. The seven members of the Court who voted to uphold the order gave no explanation for their ruling, but one supposes that they too must have been moved by logic more or less of this sort.

Reasoning like this proceeds on the assumption that courts simply must hold and exercise the ultimate power to decide whether expression may be published or not. Of course no one argues that courts should act as censors. But surely, the argument runs, courts must hold power over expression to the extent necessary to discharge the legitimate functions which are otherwise part of their jurisdiction.

This is the logic behind the Court's ruling in the CNN-Noriega case. But it is also the logic of censorship since the beginning of recorded history. And it is up to all who prize freedom of expression to join in condemning it.

Make no mistake about it: innocent as the circumstances may make it seem to be, this is not some minor league skirmish. This is a full-fledged, no-holds-barred struggle for the

<sup>1</sup>*New York Times Co. v. United States*, 403 U.S. 713 (1971)

<sup>2</sup>27 U.S. 539 (1976).

right to control what is published in America. What is yet to be seen is whether it will be recognized for what it is, and whether individuals in sufficient numbers will be able to summon the courage and determination to do something about it.

For this is not just CNN's fight. The right to decide what is to be published is fundamental in a free society. And it does not belong solely, or even primarily, to the working press—to the media. It belongs to everyone.

Indeed, among the most dangerous political errors of this age is the wholly misguided notion that the institutional press somehow bears a separate place in the constitutional system of free expression. The decision to publish is a matter for individual responsibility. The press may seem to have a separate role to play, but that is merely so because the individuals who exercise this responsibility most often are in fact working journalists. In the end, however, journalists are merely citizens; all are responsible individually, and responsible solely to themselves. The press, then, is finally nothing more than a matter of individual conscience, an obligation as solitary and as burdensome as the obligation to vote—which in a sense it resembles.

So it is profoundly disturbing to realize, in the CNN-Noriega affair, that an opportunity may have been missed to show exactly what it is that freedom of expression must mean, if it means anything: not freedom from prior restraint only when and to the extent that a judge respects that freedom on balance and under appropriate theoretical constraints, but rather freedom from prior restraint, period.

How, then, should a responsible individual have acted? Perhaps it would be presumptuous to speak for the journalists at CNN in this case. But one can say with some confidence what a journalist with courage and conviction—a journalist like John Peter Zenger, for example—would have done in similar circumstances. He would have listened to the tapes and decided for himself whether they should be published. And had he concluded that they should be, then no order entered by any court in America would have stopped him.

He would have published the tapes. He would have continued to publish them when challenged. He would have continued to publish them when ordered to stop. He would have published them, indeed, until every word he thought deserved airing had been aired. And only then would he have turned to the secondary business at hand: not merely to persuade some court of review that he ought to have been permitted to publish in the first place, but also to proclaim publicly, again and again, that in America individuals, and not courts, decide finally what is to be said and printed and broadcast.

Would this be in accordance with the written law? Certainly not. The law presupposes an obligation to comply with orders issued by courts. How could it be otherwise? Who

could expect judges to decide that the law is in accordance with the conduct I advocate here?

Would that mean jail? Possibly. Substantial fines for contempt? Probably. But these were risks John Peter Zenger was willing to face. He understood that jail and free expression go hand in hand. From Zenger to Nadezhda Mandelstam to Václav Havel, free men and women the world around have come to understand that sometimes jail is the price one pays for practicing freedom of expression.

Meanwhile, let it be equally understood: American courts do not relish confrontations with the press. Unless the adversary acquiesces, courts always lose in these encounters. Courts lack what the press has: immediate access to that ultimate forum of review which is to be found alike in the common sense of the American people and in our common commitment to the practice of free expression.

What do we mean by “the practice of free expression”? Freedom of expression in America is not finally a question of theory, nor merely a matter of right or entitlement. Freedom of expression is what Americans are, what we do, how we think, the way we act.

And so the question is: how should we act now that the Supreme Court of the United States has allowed an order to stand, even momentarily, that presumes the right to silence us? As Mr. Justice Black said of the injunctions against the press in the *Pentagon Papers* case, so here too: every day this ruling is validated through acquiescence or silence is a day in which freedom of expression is diminished, in “flagrant, indefensible, and continuing violation of the First Amendment.”

Of course efforts should be mounted to correct the mistaken assumptions implicit in the Court's ruling. Two members of the Court—Justices Marshall and O'Connor—understood that what the majority did was wrong in theory. It is not too much to hope that others eventually will join them. Meanwhile, however, we must recognize that circumstances like these will not wait for theory. Inevitably an issue like this one will present itself again—and probably sooner rather than later, given the Court's ruling in the CNN case. Now forewarned, we must be prepared to act decisively.

The next such occasion must not find responsible individuals frozen in attitudes of awkward compliance with an abstract logic that simply cannot be allowed to go unchallenged in a free society. Next time—while the courts dither and bicker and balance—someone must decide quietly to step forward, to stand up for the freedom of expression that cannot exist in the absence of just such individual commitment—and to publish or not, solely according to his or her own conscience.

This is a lesson Manuel Noriega might not understand. It is a lesson Americans—and free citizens everywhere—must never forget.

**About the  
School**

# New Faces at the Law School

**T**wo new administrators began work at the Law School on January 1, 1992: **Susan L. Sockwell** as Associate Dean of Student Affairs and **Elizabeth J. Gustafson '86** as Director of Admissions.

Susan Sockwell replaces Associate Dean Gwynn T. Swinson, who has been with the Law School since 1983. Dean Swinson took a leave from the University to spend a year in Japan, where her husband, Percy Luney, adjunct professor of law at Duke, is pursuing a Fulbright Award at Kobe University.



Susan L. Sockwell

Dean Sockwell comes to Duke from Emory University School of Law in Atlanta, Georgia, where she has been assistant dean and adjunct professor since 1986. She also served Emory as director of student affairs from 1984 to 1986 and was the director of the Council on Legal Education Opportunity Summer Insti-

tutes for the Southeast Region in 1986 and 1987. At Emory, Dean Sockwell also coached their national championship student moot court team and advised the moot court board.

A native of Chapel Hill, North Carolina, Dean Sockwell is a graduate of Gonzaga University School of Law in Spokane, Washington and the University of Virginia. She previously was in private law practice in Atlanta, clerked for Judge Albert Henderson of the United States Court of Appeals for the Eleventh Circuit, and taught legal writing and research at the University of Virginia Law School.

Dean Pamela Gann reports that "the Law School conducted a national search for the Associate Dean of Student Affairs who must manage all aspects of student affairs, including admissions, financial aid, counseling, student conduct, and student organizations. Dean Sockwell possesses extensive experience in dealing with student affairs at other law schools, and will bring both to the Law School specifically and the University more generally, excellent administrative talent and leadership for handling student issues at Duke at a time when student issues are taking up more and more time of academic administrators."

A new Director of Admissions also joined the Law School in January. Liz Gustafson received both her undergraduate and legal training at Duke University. She was a clerk for Judge John McAuliffe of the Maryland Court of Appeals and has practiced intellectual property law at Dow, Lohnes & Albertson in Washington, D.C. since 1987. Her husband, Mark Gustafson '86, is working in the Duke University Counsel's Office.



Elizabeth J. Gustafson '86

The Law School presently has a total student body of 630 students; each year approximately 195 students enter its first year class. In 1990-91, Duke received over 4,200 applications from students in every state and several foreign countries for its entering class. Dean Gann notes that the Law School also "conducted a national search for the Director of Admissions. The Law School faculty cares most of all about the quality of its students and the members of its faculty, and considers the Director of Admissions the key person in attaining the best possible class each year. We are delighted that Liz Gustafson has agreed to accept this position, for she understands the Duke University and Law School experiences, and should therefore be a superb recruiter. She has also had extensive professional legal experience so she will be able to help applicants and newly admitted students determine what type of law school experience they should achieve."



# Volunteer Pro Bono Project Established

**D**uke Law School has established a voluntary pro bono program to encourage and help students volunteer their services to the community in response to student and faculty interest in pro bono work. Duke's commitment to public interest is consistent with that of the American Bar Association and a growing number of law schools across the country. The ABA has called upon lawyers to commit at least fifty hours per year to pro bono work, and at least ten other law schools have established a public interest component.

The primary purpose of the program is to make students more aware of the delivery of legal services for those who do not have full access to the judicial system. Students who will make public interest work a career will have an opportunity to demonstrate their early commitment. Those students who will enter private practice will learn to carve out part of their time for the public good, and will have a chance to experience a different legal setting. The public will, of course, also benefit from the contributions of these students.

The School has hired Carol Spruill as half-time Pro Bono Coordinator to establish and run the program. She worked in Legal Services for fifteen years, seven as Deputy Director of Legal Services of North Carolina, and she also has a wide variety of experience with non-profit organizations and bar associations.

Reflecting a broad definition of public interest, the program provides a wide variety of placement opportunities in the type of agency requesting the students' services, the activities to be performed,



Les Todd

Carol Spruill

the subject matter encountered, and the time commitment required. Though both legally related and non-legal placements are available, Spruill reports that most students have chosen legally related placements. They include legal services programs, the district attorney's office, the North Carolina Attorney General's Office, non-profit agencies, and private law firms doing pro bono work.

Job functions performed by the students include research, client contact, policy analysis, document preparation, investigation, trial preparation, in-court assistance, interviewing and certified in-court representation. The placements vary in the amount of time which a student must commit, though Spruill has asked both the students and the agencies to commit for a semester at a time and on average the placements require at least a half day per week. Many students are

choosing to continue a placement after a semester.

In addition to soliciting placements and publicizing them to the students, the Pro Bono Coordinator counsels students to help them select or design a placement. "Sometimes students arrive having read the placement list with a decision already made. When students do not know what they want to do, I interview them regarding their background and interests to help them set priorities among the available placement opportunities. If they have interests which are not already available on the placement list, I find a new placement for them." Spruill is also careful to counsel first year students to make sure that their placement choices allow them time to handle their academic load.

As the first semester of the project ended in December, Spruill was preparing to formally evaluate the program from both the students' and the agencies' perspective. She reports, however, that early feedback from both sides has been positive. "The students have been very excited about what they are doing, and the agencies have been thankful for the help they are receiving." The number of placements continues to increase. As of mid-December, eighty-one matches had been made, including students who began their placements in the fall and those who have signed up for the spring semester.

Spruill found that the Law School already had an excellent reputation for providing highly competent students. This project is increasing and enhancing the Law School's reputation for service within the community.

# Making Public Interest Work Possible

**T**he Student Funded Fellowship (SFF), a non-profit student run corporation, was created at Duke Law School in 1978. The corporation is run by an elected student board of directors; members of the corporation include students and faculty who make contributions. SFF seeks to raise money for fellowships to law students to work in public interest jobs during the summer. For many students, SFF-funding makes it possible for them to work in public interest jobs, since the majority of these internships pay little or nothing. For students with large educational loans, the lack of money might otherwise steer them away from low-paying or non-paying jobs in the public interest.

SFF raises money from law students and faculty and through matching gifts from law firms. The Law Alumni Council has also been making an annual gift to SFF. Duke's SFF is affiliated with the National Association of Public Interest Law (NAPIL), which provides some funding, resource information and fundraising ideas.

In 1978, SFF raised almost \$1300. Since then, the amount of money raised each year has consistently increased, as has the number of applicants vying for fellowships. In 1990-91, SFF raised approximately \$19,000 providing funds for ten students (out of twenty applicants) for the summer of 1991 in a variety of jobs. Funding decisions are made by the board of directors with the guidance of contributors. Last summer, SFF-funded positions included: four public defender offices (Barre, Vermont; Richmond, Virginia; Miami, Florida; and San Francisco, California); the Lawyers Committee for Civil Rights Under the Law in

Washington D.C.; the Guardian Ad Litem Program in Durham, North Carolina; the Legal Aid Society in New York City; the Legal Clinic for the Disabled in Chicago, Illinois; and the Christic Institute South in Durham. Fellowship amounts are based on budgets submitted by applicants.

Diana Younts '92 worked in the San Francisco Public Defender's Office last summer, which she describes as "a great opportunity that would have been impossible without SFF." She was assigned to one attorney whom she assisted in all phases of the job and who relied on her exclusively for all legal research. Younts notes, however, that while she greatly enjoyed her experience in the Public



Diana Younts '92

Defender's Office, "I started my third year of law school without a job offer from a private firm. And although I might not have accepted any possible offers from firms, it would be nice to have the security of an offer, especially in the current job market."

Younts cautions that "if students are serious about public interest work as a career, it is important to do some public interest while in school. Many public defenders offices, for example, will not seriously consider applicants without previous public service for the limited job openings for recent graduates."

Ilene Weinreich '93 worked at the Legal Clinic for the Disabled in Chicago during the summer of 1991. She also



Ilene Weinreich '93

feels that she could not have taken the job were it not for SFF, and she describes her experience at the clinic as "eye-opening—I am much less

idealistic than before I worked at the clinic." She feels that her work in the clinic was worthwhile, that she is more sensitized to issues involving the disabled, and that her employer was extremely grateful for her services. Weinreich's most memorable experiences involved interacting with clients—doing intake interviews, investigative interviews, and writing letters on their behalf. She has not decided whether to continue in the public interest field as a career, and so plans to work for a private law firm next summer to gain a variety of legal experience.

Jamie Yavelberg '93 interned in the civil division of the New York Legal Aid Society, where she dealt with landlord-tenant and public benefits cases. She, too, has not decided whether public interest work will be her primary career focus, though she is sure that public interest will figure in her future to some degree. "I think working for the Legal Aid Society was more interesting than some of my classmates' jobs in private firms. I was given a lot of responsibility

and diverse assignments.” She notes that the greater responsibility not only made



Jamie Yavelberg '93

the job more challenging, but it also allowed her to work on professional communication skills. In addition, “my work reinforced my sense of professional

responsibility—an important component of which is the obligation of an attorney to do pro bono work throughout her career.”

Garrett Epps '91, who is now serving the Honorable John Butzner as a judicial clerk on the Fourth Circuit Court of Appeals, accepted a fellowship from SFF during his first-year summer to work for the American Indian Law Center (AIRC) in



Garrett Epps '91

Albuquerque, New Mexico. He describes the Center as a legal “think tank” for American Indian tribes where he worked as a legal writing tutor for Native American pre-law students as well as doing research on Native American law.

Because the AIRC was staffed by native Americans, Epps notes that he was a minority figure learning about a different culture as well as a different field of law. In addition to substantive law, he learned much about the size and diversity of the Native American population as he taught pre-law students from all over the country. He also discovered “what law as a career can mean to people from humble backgrounds who are very determined to use law as an instrument for social change.”

Epps reaped additional benefits from the fellowship since it put him in a position to take a job after his second year as a clerk at the Federal Public Defender’s Office in Albuquerque working in the area of Indian law criminal defense. He considered this to be “a wonderful job for which the previous exposure was important in getting the job.” Still further career benefits could be forthcoming as he notes that the experience “gave me a resume line that is very useful in pursuing legal teaching jobs since I was actually teaching Native American students.” And, last but not least, he notes that “it was lots of fun!”

Peggy Force '88, now in private practice with a law firm in Raleigh, also appreciated having a fellowship from SFF during her first summer that made it possible for her to work for legal services in Durham which had no funding for summer clerks. In addition to learning lawyerly skills by interviewing clients, doing legal research and sitting in on court and negotiating sessions, she gained “insight into legal assistance programs and different areas of the law.”

Her experience has also made her interested in doing volunteer legal work



Peggy Force '88

which she is pursuing—as much as time allows—in Raleigh.

SFF members are proud to have made possible the work that its fellows have

done. However, they look forward to accomplishing much more in the future. In order to fully meet its purpose, SFF must be able to increase its fellowships as the costs of living and education increase. Right now, SFF is barely able to provide the minimal funding that its applicants request, and SFF officers are working to increase funding sources. In addition, SFF and other student organizations at the Law School are working to increase the resources available to students about the opportunities that exist in the public interest field, to increase the number of Law School courses offered which pertain to particular public interest areas, and to provide the student body with greater exposure to the public interest field.

*Sarah Nussbaum '92 &  
Lawrence Gould '93  
Co-Chairs, Student Funded  
Fellowship*

# Black Law Students Association “Adopts” Housing Project

**I**n a continuing effort to support the Durham community, Duke's Black Law Students Association (BLSA) has started a community outreach program for youth ages three to seventeen at a nearby public housing project. The program began this past fall, and is designed to provide social and educational support through role modeling, mentoring and tutoring at Damar Court, located less than one mile from the Law School on Morreene Road.

The program is officially chaired by second-year law student Thaxter Cooper, and was organized and coordinated through the efforts of third-year law students Sam Starks, Lisa Evans, and Hank Mims, along with first-year law student Erica Foster. “This project is our way of giving something back to the black community,” says Mims, president of Duke's BLSA. “I see it as a permanent project—something that BLSA will continue to do well into the future.”



“I enjoy spending time with the kids at Damar and I think they are glad to have us around,” says Foster, who taught arts and crafts at Damar last summer. “These kids are very special to me and I am looking forward to spending a lot of time with them over the next two years.”

“Although the project at Damar Court has just gotten off the ground, I am very pleased with the support we have gotten from BLSA members and



with the feedback we have gotten from the Damar community,” says Cooper.

BLSA students hosted a holiday party for Damar Court children in December, providing gifts, refreshments, games and lots of fun.

“The Christmas party was our way of introducing the kids at Damar to the BLSA members who will provide them with mentoring and tutoring throughout the school year,” says Cooper, who has paired each BLSA member with a Damar Court youth.

*Text & photos by Sam Starks '92*



# The Docket

# Blue Devil in Tarheel Country

## Alumnus Profile of Paul Hardin, III '54

Despite the impression one might have received from the spectacle of Duke basketball fans razzing the UNC Tarheels at the NCAA Final Four Tournament in 1991, ties between the two schools can be close and cordial. Perhaps no one symbolizes this relationship better than the Chancellor of the University of North Carolina at Chapel Hill, Paul Hardin, III. A 1954 graduate of Duke Law School, Chancellor Hardin is a “double-Dukie,” having also received his undergraduate degree from Trinity College in 1952.

While students at both Duke and Carolina might feel loyalty-bound to shudder at the thought of a two-time Blue Devil filling the top slot at UNC, Chancellor Hardin’s ascent is characteristic of the high caliber of education which UNC-CH and Duke together provide to North Carolina and the world. As Hardin himself says, “I think that Duke and Carolina are so good for each other being ten miles apart. I think Duke is as good as it is partly because Carolina is here; and Carolina is as good as it is partly because Duke is there. We strive to keep up with each other. We compete in a friendly way and we cooperate and the cooperation doesn’t get as much attention as the competition. . . . But the cooperation is remarkable.” Chapel Hill’s proximity to Duke is one factor which Hardin says attracted him to his current post.

### Carolina Roots

Hardin was born in Charlotte, North Carolina, the son of a Methodist minister. When it came time to choose a university, “[It] never occurred to me to go anywhere else [but Duke],” says



Chancellor Paul Hardin, III

Hardin. Initially enrolling as a chemistry major, he later switched to English because “I loved to read and I cared about the language.” However, even with the change, Hardin knew that he wanted more than just a baccalaureate degree.

In the 1950s, it was possible at Duke to enroll in what was called an “Academic and Law Combination.” Students in this program entered Duke Law School after their third year of college and received both the B.A. and the J.D. degrees in six years. This program had particular appeal for Hardin, who did not want to burden his father with

the cost of “a lot of extra schooling.” Hardin enrolled in the combination program, and began his legal education in 1951.

Law school was the right choice, for Hardin found the subject matter stimulating. “I went through undergraduate school dutifully and studied hard because it was expected of me. . . . But I don’t think I really caught fire and studied for the fun of it until I got to law school. I really enjoyed law study.” Hardin’s law class was quite small—fewer than forty students—with a faculty of fewer than twenty. “We got to know each other *extremely* well. We had *incredible* personal attention from the faculty.” Given his environment, his efforts and his interest in the law, Hardin

excelled. Already a Phi Beta Kappa as an undergraduate, he led his class and was selected editor-in-chief of the *Duke Law Journal*.

Not surprisingly, Hardin’s wife, Barbara, is also a Duke graduate. They met at a lake one summer when Hardin was already attending Duke and Barbara was to be an incoming freshman. “I was waiting for her to get to Duke—she had attracted my attention the summer before . . .” says Hardin. Their affection survived time and the rigors of law school, and they were married on June 8, 1954, the day after they both graduated

from Duke. Barbara's father was also a Methodist minister, and the ceremony was held in his church in Rocky Mount, North Carolina.

Because the Korean War had recently ended, the draft was still in effect. Hardin volunteered for induction, applying for a commission in the Judge Advocate General's Corps. When the commission was slow in coming through, Hardin declined to accept it, opting to conclude his enlisted service in two years because "I was anxious to get my military service behind me and get back into practice."

Hardin first practiced as a trial lawyer with the largest law firm in Birmingham, Alabama. He enjoyed being a litigator and describes trying jury cases as "recreation." After two years of practice, Hardin was invited to spend a year teaching law at his alma mater by then-Dean Jack Latty. Refusing initially, Hardin gave in to Dean Latty's persistence after discussing the matter with his firm's senior partner, Douglas Arant. Arant was sympathetic; he himself had always regretted turning down a similar offer from his own alma mater, Yale, many years before. With an open offer from Arant to return to the firm "anytime you want to," Hardin started teaching at Duke in 1958. Douglas Arant's promise was not an empty one; sixteen years later when Hardin stepped down as President of Southern Methodist University under highly publicized circumstances, Arant called to say "Are you ready to come back? Full partner, Monday morning, and you'll be in charge of the trial practice."

Hardin's scheduled one-year leave of absence to teach at Duke turned into ten. During this time, he taught all around the legal curriculum, though it was torts that he found most interesting. Also during this period he co-authored casebooks on criminal justice and evidence and conducted Ford Foundation-sponsored comparative law studies in Scotland, Jamaica, Canada and Nigeria. But the future still held more opportunities for Paul Hardin.

### University President

It was in 1968 that Hardin's career in university administration began, when he was invited to become President of Wofford College in Spartanburg, South Carolina. Jokingly, Hardin says that "People come to me sometimes and say 'How do I get to be a university president?' and I say 'I don't have the slightest idea.' Because it seems to have happened by accident in my case." According to Hardin, in the 60s lawyers made attractive candidates as university presidents because "those were the days of campus unrest. Law professors were credible to faculty because they had written articles and books and they were scholars so they had the *faculty* credentials. But they were also credible to trustees because they had experience in dispute resolution. . . ." Hardin notes that part of his interest in going to Wofford was that "I was attracted to the campus in part because I had been observing student unrest and had some ideas about dealing with it."

Although before going to Wofford, Hardin's administrative experience at Duke was limited to recruiting law students, placement activities, and the occasional trip on behalf of Dean Latty, he took to his new career and, characteristically, excelled. In 1972, he left Wofford to become President of Southern Methodist University in Dallas, Texas, where in two short years he raised the average SAT score and balanced the budget. His highly ethical nature led him to resign from SMU in 1974, after a disagreement with trustees caused by his reporting and correcting violations of NCAA rules.

After teaching law for a semester at the University of Virginia, Hardin went on to become the President of Drew University in Madison, New Jersey—a post he held for thirteen years. During his tenure at Drew, Hardin was able to increase the school's endowment and build two library complexes.

### Returning to the Tarheel State

In 1988, Hardin returned to North Carolina to take up his current post as

Chancellor of UNC's prestigious Chapel Hill campus. Hardin was chosen following an eight-month search that attracted over one hundred other candidates for the job. He gives a variety of reasons for his decision to return. Having presided over private universities previously, Hardin was curious about heading a public institution. He also has several grandchildren in Durham. "But the main thing that attracted us [Barbara and me]," he recalls, "was the opportunity to return to our native state, *and* to head this incredibly fine flagship University. In twenty years of living outside North Carolina, I became aware in many ways that a very substantial part of the positive reputation of this state in the other forty-nine states is based on UNC-Chapel Hill. It is a majestic place in reputation around the country. . . I couldn't resist."

Hardin has certainly had his work cut out for him. His first year as Chancellor coincided with the beginning of a fiscal shortfall which has brought three consecutive years of budget cuts throughout the UNC system. For this reason, the University has had to turn increasingly to private grants and funding. In this area, Hardin has done well, and his tenure has seen a dramatic increase in the amount of private funding of research at UNC-CH. He is also taking care to see that funds are allocated to fields appropriate to the times. He foresees growth in international, interdisciplinary research, particularly in the health and social sciences, as well as in the humanities. He also points to an increasing need to understand Eastern Europe and Latin America. Despite the financial squeeze at UNC, Hardin also recognizes the necessity of attracting and keeping top quality faculty and staff, strengthening the libraries, and upgrading information technology throughout the UNC system.

When asked to compare his role at UNC with his experiences heading private universities, Hardin explains that as the chancellor of a public institution not only does he have to deal with all the complexities of a private university—

faculty relations, student relations, fund raising, parking problems, etc.—but he also has to cope with “layers of state responsibility and state accountability that are also very complex.” These include relations with the executive and legislative branches of the state government, and with other arms of the UNC system. Although his duties are many and varied, Hardin nevertheless considers that “the most important issue to me at any college or university is the quality of the academic enterprise and the teaching and learning process that goes on between the faculty and students. That is my major concern, my major emphasis no matter where I am.” Whatever Hardin is doing for UNC at a given moment, he finds it engaging. “I don’t remember ever having been bored since I’ve been here.”

Hardin acknowledges that his Duke Law School days have served him well, both in terms of dispute resolution (“I am the court of last resort and appeals in student discipline and faculty discipline and grievances of one kind or another”) and in terms of the mental discipline and personal relationships gained in Law School. “My Duke legal education not only prepared me, I think, for any kind of career you can imagine. . . . but it was also an excellent preparation for a highly fulfilling personal life.” According to Hardin, his Law School relationships were at least partially responsible for his

becoming chancellor at UNC-CH, “because I was known to many of the influential people at UNC through my long-standing Duke experience.”

Chancellor Hardin still loves the law, and is a tenured professor at Carolina’s Law School. “I would love to teach. . . . but teaching law is not compatible with this job. This job is twenty-four hours a day, seven days a week.” Although Hardin has not taught since his semester at the University of Virginia, he still tries to visit the law school occasionally to talk with law students “about the study of law as a preparation for life, not only for law practice, but for whatever else you do, including maybe being a chancellor of a university.”

Careful to avoid sounding critical of the changing nature of the legal profession, Hardin does seem disappointed in what he perceives to be a decline in the degree to which students and lawyers enjoy the law. “I don’t find law students having that much fun . . . and I see a lot of people looking on law practice as a good living, but drudgery, hard work and not as much fun.” Yet he recognizes that legal education has kept up with the changing nature of the practice. “I think the current generation of law students are so smart and the current lawyers are so well equipped and well trained. They are much more specialized. Even though I was a trial lawyer, I did some non-trial work. I think that we were a little more

generalists in my day, both in law study and law practice. Specializing probably makes one better equipped to serve the client, but maybe it’s not quite as much fun. . . .”

Although Chancellor Hardin finds his UNC duties require total commitment, he has stayed close to Duke. Even after leaving the Duke faculty, he served on the Duke Board of Trustees for several years. This past October, he was named by the Law School as the recipient of the Charles S. Murphy Award, honoring his outstanding devotion to public service and his dedication to education. (See article on page 30.) His three children are also Duke alumni—including son, Russ Hardin ’82, a graduate of Duke Law School—as are his two sons-in-law. And in sports, despite his current position, he admits to being an incorrigible Blue Devil fan against all teams but Carolina. One can only hope that if a Tarheel ever comes again (Senator Terry Sanford, former President of Duke, was, indeed, a graduate of UNC) to fill the top slot at Duke, he or she will be as well-qualified and as devoted to both schools as is Chancellor Paul Hardin, III.

*Colin Jones ’93*

*Interview by Pamela Lohr ’91*



# Forging Ahead

## Faculty Profile of Paul H. Haagen

“I remember how fulfilling it was to watch something so rigid and clear in its form, gradually change in shape, size and utility.” It is not his new position as Senior Associate Dean for Academic Affairs that Professor Paul H. Haagen describes but rather his unusual interest in blacksmithing. While a graduate student, Professor Haagen attended a folk school in western North Carolina where he developed an interest in metalworking. “Smithing is one of the more strenuous forms of artistic expression,” he notes, “where, ultimately, the physical coordination, stamina, and perseverance of the artist is reflected in the work.” In many ways, Paul Haagen has used the lessons he learned from this ancient folk art to forge ahead in his role as Senior Associate Dean of the Law School.

### The Apprenticeship

Professor Haagen received his academic “hammer and anvil” from institutions such as Princeton (with an M.A. and a Ph.D. in History) and Oxford (where he was a Rhodes Scholar). His legal apprenticeship was spent at Yale (J.D. 1982) where he was editor-in-chief of the *Yale Law and Policy Review* and associate editor of the *Yale Journal of World Public Order*. After clerking for the Honorable Arlin M. Adams of the United States Court of Appeals for the Third Circuit, Haagen worked as an associate at Dechert Price & Rhodes in Philadelphia.

At the time he entered Yale, Professor Haagen believed that eventually he would go into law teaching. He had loved teaching when he was a graduate student at Princeton and had research interests that he wanted to follow. Nothing in law school changed his mind. “My three years at Yale Law School were among the most exciting intellectual ex-



Les Todd

Paul H. Haagen

periences of my life,” he notes. But despite an early invitation to interview with the University of Southern California Law School during his judicial clerkship, he decided that he wanted to spend some time in practice. He explains, “I thought then, and continue to believe, that it is very difficult to teach law without having some experience practicing it. I also had a lot of fun practicing and was reluctant to give it up.”

After a couple of years with Dechert Price, however, he realized that the time was right for a change. He put his name in the registry of the Association of American Law Schools and went to Chicago to interview. It was, he recalls, quite an experience. “At the same time in the same hotel, there were several hundred very serious looking lawyers and law professors, several dozen young women in swimsuits interviewing with *Playboy* to be “Playmate of the Month,” and a raucous parrot in the lobby making disparaging comments about all of them!”

After receiving Duke’s offer, Haagen concluded that Duke seemed to be the

best fit as far as “what they would let me do, the quality of the school and the quality of living. We thought coming to Duke would be an adventure.” He was also excited about living in North Carolina, because his parents had bought a farm near Sparta in the North Carolina mountains, where they live for six months of the year.

Professor Haagen came to Duke in 1985, and has divided his teaching duties between contracts and legal history. His principle research interests are in the social history of law. To date, his most ambitious project has been his first book, *Neither a Borrower, Nor a Lender Be*, a study of the use of imprisonment against civil debtors—the first significant use of imprisonment in the English-speaking world.

### Becoming a Dean

In choosing a Senior Associate Dean to replace Robert Mosteller who completed his term on June 30, 1991, Dean Pamela Gann looked for someone with “extraordinarily good judgment” and “someone in whom faculty and students would put a great deal of trust.” Dean Gann notes that being Senior Associate Dean requires an understanding of the culture of Duke and how it interplays with administering the curriculum. The Associate Dean must “work closely with individuals, both faculty and students, on matters that are very important to them; making hard decisions while still keeping their trust and goodwill.”

According to Dean Gann, the Senior Associate Dean spends a majority of his time “dealing with student issues pertinent to academic matters.” He is also responsible for “organizing faculty matters intrinsic to the curriculum; from setting course schedules to addressing student complaints about faculty con-

duct. Ninety-five percent of the issues the dean faces will be routine administrative emergencies; however, to deal with the remaining difficult and/or highly sensitive problems, the dean must possess the compassion inherent in a good educator."

Haagen was first approached with the proposal to become Senior Associate Dean on the morning of his tenure vote in the fall of 1990. "I took it as a good sign that the Dean expected things would go well for me at the faculty meeting," he remembers. He did feel some ambivalence, however, knowing the position would be time consuming as well as demanding. He acknowledges that both these initial concerns have been well realized over the past few months.

Haagen recalls that he had several thoughts when considering whether to accept the position. After assessing his academic career, he felt if he were to be Senior Associate Dean at Duke, this would be the best time. He was finishing his book, and thought that perhaps the deanship would give him time to think about what his next literary focus would be.

Though Haagen laments putting his scholarly work on the back burner for a while, his commitment to his administrative position was evident from the onset. He immediately recognized his obligation to both faculty and students in "doing the job well" and was pleased with Dean Gann's vote of confidence in his appointment. "When I took the job, one of the first things Dean Gann told me was that my day would not be my own," Haagen notes. He acknowledges both that she was right and that one of the hardest aspects of the job to get used to is the need to work on "routine emergencies" instead of the matters that he had hoped and planned to deal with each day.

In order to cope with the conflicting demands on his time, Dean Haagen relies greatly on both staff and faculty. Additionally, he gives kudos to the students

for their cooperation and patience during his time of adjustment. The feeling is returned by the students, notes Ed Trent '92, president of the Duke Bar Association. "Dean Haagen is very much a students' dean. He is very friendly and conscientious. He has made my job easy because he listens to student concerns and input. The students are fortunate to have a dean as approachable and accommodating as Paul Haagen."

Outgoing Associate Dean Robert Mosteller, who held the position for two years, "left an incredibly well-organized set of instructions" regarding the deanship, Haagen notes. He reflects that Bob Mosteller was his support and anchor in the initial days, taking questions and remarking on trouble spots he encountered during his tenure. Mosteller also left Haagen the advice to develop a sense of humor about his job even when, in some cases, humor is not readily forthcoming. Succeeding Bob Mosteller has, according to Haagen, made the job both easier and more difficult. "Bob has," he observes, "been both a difficult act to follow and my anchor and guide in learning the new job."

With the recent resignation of Gwynn Swinson, Associate Dean of Admissions and Student Affairs, Haagen combined his full-time job of being Senior Associate Dean with the task of being an interim "dean of students" for several months last fall. Along with the day-to-day running of the institution, he assumed supervisory responsibilities for the admissions, financial aid, placement, pro bono and student organizations. Dean Haagen, perhaps even more than the rest of the Duke Law community, eagerly awaited the arrival of new Associate Dean Susan Sockwell and Director of Admissions, Liz Gustafson '86 (see article on p. 14). Now that they are on board, Haagen's duties will center more on the academic programs of the institution.

In addition to his decanal duties, Haagen has agreed to do a substantial

book review of a number of studies on the history of economic regulation and a paper on the United States Supreme Court for a Taiwanese research institute. After completing his forthcoming book on imprisonment for the University of North Carolina Press, he plans to start a long-term research project on conscription and societal understandings of the duties of citizenship. He hopes to explore "when societies can compel various kinds of labor" i.e., "debates surrounding national service requirements and, more specifically, the draft."

### In Off Hours

The bulk of Professor Haagen's free time is spent with his family—his wife, Lucy, and their two sons, Jonathan (age ten) and Christopher (age seven). Raising his two sons is the principle focus of his non-Law School activity. At present, Lucy Haagen splits her time between writing for *The Independent*, a local community newspaper and teaching eleventh grade English half-time at the North Carolina School of Science and Math. She also is involved in development consulting, freelance grant writing, and public relations.

Until about a year and a half ago, it would not be unusual to see the new Associate Dean scoring goals in a local competitive club soccer league. His love of the sport was extended through his Little League coaching responsibilities at the Durham YMCA. He also professes to do a "fair amount of bicycling" and running when he finds the time.

Since beginning his new position in July, Dean Haagen has had little time to reflect about the days he spent turning lumps of metal into useful artistic pieces. However, if less tangible, Professor Haagen's role as Senior Associate Dean develops a similar process by shaping the core academics of Duke into a structured, yet developing curriculum.

*Julian Myers '92*

## Book Review

### *Critical Issues in Business Conduct: Legal, Ethical and Social Challenges for the 1990s\**

by Walter W. Manley, II '72 (with William A. Shrode)

**T**he business environment has changed rapidly in recent years, and the conduct of businesses and their executives has become a matter of intense public scrutiny. Some of the most dramatic headlines in the daily newspapers are reports of scandals arising out of questionable business practices at some of America's top firms. Today, business executives and managers must consider issues that were virtually unheard of in the past. The 1990s are bringing new challenges to America's business firms—laws are changing, issues of business ethics are surfacing as a matter of public interest, and corporate social responsibility has become a nationwide concern. In order to succeed and prosper as we move into the 1990s, today's executives and managers must learn to respond to such diverse issues as AIDS in the workplace, whistle blowing, protecting proprietary information, environmental concerns and international business relationships.

In his book, *Critical Issues in Business Conduct: Legal, Ethical, and Social Challenges for the 1990s*, Walter W. Manley, II '72 has taken on these issues and many more. As a lawyer, businessman and professor of business administration at Florida State University, Manley is uniquely qualified to address these issues in an informed and authoritative manner. In 1988-90 he was a member of five faculties at Cambridge and Oxford Universities as a visiting professor at three Cambridge colleges.

*Critical Issues in Business Conduct* is the result of an extensive two-year study conducted by Manley regarding the



*Walter Manley teaches masters level courses at the Florida State University School of Business Administration and practices with the Tallahassee firm of MacFarlane, Ferguson, Allison & Kelly. A member of the Law School's Board of Visitors, Manley writes a column on business ethics for Knight Ridder newspapers and is involved in several business enterprises.*

responses of business firms to issues in business conduct. This project, where he worked with top executives of British and United States firms, produced two other books—*An Executive's Handbook of Model Business Conduct Codes* (Prentice Hall, 1991) and *A Handbook of Business Codes of Conduct* (Routledge, forthcoming 1992). Nearly 300 of America's most successful and well-managed firms actively participated in Manley's research project.

Throughout the course of the study and in preparation for writing this book, Manley reviewed and analyzed 1,000 pages of interviews and correspondence with top executives and over 10,000 pages of codes of business conduct and policy statements. From this extensive primary source material, Manley extracted those issues of critical concern to executives and managers and their responses.

In the first two chapters, Manley discusses the importance of business ethics and balancing employer and employee rights and responsibilities. In the following chapters, he explores the myriad issues arising from the relationship between business organizations and their

external constituencies (such as consumers, regulatory agencies and competitors) as well as their internal constituencies (such as employees, managers, directors and shareholders).

Manley describes and presents a brief history of each issue. He then analyzes the issue, incorporating recent legal developments, including state and federal legislation, regulations and court decisions. He also sets forth practical guidelines for addressing each issue. These guidelines

\* Quorum Books, 1990

are based on the responses to the survey combined with his expertise and experience in business and law. These guidelines will serve as a checklist for the executive to follow in preparing his or her response to one of these critical issues.

For example, with respect to the protection of confidential information, Manley discusses the development and growth of knowledge-based industries, rather than traditional resource-based industries in the 1980s. These firms must focus their attention on protecting this knowledge or intellectual property through such means as copyrights, patents, confidential business information, trade secrets and trademarks. Manley describes the legal basis for these means of protection, how long they are in effect, when they might be used and how they are enforced. Manley sets forth the elements of each of three common tests used by courts to determine whether certain information constitutes a trade secret. This is followed by a discussion of the advantages and disadvantages of copyright and trade secret protection for computer software.

Manley then turns to employee contracts which are frequently used to protect confidential business information. Following an analysis of the provisions of such contracts, Manley sets out seven steps to be followed in drafting noncompetition and nondisclosure agreements. He concludes this section with nineteen steps a firm should follow to protect its proprietary information. The guidelines take into account both the needs of the firm and the requirements of the law. Samples of relevant agreements are included as exhibits to this chapter.

Another important issue Manley addresses is insider trading and the securities laws. He discusses the history of Rule 10b-5, the legal basis for liability for insider trading and cites recent examples

of such activities—ranging from Ivan Boesky and Drexel Burnham Lambert here at home to similar situations in France and Japan. Following a brief discussion of the application of the Racketeer Influenced and Corrupt Organization Act (RICO) to violations of the securities laws, Manley turns to the disclosures required in specific securities transactions such as going private, tender offers and mergers and acquisitions. The chapter ends with specific guidelines for firms to follow to assist them in monitoring the trading practices of their insiders. The guidelines are practical and should assist any firm in setting up a plan to ensure that its officers and directors comply with the regulations regarding insider trading and short-swing profits.

These are only two of the critical issues that Manley addresses in this book. The other legal, ethical and social challenges that he discusses are: (i) drugs, alcoholism, AIDS and genetics in the workplace; (ii) preventing sexual and nonsexual harassment in the work environment; (iii) equal employment opportunity and nondiscrimination on the bases of sex, race and disability; (iv) workplace safety, consumer protection and product quality; (v) marketing and advertising; (vi) financial accounting and reporting; (vii) computer-based information systems; (viii) business dealings and relationships; (ix) fundamental honesty, law compliance, fair competition and the antitrust laws; and (x) international business relationships and practices. The discussions and analyses of each of these issues are clear, well-documented, comprehensive and timely.

For the reader who wishes to investigate any of these matters in greater detail, Manley provides extensive citations to relevant state and federal laws, regulations and cases, as well as secondary source material including treatises

and articles from newspapers, business periodicals and law reviews. In addition to the extensive citations, Manley includes a bibliography to assist those readers wishing to do further research regarding any or all of these issues.

*Critical Issues in Business Conduct* can be read from cover to cover to gain an overview of the issues that firms will be facing in the 1990s. The book also will serve as a handy desktop reference. When confronted with one of these issues, a concerned manager can turn to the detailed index which will provide quick access to a discussion of the relevant issue. The executive or manager who consults this book will have expert assistance available in reaching an informed decision regarding these difficult issues.

*Critical Issues in Business Conduct* is highly recommended for executives, managers, corporate attorneys, law or business students and interested lay persons. Manley's broad range of issues, concise analysis, practical guidelines and extensive references to relevant materials are unmatched by other sources.



Ron Ferrell

Reviewed by Margaret M. Collins, Reference Librarian and Lecturing Fellow

# Portrait of Professor Poteat Presented

At the urging of James M. Poyner '40, a photograph of Professor J. Douglass Poteat was found in the Duke University Archives. Poteat was a member of the Law School faculty from 1936 to 1946. Poyner thought that Professor Poteat was an outstanding teacher and individual, and that it would be fitting for the School to honor him by displaying his portrait. The black and white photograph of Professor Poteat was enlarged and then painted by a local artist in a style similar to the portraits of other Law School faculty members. The completed portrait, a gift from the Classes of 1939 and 1940, was presented to the Law School on October 18, 1991 at the Half-Century Banquet and now hangs in the Law School.

Bradley Morrah '39, a student of Professor Poteat's, represented the classes in making the portrait presentation. He



Dean Gann and Bradley Morrah admire portrait of Professor Poteat.

has practiced law since 1939 in Greenville, South Carolina where he has been active in many civic and professional organizations. He served in the South

Carolina House of Representatives in the 1940s, and was a member of the South Carolina Senate from 1953 to 1966.

## Remarks of P. Bradley Morrah, Jr. '39 upon the Dedication of the Portrait of Professor James Douglass Poteat

*I am humble at having been asked to say a few remarks about a distinguished gentleman who impacted upon us as a law professor more than fifty years ago during our tenure as law students at Duke. I feel particularly attached to J. Douglass Poteat whom we honor this evening since he and I left Greenville at the same time to join the Law School family at Duke in 1936. The fact that he joined as a member of the faculty and I as an inept freshman seems of no particular significance to me this evening after the elapse of fifty-five years. I assure you it seemed highly significant in 1936.*

*Douglass Poteat bore a widely known and distinguished name with honor and distinction. Son of a former president of Furman University, nephew of a former president of Wake Forest, brother to two of the South's outstanding ministers, Douglass Poteat himself had made a good name in South Carolina as an up-and-coming successful lawyer before coming to Duke. In retrospect, part of his enthusiastic reception by the student body at Duke Law School was the rare quality he brought to faculty status as a successful private practitioner, rather than simply a distinguished academic back-*

*ground. Many letters and notes received from former students for this evening's ceremony indicate that his practical approach to legal matters gave a distinct flavor not acquired from other faculty members in residence at Duke at that time.*

*Douglass Poteat was born in 1903 and graduated from Furman University in 1923, receiving in 1926 an LL.B. degree from Furman. After obtaining his LL.B. degree, Poteat joined the law firm of Haynsworth & Haynsworth in Greenville, South Carolina, where he worked until the fall of 1929 when he left to accept appoint-*

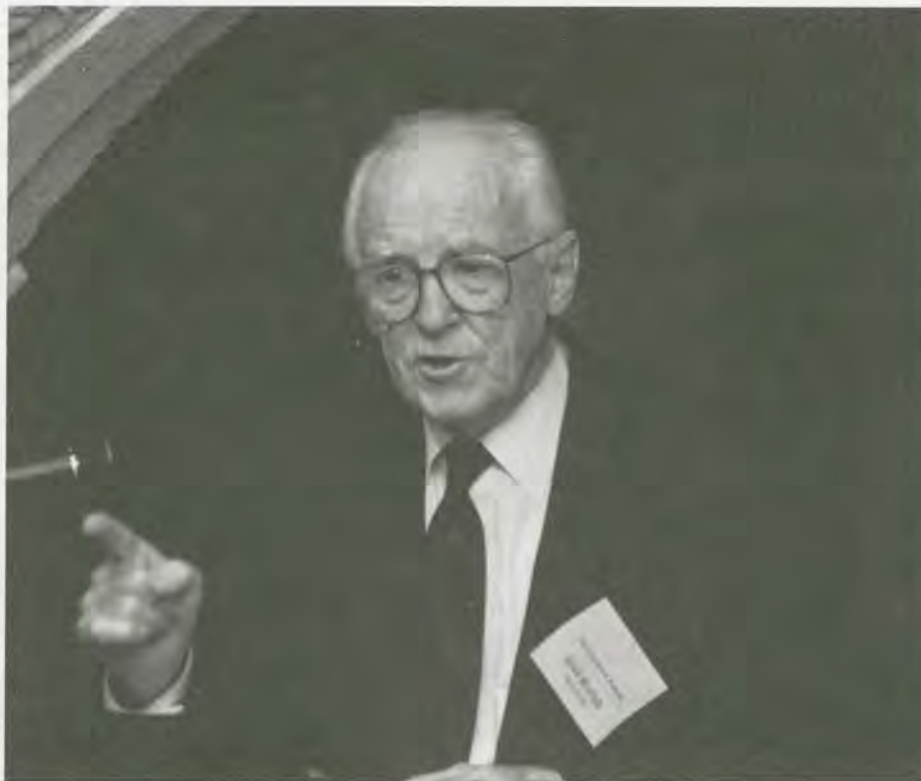
ment as professor of law at the Furman University Law School. He went to Yale as a graduate student in the Law School for the year 1932-33, receiving the S.J.D. degree at commencement there in 1933. While at Yale he held a Sterling Research Fellowship and his thesis was a scholarly work on the administration of debtor estates. Thurman Arnold, distinguished professor of law at Yale University and dean at one time of the Yale Law School said of Doug Poteat that "he and his colleagues at Yale considered Poteat one of their best men." Saying further, "he combined a very high degree of intelligence with very charming manners, which is something which you don't always get."

Following his work at Yale, he returned to Greenville and formed his own firm, Nettles & Poteat, for the practice of law and continued in that status until September 1, 1936, when he came to Duke. Dean Horack [who] succeeded in hiring [Poteat] in 1936, said "picking teachers is like selecting futurity winners for a horse race" and that he felt convinced that in Poteat, "we have a good man with lots of possibilities in him for the future."

As students at Duke attending his classes, we found Dr. Poteat to be a gifted, highly intelligent, practical, and interesting instructor. During my three years at Duke, I cannot recall hearing anything uncomplimentary about him or charging him with the unforgivable faculty sin of being dull and boring.

Some who are not here this evening have contributed in their letters various remembrances and insights about Doug Poteat. Ross Arnold '41 (also a Furman graduate and former football player) tells how he frequently sat for Dr. Poteat's children as a babysitter for which he was paid fifty cents an evening, and he considered that more than adequate in those lean years. He also states that he once stopped by Dr. Poteat's office and asked if he could speak to him if the professor was not busy, to which Dr. Poteat replied, "I am always busy—but not too busy."

Charlie Gibbs '39 confesses to having used in argument on appeal one of Dr. Poteat's comments on a particular bad result



P. Bradley Morrah, Jr. '39

he obtained in a tort case when shortly after the charge, "the last man on the jury as he entered the jury room met the foreman of the jury already on the way out with a large verdict in favor of the plaintiff."

Bill Womble remembers Poteat remarking on his ownership of a Packard automobile (at that time a mark of distinction) with respect to mileage that "any one needing to know that had no business owning one."

Jim Poyner recalls that due to the exigencies of the highway he was some twenty-five minutes late to class one morning, so not desiring to disturb the class he did not enter the classroom. However, he did go up and explain his reason for absence and not entering to Doug Poteat. Professor Poteat remarked in a tone of voice indicating he recognized apple polishing when he heard it, "we did not miss you."

Shortly after the onslaught of war in 1941, Poteat asked for and was granted leave from Duke University Law School. At the inception of his leave from Duke, he was appointed assistant general counsel to the Board of Economic Warfare, Foreign Economic Administration, in which con-

junction in 1943 he was appointed director of foreign service personnel and was attached to the U.S. Embassy, having been designated special assistant to the U.S. Ambassador in London, England in 1944 and 1945.

It was during his tenure with military intelligence during the War that he became a key figure, together with Stanton Griffis, a Boston financier and economic expert and later president of Paramount Pictures, in a secret diplomatic mission to Sweden resulting in a brilliant diplomatic triumph for the Allies by persuading the Swedes to curtail drastically shipments of SKF ball bearings to the Reich. These two men boarded two separate British mosquito bombers in Scotland and flew on a secret midnight mission to Stockholm, Sweden. After a series of meetings with officials of the ball bearings company and the Germans, the manufacturers agreed to curtail shipments of ball bearings to the Nazis at a time when the Reich desperately needed them for airplanes coming off the line. Poteat was later quoted as saying, "the Germans in Stockholm who formed the opposition mission were evidently under tremendous pressure from Berlin. They pulled

out the stops and tried every trick of trade. It was said in Stockholm that the German mission had been threatened with the same fate of the Nazi mission that had failed to halt the British-Turkish chrome negotiations—active duty and probable death on the Eastern Front if their mission failed.” Dr. Poteat gained wide prominence subsequently as a result of this mission which was hailed as one of the outstanding diplomatic achievements of the War in Europe.

Following the War in Europe, Poteat became deputy commander of the American Red Cross in the Pacific Ocean areas. Subsequently in 1946 he was appointed and served as executive vice chairman of the American Red Cross. Later in 1946 he left that organization to become administrative head of the American Cancer Society. As such he directed a drive to raise \$16,000,000 for cancer research and an

extensive program for new buildings and teaching resources. Upon his departure from the Red Cross, Mr. Basil O'Connor, chairman of the American Red Cross, said “Mr. Poteat’s services to American Red Cross have been invaluable and it is with the greatest reluctance that we accept his resignation.”

In March of 1949, Dr. Poteat was named to the post of executive vice president of the Memorial Hospital Center for Cancer and Allied Diseases in New York City. This new cancer center research project united resources of the Cornell and the New York University Medical Schools, the Sloan-Kettering Research Institute, New York’s Memorial Hospital and other cancer research agencies. Under his direction, the Center launched a massive program for new buildings and teaching resources.

Dr. Poteat died from cancer, a disease which he devoted much of his life to eradi-

cate, on March 16, 1950 in New York City. He was survived by his second wife, the former Maida Beckwith, and by two sons, Thomas L. and James Poteat, Jr. His older son graduated from Duke Law School and practiced in Greenville and Georgetown, South Carolina.

In closing, a word of deep gratitude to James M. Poyner, Class of 1940, longtime distinguished member of the North Carolina bar, without whose interest and efforts this magnificent portrait unveiled here today of Dr. James Douglass Poteat and the fond memories which this event has awakened in the surviving members of the Classes of 1939 and 1940 would not have been possible.

Those of us who knew Doug Poteat are grateful for his friendship and instructional impact upon us as law students and each of us is better by virtue of his having passed our way.

## DeHaven New Law Alumni Association President

During the Law Alumni Association meeting on October 19, 1991, Richard A. (Chip) Palmer '66 passed the presidency of the Law Alumni Association (LAA) to Dara L. DeHaven '80. DeHaven thanked Palmer for his service to the Association and the Law School and presented him

with an engraved gavel and stand to commemorate his service as the 1990-91 president.

Palmer is a partner with Fulbright & Jaworski in their New York City office. In addition to serving as LAA president, while on the Law Alumni Council he chaired an ad hoc committee considering the dues structure and served on the Educational Programs Committee. While president-elect, he chaired both standing committees (nominations and awards). For a number of years he also served as a senior partner in the Law School’s Commercial Practice Clinic, returning to the School each semester to counsel students on their research and writing.

DeHaven lives in Atlanta, Georgia, where she is a partner at the law firm of Powell, Goldstein, Frazer & Murphy.

She has served on the Law Alumni Council since 1987, and chaired both standing committees (nominations and awards) in 1990-91.

DeHaven introduced the other LAA officers: David G. Klaber '69, vice-president/president-elect, Haley G. Fromholz '67, secretary/treasurer and Vincent Sgrosso '62, immediate past president. Speaking for the officers and members of the Law Alumni Council, she said that they looked forward to working with Dean Gann to further strengthen the bonds and communication between alumni and the Law School. Noting that this is an exciting and challenging time in the life of the Law School, she urged all alumni to remain involved with the School for their own benefit as well as for the support they could offer the School.



Chip Palmer '66 and Dara DeHaven '80

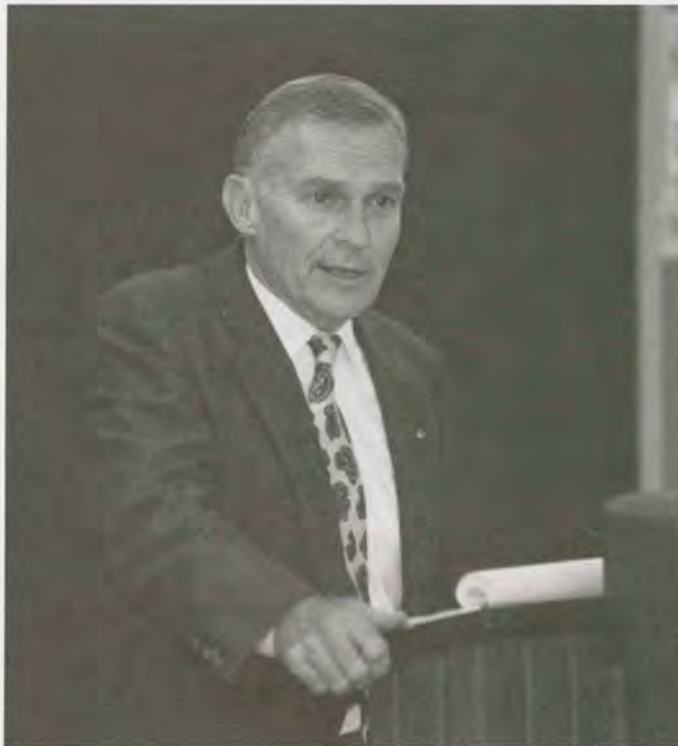
# Paul Hardin, III Receives Murphy Award

Paul Hardin, III '54, received the seventh annual Charles S. Murphy Award during the Law Alumni Association meeting on October 19, 1991. Richard A. (Chip) Palmer '66, president of the Law Alumni Association, presented a set of etched crystal bookends to Hardin to commemorate the award.

The Murphy Award is presented annually by the Law Alumni Association to an alumnus of the School who, through public service or dedication to education, has shown a devotion to the common welfare, reflecting ideals exemplified in the life and career of Charles S. Murphy. Murphy was a 1931 graduate of Duke University. He graduated from Duke Law School in 1934 and received an honorary LL.D. from Duke in 1967. A native North Carolinian, Murphy died in 1983. During his career, he held several positions in the Truman, Kennedy, and Johnson administrations including serving as administrative assistant and special counsel to President Truman, as Undersecretary of Agriculture under President Kennedy, and as counselor to President Johnson. He also served as a member of the Law School's Board of Visitors and on the Duke University Board of Trustees.

The Awards Committee of the Law Alumni Council endorsed Hardin as the 1991 award recipient because of his lifelong dedication to public service through his commitment to education in both law teaching and academic administration and through his service and leadership to numerous civic and professional organizations. (See the profile of Hardin at p. 20.)

Hardin received an A.B. from Duke University in 1952 and a J.D. from



Dan Crawford

Paul Hardin, III '54

Duke Law School in 1954. His numerous honorary degrees include an L.H.D. from Clemson University in 1970, an LL.D. from Coker College in 1972, a Litt.D. from Nebraska Wesleyan College in 1978, an LL.D. from Adrian College in 1987, an LL.D. from Monmouth College in 1988, an HH.D. from Wofford College in 1989 and an LL.D. from Rider College in 1990.

After two years in Army service with the Counter Intelligence Corps and two years in private law practice in Alabama with Bradley, Arant, Rose & White, Hardin returned to Duke Law School as a member of the faculty. During his ten years on the faculty he authored two casebooks and a number of articles and undertook an international comparative

study of the administration of justice sponsored by the Ford Foundation.

Embarking upon a career in academic administration, Hardin served as president of Wofford College from 1968-72, as president of Southern Methodist University from 1972-74 and as president of Drew University from 1975-88. In 1988, he accepted the position as chancellor of The University of North Carolina

at Chapel Hill.

Hardin has also shown his dedication to education through his many affiliations with educational associations. After leaving Duke as a faculty member, he continued his involvement with the University by serving on the Board of Trustees from 1968-74. He served as president of the National Association of Schools and Colleges of the United Methodist Church in 1972 and again in 1984. From 1975-77 he was chairman of the National Commission on United Methodist Higher Education. He served on the Board of Higher Education of New Jersey from 1983-88. He also served as chairman for the Legal Services Review Panel of the National Association of Independent Colleges and Uni-



versities from 1978-82 and during the same time period, 1978-81, he served on the Executive Committee of the Independent College Funds of America. He has been co-chairman of the Japan-U.S. Conference of University Presidents since 1985.

Hardin has also been very active in civic and professional organizations. He has participated in the Alabama and the North Carolina Bar Associations, the Dallas Bar Association and the American Bar Association. He was a member of

the South Carolina Government Reorganization Commission in 1970-72 and the chairman of the South Carolina State Tuition Grants Committee at the same time. He is currently a member of and has served as president of the Rotary Club. He has also served as the director of the Morris County Chamber of Commerce. He is also on the Administrative Board of the United Methodist Church of Madison and has been involved in the United Methodist annual conferences.

In presenting the award, Palmer

noted that it was a special pleasure for him to present the award to his former law professor. Chancellor Hardin expressed his thanks to the Law Alumni Association and to Duke Law School generally for the important part it has played in his life—including preparing him for the various challenges he has faced.

Alumni are encouraged to submit nominations for the Murphy Award by contacting the Law School's Alumni Affairs Office.

## Dukes Award Goes to Klaber

During Law Alumni Weekend ceremonies, David G. Klaber '69, incoming vice-president of the Law Alumni Association, was recognized as a recipient of the Charles A. Dukes Award as determined by the Awards and Recognition Committee of the Board of Directors of the Duke University General Alumni Association. The award is named for the late Charles A. Dukes, a 1929 graduate of Duke University and former director of alumni affairs. The award is given annually to alumni who have gone "above and beyond" the call of duty in volunteer leadership roles.

Richard A. (Chip) Palmer '66, president of the Law Alumni Association, presented Klaber with a plaque commemorating the award. Klaber was nominated by the Law School for his service to the Law School and the Law Alumni Association. He joined the Law Alumni Council in 1989-90, becoming secretary/treasurer in 1990-91. He will serve as vice president/president-elect this year and rotate to the presidency for 1992-93. Currently he chairs the two standing committees, awards and nominations. He also serves on two ad hoc committees organized by the Law Alumni Council to explore new alumni programs—the Educational Programs



David G. Klaber '69

Committee and the Communications Committee, which he chairs.

In 1987 Klaber helped organize the Pittsburgh local alumni association and has served as its first president. In April of 1991, he moderated the Alumni Seminar program on "The Changing Nature of Law Firm Practice." He has served on the Law School Admissions

Program since it was established in 1987-88. As part of this program, he meets with admitted candidates to answer questions and to encourage enrollment at Duke Law School and visits local undergraduate schools to meet with pre-law advisors and students.

Klaber, who is a partner at Kirkpatrick & Lockhart in Pittsburgh, Pennsylvania, expressed his appreciation for his experiences at Duke

Law School as a student and as an alumnus. He reminded the assembled alumni that regardless of their class year, all alumni shared the unique Duke Law School experience and he urged alumni to continue to share in that experience through alumni programs at the School or in their local area.

# Special Gifts to the Law School

## Gifts to the Building Program

The Law School is pleased to announce several gifts to the building program of \$100,000 or more from alumni and friends.

—**The Duke Power Company Foundation** of Charlotte, North Carolina has pledged \$250,000 to the building program.

—**Jeffrey P. Hughes '65**, managing director of Lehman Brothers in New York City, has committed \$135,000.

—**William R. Norfolk '67**, a partner at Sullivan & Cromwell, and **Marilyn M. Norfolk '68** of New York City have pledged \$130,000.

—**Richard M. Allen '66**, a partner at Cravath, Swaine & Moore in New York City, has committed \$100,000. In recognition of his generosity, the *Law & Contemporary Problems* suite (Phase III of the building program) has been named the Allen Suite by the Board of Trustees.

—**Richard A. Horvitz '78**, secretary/treasurer of Moreland Management Company of Cleveland, Ohio, has pledged \$100,000.

—**William J. Lowry '49** has pledged \$100,000 to the building program. He is a retired executive of Marathon Oil and resides in Hendersonville, North Carolina.

—**Nancy A. Nasher '79**, general counsel of the Raymond D. Nasher Company in Dallas, Texas, has committed \$100,000.

—**Ben F. Stormes '50**, president of The Wickman Corporation of Oak Park, Michigan, has contributed \$100,000.

Dean Pamela Gann notes that “the generosity of our alumni, faculty, and friends has been truly gratifying. Because of the progress we have made with our fund raising, I am now able to seek the approval of the Board of Trustees of the School’s financial plan. We look forward to beginning the project this spring, with the noisy construction work after examinations. None of this would have been possible were it not for the confidence of our alumni in their Law School.”

## Gifts to Endowment

“Notwithstanding our need to play ‘capital catch-up’ with respect to our building program,” notes Dean Gann, “the need to enlarge the Law School’s endowment is equally critical. As a private institution, the School needs to decrease its dependence upon tuition receipts as a percentage of total revenue. Gifts of endowment for chaired professorships, scholarships, the library and to provide unrestricted operating support are particularly important.” The following alumni and friends have made recent gifts of endowment:

**Dehoff/Arnold Endowed Law Scholarship.** **Hubert K. Arnold '39** has established the Dehoff/Arnold Endowed Law Scholarship in memory of his parents, Hubert Dudley Arnold and Myrtle Dehoff

Arnold. Preference will be given first to residents of North Carolina and second to residents of Maryland, representing the birth places of his father and mother, respectively.

Arnold resides in Wichita, Kansas. He has also established the Marjorie Patrick Arnold Endowment Fund and the Giles, Rich, Stoner Endowment Fund at the Law School.

**Sanders Charitable Gift Annuities No. 1 & No. 2.** **Paul H. Sanders '34** has established the Sanders Annuities. Sanders, professor emeritus at Vanderbilt University Law School, also taught at Duke Law School from 1936 to 1946. Upon termination of the annuities, the funds will be placed into the *Law & Contemporary Problems* Endowment Fund.

**Otto G. Stolz Law Endowment Fund.** Otto G. Stolz, acting on behalf of the **Otto G. and Jill V. Stolz Charitable Foundation** of Ada, Michigan, has established the Stolz Fund to provide unrestricted operating support to the Law School. Stolz was a professor at the Law School from 1973 to 1978.

**John Morel VanSchaick Charitable Remainder Unitrust.** **John Morel VanSchaick** of Eustis, Florida, a grand-nephew of former Law School Dean Samuel Fox Mordecai, has established the VanSchaick Unitrust. Upon termination of the Unitrust, its assets will benefit the John Morel VanSchaick and Jule Kennedy VanSchaick Endowment Fund, to provide full-tuition scholar-

ships. When fully-funded, it is expected the VanSchaick endowment will be the largest endowment for scholarships in the history of the School.

**H. Claude Horack Law Scholarship Endowment Fund.** **Benj. S. Horack T'39 L'41** and **Frances Borland Horack T'40** of Charlotte, North Carolina, and **Katharine Horack Dixon** of Arlington, Virginia, have established the Horack Fund in memory of the achievements in teaching and administration of their

father (and father-in-law), H. Claude Horack, a former dean and professor of the Law School. Dean Horack joined the Duke Law School faculty in 1930, served as dean from 1934 to 1948, and then as professor emeritus from 1948 until his death in 1959. A nationally-known educator, he was the first full-time adviser on legal education to the American Bar Association. He also served a term as president of the Association of American Law Schools. Income from the fund will provide scholarship assistance.

**Serena Crawford-Gregory Robertson Endowment Fund.** **C. May Robertson** of Calabash, North Carolina, and **Dorothy Crawford** and **Roy Crawford** of Maryville, Tennessee, established the Crawford-Robertson Fund in 1991 in memory of their children, Serena Crawford '78 and Gregory Robertson '78. Memorial gifts from classmates and friends were also restricted to the fund, which will provide scholarship assistance.

## Tip the Scales in Your Favor

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### 1. TAX SAVINGS

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*Lucille Hillman*  
Office of Major Projects  
Duke Law School  
Durham, NC 27706  
(919) 493-3611

## Professional News

**'42**—Charles J. Henderson has recently retired from the practice of law with Helms, Cannon, Hamel & Henderson in Charlotte, North Carolina.

**'48**—Hollie Conley has announced that he will not seek re-election to the Floyd County, Kentucky Circuit Court this year. He has been on the bench for twenty-



Hollie Conley '48

eight years, longer than any circuit judge in Kentucky. He was honored at a dinner last October by the Floyd County Bar Association and was "roasted" by former Kentucky Governor Bert T. Combs.

**'49**—Charles F. Blanchard, senior partner with Blanchard, Twiggs, Abrams & Strickland in Raleigh, North Carolina, has been elected vice president of the International Society of Barristers for 1992-93.

—Robert S. Wolff has retired as vice president of human resources of Wolverine World Wide, Inc. of Rockford, Michigan, and is now doing general consulting and labor arbitration.

**'51**—James J. Booker has been named chairman of the North Carolina Industrial Commission.

—Thomas T. Chappell became of counsel to the Montclair, New Jersey firm of Garrity Fitzpatrick Graham Hawkins & Favetta on August 1, 1991. He recently served as president, and is

now chairman of the board, of the New Jersey Defense Association, and continues his fellowships in the American College of Trial Lawyers and the International Society of Barristers.

—James F. Perry became vice president of the corporate law department of State Farm Mutual Automobile Insurance Company of Bloomington, Illinois in June 1990.

**'54**—John W. Maxwell is currently serving as director of business development for ITT World Directories, Inc. in Secaucus, New Jersey.

—J. Roger Shull has been elected chairman of the Board of Directors of the United Methodist Homes of Connecticut, Inc. and affiliates.

**'55**—John A. Carnahan, a partner in the Columbus, Ohio office of Arter & Hadden, received the Ohio State Bar Foundation Award of Merit in May

1991. He has also been re-elected to the ABA House of Delegates, and is chairman of the Ohio Fellows of the American Bar Foundation.

—J. Peter Friedrich announces the formation of the firm of Friedrich & Friedrich in Ft. Lauderdale, Florida, where he and his son have a general real estate and estate planning practice.

**'57**—Elliott T. Halio, senior partner in the firm of Halio & Halio in Charleston, South Carolina, has been named president-elect of the Charleston County Bar Association.

**'58**—William H. Grigg has been elected vice president of the Board of Directors of Duke Power Company in Charlotte, North Carolina.

—Eugene G. Partain has become a member of the firm of King & Spaulding in Atlanta, Georgia, where he is a trial lawyer in diverse areas of civil litigation.

James E. Moore '61 was elected an Associate Justice of the Supreme Court of South Carolina in May 1991, by unanimous vote of the General Assembly of South Carolina. He was sworn in on December 30, 1991.

Justice Moore practiced law in Greenwood, South Carolina from 1961 until 1976, when he was elected a Circuit Court Judge. He served on the Circuit Court for fifteen years before stepping up to the Supreme Court. He was also a member of the South Carolina House of Representatives from 1968 to 1976.

During his tenure on the circuit bench, Justice Moore chaired the South Carolina Circuit Court Judges Association and the Circuit Court Judges Advocacy Committee. He was also vice-chair of the Board of Commissioners on Judicial Standards. In 1985, Justice Moore was the faculty advisor to the National College of the State Judiciary at the University of Nevada and he has also served on the Board of Trustees of the Lander Foundation of Lander College in Greenwood.



James E. Moore '61

'59—Robinson O. Everett has been named by Chief Justice William Rehnquist to study the administration and operation of the Criminal Justice Act of 1964.

'61—John Byron Hotis announces the establishment of the firm of Gainer, Rient and Hotis in Washington, D.C.

'64—David N. Edwards, Jr., special assistant to the president of the University of North Carolina at Chapel Hill, gave a presentation on privacy law to the Carolina Association of Collegiate Registrars and Admissions Officers at North Carolina A&T State University in March 1991.

—Charles W. Mertel is a partner in the Seattle, Washington law firm of Short Crossman & Burgess.

—Ted R. Todd, a judge for the 5th Judicial Circuit of Indiana, is currently serving on the Board of Law Examiners for the State of Indiana as a member and as secretary.

—David G. Warren has been named executive director of the North Carolina Governor's Institute on Alcohol and Substance Abuse. He will serve in a part-time capacity, continuing his position as professor of community and family medicine at Duke University.

'65—Patrick C. Coughlan has been elected president of the Maine Association of Dispute Resolution Professionals.

—David C. Hjelmfelt taught international law in November 1991 at the Institute for International Trade in Kiev, Ukraine. His second book, *Executive's Guide to the Law of Marketing, Sales and Advertising*, has been published by Prentice Hall.

'66—Barrington H. Branch has been named president and chief executive officer of Dutch Institutional Holding Company, Inc., the U.S. investment subsidiary of Pensionfund PGGM, the largest private pension fund in Holland. Headquartered in Atlanta, Georgia, he will be responsible for a \$1.2 billion portfolio of real estate investments in the United States.

—James A. Courter, a former Congressman, was appointed by President George Bush to chair the 1991 Base Closure and Realignment Commission.

—E. Jeremy Hutton has been appointed special counsel to the Inspector General of the United States Office of Personnel Management.

—Robert W. Spangler has been named deputy chief of policy of the Enforcement Division in the Common Carrier Bureau of the Federal Communications Commission.

'67—Calvin J. Collier, senior vice president and general counsel of Kraft General Foods, Inc. in Glenview, Illinois, has been elected to the American Law Institute.

—Wayne A. Rich, Jr. served during Operation Desert Storm as the staff judge advocate to the commander, Marine Corps Air Bases, Western Region in El Toro, California, and as staff judge advocate at the Marine Corps Recruit Depot in San Diego, California. He has returned to his assignment as deputy director of the Executive Office for the United States Attorneys at the Department of Justice in Washington, D.C.



Les Todd

John H. Adams '62 was presented the Duke Alumni Association's Distinguished Alumni Award for 1992 at the Duke University Founders' Day Convocation in December. The Distinguished Alumni Award is given to alumni who have distinguished themselves by contributions they have made in their own fields of work, in service to the University, or in the "betterment of humanity."

Adams is executive director of the Natural Resources Defense Council, which he co-founded two decades ago as a public-interest environmental law firm. It has grown since 1970 from a handful of supporters to a 150,000-member, non-profit organization with a \$16 million budget and a staff of 150, including lawyers and scientists dedicated to protecting natural resources and improving the quality of the environment.

"Adams and the NRDC have been the single most important force in environmental

law in the United States," wrote Durwood J. Zaelke '73, director of the Centre for International Environmental Law, in support of Adams' nomination for the award. "John Adams has led the NRDC to its pre-eminence through a combination of intelligence, integrity, and vision. His leadership has always been steady and confident, oftentimes daring, and always prescient."

A member of the Law School's Board of Visitors, Adams is president of the Open Space Institute and on the board of directors of the Catskill Center for Conservation, the Hudson River Foundation of Science & Environmental Research, the World Resources Institute, the Winston Foundation for World Peace, the Institute for Resource Management and the American Conservation Association. He is also a member of the New York Governor's Environmental Advisory Board.

—**Robert E. Sheahan, Jr.** has been elected to the Board of Directors of the Dallas, Texas-based Institute for Effective Management. He has recently authored *An Encyclopedia of Drugs in the Workplace* (Business Publications Institute) and *Labor and Employment Law in North Carolina* (Federal Publications).

**'68**—**Bruce D. Alexander**, senior vice president of The Rouse Company in Columbia, Maryland, has been elected chairman of the Goucher College Board of Trustees. A Goucher trustee since 1982, he will serve a three-year term as head of the sixty-member Board. He is also a director of the Baltimore Symphony Orchestra and a trustee of the Baltimore Educational Scholarship Trust, which provides funds for minority students to attend independent schools.

—**Donald B. Brooks** of Atlanta, Georgia, has won the Sports Car Club of America (SCCA) South Atlantic Road Racing Championship for its regular season. He also won the South Atlantic Road Racing Championship Invitational Challenge. Brooks, retired from real estate development, drives a Swift DB-2 Sports 2000, with "Duke" painted on the hood!

—**James H. Kelly, Jr.**, a partner in the Winston-Salem, North Carolina office of Petree Stockton & Robinson, has become a fellow of the American College of Trial Lawyers. He



James H. Kelly, Jr. '68

practices in the areas of insurance and general litigation.

**'69**—**John A. Canning, Jr.** has formed the investment firm of Madison Dearborn Partners in Chicago, Illinois. The firm will split its emphasis between venture

capital and leveraged buy-out investments. Canning also has been appointed to the Board of Directors of Tyco Toys, Inc.

—**David G. Klaber** is one of ten alumni who have been awarded the 1991 Charles A. Dukes Award for outstanding volunteer service to Duke University. He is a partner with Kirkpatrick & Lockhart in Pittsburgh, Pennsylvania and is president of the Duke Bar Association of Pittsburgh. (See article on page 31.)

**'70**—**Robert F. Weaver, Jr.** is now engaged in the practice of law in Biloxi, Mississippi.

**'71**—**Gail Levin Richmond**, professor of law at Nova University in Ft. Lauderdale, Florida, will serve as chair of the Law School Admission Council's Audit Committee for 1991-93.

—**Bryan E. Sharratt** has been elected to a second term as president of the Board of Trustees of the University of Wyoming.

**'72**—**Walter W. Manley, II**, who teaches at the Florida State University School of Business Administration and practices with MacFarlane, Ferguson, Allison & Kelly in Tallahassee, has authored *Executive's Handbook of Model Business Conduct Codes* (Prentice-Hall, 1991). (His 1990 book on *Critical Issues in Business Conduct* is reviewed at page 25.)

—**Stephen F. McLaughlin** has been named executive vice president and general counsel of the Legend Corporation in Harlingen, Texas.

—**Richard J. Salem**, senior partner in the Tampa, Florida firm of Salem, Saxon & Nielsen, has been appointed to the ABA Task Force on Member Benefits for Disabled Lawyers.

**'73**—**John S. Black** has been named president-elect of the 20,000-lawyer Missouri Bar Association. He is a partner with the Kansas City law firm of Swanson, Midgley, Gangwere, Clarke & Kitchin, where he practices in the fields

of business law, sports law and civil litigation.

—**Donald H. Brobst**, a partner in the law firm of Rosenn, Jenkins & Greenwald in Wilkes-Barre, Pennsylvania, was a speaker at the recent annual meeting of the Speech Communication Association. He discussed the extent to which universities and colleges could regulate racist, sexist, hate and other offensive speech of students and faculty given the constraints of the First Amendment.

—**Pamela B. Gann** was among the thirty-five business and community leaders who were selected from the Southeast to participate in the eleventh annual International Business Fellows Program in Atlanta, London and Paris in the fall of 1991.



Donald H. Brobst '73

#### Greensboro Firm Merger Involves Four Law Alumni

Two Greensboro, North Carolina law firms merged on January 1, 1991: Turner Enochs Sparrow Boone & Falk and Block Meyland & Lloyd have combined their practices under the name Turner Enochs & Lloyd. Four Duke Law alumni are partners in the newly-created firm: **Edwin E. Boone, Jr.** '49, **Robert B. Lloyd, Jr.** '50, **Eric P. Handler** '73 and **Thomas E. Cone** '81.

Boone practices in real estate and corporate law, while Lloyd is a specialist in estate planning and probate law. Handler concentrates his practice in bankruptcy law, commercial and banking law, and business litigation. Cone practices primarily hospital, health care and administrative law.

—**Roger A. Reed** has authored the book, *The Cultural Revolution in Cuba*, recently published by the Latin American Round Table in Geneva, Switzerland.

**'74**—**Anne M. Dellinger**, professor of law at the Institute of Government of the University of North Carolina at Chapel Hill, served as general editor of *Healthcare Facilities Law: Critical Legal Issues for Hospitals, HMOs and Extended Care Facilities*, published in 1991 by Little Brown.

—**Larry O. Gostin**, executive director of the American Society of Law & Medicine and adjunct associate professor in health law at Harvard University, has edited two recent books: *AIDS and the Health Care System* (Yale University Press, 1990) and *Surrogate Motherhood: Politics and Privacy* (Indiana University Press, 1990).

—**Donna Coleman Gregg** has joined the Washington, D.C. law firm of Wiley, Rein & Fielding as a partner, with her practice focusing on communications law and the cable television industry.

—**Jerry W. Jernigan** announces the formation of the firm of Hamel, Wray & Jernigan in Charlotte, North Carolina, where he continues to practice corporate, securities and commercial real estate law.

—**David W. Lowden** has joined the New York City office of Stroock & Stroock & Lavan where he practices in the corporate area. He has been elected chair of the board of The Craftsman Farms Foundation, an organization restoring a National Landmark home in Parsippany, New Jersey. He spoke to the annual meeting of the Mid-Atlantic As-

sociation of Museums in October on the topic of legislation to quiet title to "old loans" to museums.

—**Ira Sandron**, a United States Immigration Judge in Miami, Florida, spoke on the subject of criminal aliens at the Federal Bar Association's Annual Immigration Law Seminar in Washington, D.C. in May 1991.

—**Frances Zwenig**, who serves on the staff of Senator John Kerry (D-Mass), has been appointed staff director of the newly created Select Committee on POW/MIA Affairs.

**'75**—**K. Rodney May** has co-authored a chapter on the "Impact of Bankruptcy" in *Florida Construction Law and Practice*, published by The Florida Bar in May 1991. He is a partner in the Orlando office of Foley & Lardner.

—**Michael C. Quillen** announces the formation, with thirteen other partners, of the firm of Walston, Stabler, Wells, Anderson & Baines in Birmingham, Alabama in September 1991.

**'76**—**John J. Connors**, a trial attorney for the United States Department of Justice, delivered a paper entitled "Special Discovery Considerations Involving the United States" at the ABA's National Institute on Litigation and Aviation in Washington, D.C. in October 1991.

—**Russell M. Frandsen** joined the Los Angeles, California office of Mudge Rose Guthrie Alexander & Ferdon in 1990. He serves on the Board of the Los Angeles County Private Industry Council, and in 1990-91 was president of the La Carrada Flintridge Educational Foundation.

—**Johnnie W. Mask, Jr.** has been promoted to first assistant public defender for Essex County, the largest office in the state of New Jersey, where he is responsible for training attorneys in trial advocacy.

**'77**—**Donald H. Beskind** has been re-elected to the Board of Governors of the North Carolina Academy of Trial

Lawyers. He practices personal injury, medical negligence and civil litigation in Chapel Hill.

—**Robert G. Moskowitz** is now managing director of Trefoil Investors, Inc., the general partner of Trefoil Capital Investors, L.P., an investment partnership. He resides in Sherman Oaks, California.

—**Susan Freya Olive** has been re-elected to a second term as president of the Board of North Carolina Prisoners Legal Services, Inc. and as a council member of the North Carolina Bar Association Section on Intellectual Property Law. She practices intellectual property law at the firm of Olive & Olive in Durham.

—**Neil T. Rimsky** has been named of counsel to the firm of Cuddy & Feder with offices in Stamford, Connecticut, New York City and White Plains, New York. He concentrates in the field of elder law, including health care, financial and estate planning.

—**Michael H. Wald**, of Wald & Campbell in Dallas, Texas, has been elected vice president of the North Dallas Financial Forum and elected to the Board of Directors of the American Jewish Committee, Dallas Chapter. He has also been elected to the Executive Committee of the Commercial Law League of America, Southern District.

**'78**—**Benita S. Baird** has been promoted to deputy general counsel of legal operations and policy development of Turner Broadcasting System, Inc. in Atlanta, Georgia. She is primarily responsible for legal policy issues, quality control, and special projects.



Jerry W. Jernigan '74



Benita S. Baird '78

—**Thomas E. Johnson** is a partner in the St. Paul, Minnesota law firm of Johnson, McClay & Alton, concentrating primarily in the areas of bankruptcy and criminal defense.

—**David C. Kohler** has been promoted



David C. Kohler '78

to deputy general counsel—news, of Turner Broadcasting System, Inc. in Atlanta, Georgia, where he oversees legal issues related to

CNN, Headline News, and the company's other news operations.

—**Chris A. Rallis** has been promoted to assistant general counsel in the law department of Burroughs Wellcome Company in Research Triangle Park, North Carolina.

—**Sarah Holzweig Steindel** joined the New Jersey Attorney General's Office as a deputy attorney general in September 1991.

**'79**—**Joel H. Feldman**, a partner in the Boca Raton, Florida firm of Feldman, Mallinger & Brown, has been elected to the Board of Directors of the South Palm Beach County Bar Association. He is also a director of the Florence Fuller Child Development Center, a non-profit preschool for low-income children.

—**Judy M. Herrin** has been named vice president and counsel of AT&T Universal Card Services Corp. in Jacksonville, Florida.

—**William C. Nordlund** has been appointed vice president, secretary and general counsel of The Oxford Energy Company in Dearborn, Michigan, a publicly-traded company developing and operating independent power projects using waste tires as fuel.

—**Jeffrey B. Ritter** has been named of counsel to the Columbus, Ohio office of

Vorys, Sater, Seymour and Pease, where he practices in the firm's commercial group with a special emphasis on information technology and technology acquisition law. He has also been named to the Board of Directors of the Jazz Arts Group of Columbus, a non-profit organization of professional jazz musicians.

—**Evan H. Zucker** has opened his own law practice in San Diego, California, specializing in civil litigation. He has recently published articles and photographs in the *San Diego Reader* about his expedition to Mexico to observe the total solar eclipse last summer.

**'80**—**Daniel S. Bowling, III**, labor and employment counsel for Coca-Cola Enterprises, has relocated to the division office in Columbia, Maryland.

—**Kyle A. Citrynell** is a partner in the firm of Seiller & Handmaker in Louisville, Kentucky, where she concentrates in corporate and commercial law with an emphasis on intellectual property. She chairs the board of Afterimages Repertory Dance Company.

—**Linda Boyd Griffey**, a partner with O'Melveny & Myers in Los Angeles, California, has been elected to the American Law Institute.

—**Elizabeth F. Kuniholm** has opened her own law practice in Raleigh, North Carolina.

—**Richard C. Van Nostrand**, a partner with the law firm of Mirick, O'Connell, DeMallie & Lougee in Worcester, Massachusetts, has been elected to the Executive Committee



Richard C. Van Nostrand '80

of the Worcester County Bar Association. He is also co-chair of the Bar Association's Superior Court Committee and is a member of the Executive Com-

mittee of the Allocations Division of the United Way of Central Massachusetts.

**'81**—**David S. Addington** is the special assistant to the Secretary and Deputy Secretary of Defense in Washington, D.C.

—**Jonathan E. Claiborne** represented Duke University in October at the inauguration of the president of the University of Maryland at Baltimore.

—**Russell H. Fox** has been named of counsel to the Washington, D.C. office of Gardner, Carton & Douglas, where he specializes in the telecommunications area.

**'82**—**Dirk G. Christensen** is now a partner with Bondurant, Mixson & Elmore in Atlanta, Georgia, where he specializes in business and commercial litigation, including contract, antitrust, securities and employment litigation.

—**Alan T. Gallanty** announces the formation of the firm of Aron, Twomey, Hoppe & Gallanty in New York City, specializing in commercial litigation.

—**Elizabeth A. Galloway** has become a partner in the firm of Taft, Stettinius & Hollister in Cincinnati, Ohio.

—**Fern E. Gunn**, deputy counsel of the North Carolina State Bar, has been appointed by Duke President H. Keith H. Brodie to a three-year term on the Trinity College Board of Visitors. She has just completed a two-year term as chair of the North Carolina Bar Association's Minorities in the Profession Committee, and currently chairs the Access to Justice Campaign, a fund-raising effort for the legal services program for the 14th Judicial District Bar (Durham County).

—**Emily O'Keefe Koczela** is an adjunct professor of law at Marquette University Law School in Milwaukee, Wisconsin.

—**Susan K. McKenna** is a partner in the firm of Garwood & McKenna in Orlando, Florida, where she is an employment law litigator.

—**I. Scott Sokol** is the director of community relations and political education for a large trade association in Maitland,



Florida, where he works on affordable housing and homeless issues. He was recently appointed by Governor Lawton Chiles to a three-year term on the State Board of Dentistry, representing the consumers of the state of Florida.

—**Lynette Remen Zinberg** has joined the law firm of McDermott, Will & Emery, practicing in the real estate department of the firm's New York City office.

**'83**—**Kathryn M. Battuello** has been named a partner at Karr Tuttle Campbell in Seattle, Washington.

—**David L. Blisk** has joined Shearson Lehman Brothers as a financial consultant in their McLean, Virginia office. He specializes in private money manager counseling, small to medium pension plans, and financial and estate planning.

—**Linda Markus Daniels** announces the re-establishment of the firm of Daniels & Daniels in Research Triangle Park, North Carolina.

—**Daniel F. Gourash** has been elected



Daniel F. Gourash '83

secretary of the Young Lawyers Division of the American Bar Association. The position of secretary is the first office in the succession to chair of the

Young Lawyers Division. He is an attorney in the Cleveland, Ohio office of Porter, Wright, Morris & Arthur, where he focuses on civil litigation matters including complex commercial litigation, bank fraud and insurance coverage.

—**Paul A. Hilding** has been elected a partner in the San Diego, California office of Brobeck, Phleger & Harrison, where he specializes in real estate, insurance coverage, environmental and general business litigation. He also handles



Paul A. Hilding '83

with Godfrey & Kahn in Milwaukee, Wisconsin.

—**Jerry H. Owens** has been named a partner in the Pittsburgh, Pennsylvania office of Kirkpatrick & Lockhart, effective January 1, 1992.

—**Thomas F. Zych** has been elected a partner in the Cleveland, Ohio office of Thompson, Hine and Flory, where he is a member of the firm's antitrust, international and regulatory group.



Thomas F. Zych '83

**'84**—**Gary P. Biehn** became a partner in the Philadelphia, Pennsylvania firm of White & Williams on January 1, 1992.

—**Douglas B. Cannon** has been named a shareholder in the firm of Fabian & Clendenin in Salt Lake City, Utah.

—**Gusti W. Frankel** has been made a partner in the Winston-Salem, North Carolina office of Womble Carlyle Sandridge & Rice.

—**Michael G. Jarman** is now a partner with McNeese, Wallace & Nurick in Harrisburg, Pennsylvania.

—**Lauren W. Jones** is now a senior attorney with The Coastal Corporation in Houston, Texas.

commercial disputes in alternative dispute resolution forums, such as contract arbitrations and mediations.

—**Mark L. Koczela** is a shareholder

—**Paul A. Kramer** has been named vice president and counsel of Shawmut Bank in Boston, Massachusetts.

—**George C. McFarland, Jr.** recently became associated with Kassab, Archbold, Jackson & O'Brien, a general practice law firm in Media, Pennsylvania, where he specializes in plaintiffs' personal injury litigation.

—**Audrey McKibbin Moran** has been named director of legislative affairs for the Office of the Mayor in Jacksonville, Florida.

—**Steven D. Plissey**, along with four other partners, has formed the firm of Williams, Youle & Koenigs in Denver, Colorado.

—**John F. (Sandy) Smith** has been named a partner in the firm of Morris, Manning & Martin in Atlanta, Georgia.

—**Anne M. Stolee** has been named a partner in the Washington, D.C. office of Laughlin, Halle, McBride, Lunsford & Fletcher.

—**Rebecca E. Swenson** has been named a partner in the Washington, D.C. office of Arnold & Porter, where she practices general litigation.

—**David T. Thuma** has been made a partner at Poole, Kelly & Ramo in Albuquerque, New Mexico.

**'85**—**Janet Ward Black**, a partner with Wallace, Whitney & Black in Salisbury, North Carolina, was recently elected president of the Rowan County Democratic Women's Association and named to the Board of Directors of the Salisbury Rotary Trust Foundation. She is also president-elect of the Rowan County Bar Association.

—**Harry P. Brody** is now with the Rock Hill, South Carolina office of the firm of Maupin Taylor Ellis & Adams.

—**Allan A. Capute** is now special assistant to the General Counsel of the Securities & Exchange Commission in Washington, D.C.

—**Tia L. Cottey** has been promoted to assistant vice president by NCNB National Bank of Florida in Tampa.

—**Randy M. Friedberg** has become associated with the new law firm of Hall, Dickler, Lawler, Kent & Friedman in New York City, where he specializes in trademark and copyright law and litigation.

—**William W. Horton** was named a shareholder in the Birmingham, Alabama-based firm of Haskell Slaughter Young & Johnson on July 1, 1991, where he concentrates in corporate, securities and healthcare law.

—**Neil D. McFeeley**, an attorney with the Boise, Idaho firm of Eberle, Berlin, Kading, Turnbow & McKlveen was recently elected to the American Judicature Society Board of Directors.

—**John J. Michels, Jr.** has recently joined the Richmond, Virginia office of McGuire Woods Battle & Boothe.

—**Harry J. Munsinger**, a certified psychologist, performs trial psychology consulting in San Antonio, Texas.

**'86**—**Jerone C. Cecilic** is now a trial attorney representing the Army before the Armed Services Board of Contract Appeals in Arlington, Virginia.

—**Ronald T. Coleman** is a litigation associate in the Atlanta, Georgia office of Paul, Hastings, Janofsky & Walker.

—**Olivier J. Peclard** has been named a partner in a new firm—Ponce, Warluzel & Partners—in Geneva, Switzerland, specializing in international transactions, banking and corporate law, and arbitration.

**'87**—**David P. Jones** has been named counsel of Gerber Alley & Associates, Inc. in Norcross, Georgia, a supplier of hospital information systems.

—**John R. Keller**, an attorney for Eastern Carolina Legal Services in Goldsboro, North Carolina, is president of the local chapter of Habitat for Humanity and serves on the Board of the Shelter of Wayne County, which helps abused women.

—**Brian L. Rubin** has become a litigation associate with Melrod, Redman & Gartlan in Washington, D.C.

—**Lorraine L. Wilson** is the associate director of governmental relations/policy

and legal services at the Washington State School Directors' Association in Olympia, Washington.

—**Christopher Q. Wintter** has been elected to the Board of Directors of the Hollywood, Florida Chamber of Commerce. He practices with the firm of Wintter & Cummings in Hollywood.

—**Yan Xuan** has been appointed counsel of the Division of Dyes and Chemicals of Crompton & Knowles Corporation in Green Hills, Pennsylvania.

**'88**—**Theodora Giannakopulu**, in addition to practicing law in Athens, Greece, is teaching business and EEC law part-time at Xeree College, the American College of Greece.

—**William G. Maddox** has joined the Department of Justice, Civil Rights Division, Special Litigation Section in Washington, D.C.

—**Andrew A. Martin** has been appointed physician coordinator of the Tulane University Blood Center and pathology coordinator of the Tulane-Louisiana State University AIDS Clinical Trial Unit. He also has been named vice president of the Louisiana Medical Society Resident Physicians Section and a case reviewer of the Office of Technology Assessment in Washington, D.C. Additionally, he is on the Board of Directors of the Charity Housestaff Association of New Orleans.

—**D. Willas Miller** is an assistant district attorney for the Kings County District Attorney's Office in Brooklyn, New York, where he prosecutes homicide, rape and child molestation cases. In February of 1991, he narrowly escaped serious injury after being shot in the forehead by a mugger in Kings County.

—**Kevin G. Mulcahy** is a partner in a new venture, Pink Slip Productions in New York City, where he illustrates and co-writes "Greetings for the Unemployed," a line of greeting cards specifically designed to comfort the newly jobless.

—**Kenneth Y. Yun** is a founding member of the new Samjong Law Office in Seoul, Korea, a full-service law office specializing in international transactions.

**'89**—**Sean Callinicos** has been named an associate in the Raleigh, North Carolina office of Maupin Taylor Ellis & Adams.

—**Richard N. Cook** has become an associate with Maupin Taylor Ellis & Adams in the firm's Raleigh, North Carolina office.

—**Eric L. Hiser** is now an associate with the firm of Fennemore Craig in Phoenix, Arizona. He is also an assistant council commissioner for the Theodore Roosevelt Council of the Boy Scouts of America, which serves Scouts in central Arizona and southwestern New Mexico.

—**Yasumasa Masumoto** has recently joined the firm of Braum, Moriya, Hoashi & Kubota in Tokyo, Japan.

**'90**—**Celia Grasty Jones** has been



Celia Grasty Jones '90

named an associate in the Raleigh, North Carolina office of Petree Stockton & Robinson, where she practices in the area of general litigation and

healthcare law.

—**Phoebe A. Kornfeld** is on a year's leave of absence from the firm of White & Case in New York City, to pursue research in Germany under a fellowship from the Alexander von Humboldt Foundation.

—**Arthur Stock** has joined the firm of Berger & Montague in Philadelphia, Pennsylvania where he represents plaintiffs in securities litigation.

—**Anthony D. Taibi** has been appointed assistant professor at the University of Illinois College of Law.

—**Kenneth Watnick** is an associate with the firm of Lewis D'Amato Brisbois & Bisgaard in Los Angeles, California.

## Personal Notes

**'50**—**Robert L. Clifford**, a justice on the Supreme Court of New Jersey, was married to Ruth Alexander Bannerman on November 2, 1991 in Chester, New Jersey.

**'77**—**Heloise C. Merrill** and her husband, John Noblitt, are happy to report the birth of a son, Ian Merrill Noblitt, born on July 2, 1991. Heloise is a partner with the Charlotte, North Carolina firm of Parker, Poe, Adams & Bernstein.

—**William H. Pauley** and his wife, Kimberly, proudly announce the birth of a son, Kendall Robert Pauley, born on November 27, 1990.

**'78**—**Andrew M. O'Malley**, and his wife, Nancy, happily announce the birth of a son, named Thomas Christopher, on May 10, 1991.

**'79**—**Carol Gray Caldwell** and her husband, Harry, are pleased to report the birth of their second daughter, Phoebe Gray Caldwell, born on August 15, 1991.

—**Joel H. Feldman** was married to Cheryl White in May of 1991. They reside in Boca Raton, Florida.

—**Terence M. Hynes** and his wife, Kathi, happily announce the birth of their third child and first son, Patrick Francis, born on July 29, 1991. Terry is a partner at Sidley & Austin in Washington, D.C.

—**Steven D. Wasserman** and his wife, **Sharon Kronish Wasserman '81**, are pleased to report the birth of a daughter, named Allison Rachel, born on October 9, 1991.

—**Carl J. Schuman** was married to Mary Ellen DeMilia in October 1990 in Groton, Connecticut. Carl is with the United States Attorneys Office in Hartford.

—**Diane Rowley Toop** and her husband, **R. Scott Toop '80** are the proud parents of their third child, Kimberly, born on May 31, 1991. During the

1991-92 academic year, Diane is a visiting professor at the University of Louisville School of Law.

**'80**—**Robert R. Cole** and his wife, Susan, announce the birth of a daughter, Lynette Susan, born on October 1, 1991. They reside in Stanwood, Washington, where Robert practices with the firm of Cole & Cole.

—**R. Scott Toop** and his wife, **Diane Rowley Toop '79** are pleased to report the birth of their third child, a daughter named Kimberly, born on May 31, 1991. Scott is division counsel for Kentucky Fried Chicken, a subsidiary of PepsiCo.

**'81**—**Linda Cox Fornaciari**, a partner in the San Francisco, California firm of Hancock, Rothert & Bunshoft, and her husband, Bert, announce the birth of their first child, Jack Cox Fornaciari, on June 24, 1991.

—**Abigail T. Reardon Gosnell** and her husband, Arthur, are the proud parents of a son, Thomas Hale Gosnell II, born on March 14, 1991.

—**Sharon Kronish Wasserman** and her husband, **Steven D. Wasserman '79**, are happy to report the birth of a daughter, named Allison Rachel, born on October 9, 1991.

**'82**—**Ronald B. Landau** was married to Carol Francis on May 19, 1991. Ron is supervising tax counsel for ARCO Corporation in Los Angeles, California.

—**Susan K. McKenna** and **I. Scott Sokol**, both Class of '82, are happy to report the birth of their first child, a daughter named Allison Morgan Sokol, on August 28, 1991.

**'83**—**Mark S. Calvert** and his wife, Rosemary, announce the arrival of their third child and second daughter, Emily Ruth, born on March 9, 1991.

—**Lynn Rosenthal Fletcher** and **Robert P. Fletcher**, both Class of '83, are the

proud parents of their second daughter, Katherine Sheidley Fletcher, born June 5, 1991.

—**Susan Westeen Novatt** and her husband, Jeff, are happy to announce the birth of their first child, a son named Jonathan David, born on March 20, 1991.

—**Beth J. Willard** was married to W. Michael Miller on March 9, 1991 in Orange County, Florida. Beth is an attorney in Winter Park, Florida.

—**C. Scott Rassler** and his wife, Karen, are pleased to report the birth of their first child, a daughter named Brielle Paige, born on August 16, 1991.

—**Mary Alice Carson Robison**, and her husband, Ed, announce the arrival of their first child, a daughter named Rachel Joy, born on June 20, 1991.

**'84**—**Duane M. Geck** and his wife, Terri, happily announce the arrival of their second son, Richard Joseph, born on April 27, 1991.

—**Audrey McKibbin Moran** and her husband, John, are the proud parents of their second child, a son named John A. Moran III (Jack), born on April 29, 1991.

—**M. Jane Williamson** was married to Stephen Van R. Winthrop on July 20, 1991. They now reside in Charlottesville, Virginia where Jane is studying for her Ph.D. in clinical psychology at the University of Virginia.

**'85**—**James S. Christie, Jr.**, and his wife, Donna, happily announce the birth of a second child, a daughter named Rachel Harris Christie, on July 19, 1991.

—**Davia Odell Mazur** and her husband, Jim, are the proud parents of their first child, a son named Andrew Gregory, born on April 23, 1991. Davia is a shareholder in the Miami, Florida firm of Starns Weaver Miller Weissler Alhadeff & Sitterson.

—Karen Comeau McDade is happy to announce the birth of a son, Mark Alan McDade, born on May 30, 1991. Karen, recently widowed, is with Minkin & Snyder in Atlanta, Georgia.

'86—Elizabeth Johnson Gustafson and Mark D. Gustafson, both Class of '86, are proud to report the birth of their first child, a daughter named Devin Anne, born on August 23, 1991.

—Lisa Long Kennedy and Kermit B. Kennedy, both Class of '86, joyfully announce the birth of their first child, George Robert, on September 1, 1990.

—Jessica Essex Lorden and her husband, Dave, proudly announce the arrival of their first child, a daughter named Sarah Alison, born on July 9, 1991.

—Oliver J. Peclard, and his wife, Nicole, announce the arrival of a second child and first son, named Vincent, born on July 16, 1990.

'87—Rebecca A. Ament was married to Simon P. Carr on May 19, 1990 in Duke Chapel. Rebecca is now an attorney in New York City at Chadbourne & Parke, specializing in labor and employment discrimination.

—Benoit Feron, and his wife, Anne Maton, happily report the birth of a child, named Dorian, born on June 13, 1991.

#### Class of '87 Celebrates Vitt/ Udayamurthy Wedding



Several members of the Class of '87 attended the wedding of their classmate, Tom Vitt, to Kamala Udayamurthy in Minneapolis, Minnesota on April 27, 1991. Pictured left row, bottom to top, are: Jay James, Mike Andreana, Gordon Renneisen, Joe Rosh, and Paul Nofer; center row, bottom to top, Mark Israel, Chip Grizzle, and Joe McHugh; right row, bottom to top, Tom Vitt and Kamala Udayamurthy, Jeff Kern, Steve Kurtz, Dave Lorig and Marvin Berchin.

—Brian B. Gilbert was married to Elyse Michelle Weintraub on May 26, 1991 in Akron, Ohio. They reside in Chicago, Illinois where Brian is an associate at Gould & Ratner.

—Amy Solomon Hecht, and her husband, Allen, are delighted to announce the birth of a daughter, named Sara Hilary, on July 3, 1991.

—J. Thomas Vitt, III was married to Kamala Udayamurthy on April 27, 1991 in Minneapolis, Minnesota, where Tom is an associate in the trial department of Dorsey & Whitney.

'88—David E. Friedman and his wife, Melinda, are happy to announce the birth of a son, named Aaron Gordon, born on March 9, 1991.

—Lisa J. Reed and her husband, John Orr, are the proud parents of a son, named Clarke Reed Orr, born on July 26, 1991. Lisa practices with the firm of Carruthers & Roth in Greensboro, North Carolina.

'89—Claude I. Schoenberg and Patricia Romano Schoenberg, both Class of '89, happily announce the arrival of their first child, a daughter named Elizabeth Rose, born on October 17, 1991.

'90—Debra K. Marcus and Michael J. Watton, both Class of '90, were married on June 23, 1991 in Milwaukee, Wisconsin. They reside in Scottsdale, Arizona and both work in Phoenix.

—Timothy S. Crisp and Kristen E. Scheffel, Class of '91, were married on December 21, 1991 in St. Louis, Missouri. They reside in Chicago, Illinois, where Tim is with Peterson, Ross, Schloerb & Seidel and Kristen is an associate with Nisen & Elliott.

## Obituaries

### Class of 1928

Francis L. Wyche, Sr. died on December 29, 1990. He was a partner in the firm of White, Hamilton, Wyche and Shell in Petersburg and Prince George, Virginia, retiring in 1982, and was commonwealth attorney for Prince George County from 1943 to 1973.

Wyche was a member of the Board of Directors of the Bank of Southside Virginia and served for many years as

counsel to the Appomattox River Water Authority. He served on the Governor's Advisory Board for Industrial Development in Virginia, was past president of the Appomattox Basin Industrial Development Corporation and past chairman of the board of John Tyler Community College. He was the recipient in 1966 of the Outstanding Citizen Award from the Petersburg Lodge No. 1067 B'nai Brith and the recipient in 1979 of the Senior

Citizens Award from the Prince George Ruritan Club of which he was a charter member and past president.

Wyche is survived by his wife, Harriet Pope Wyche; two daughters, Harriet Pope Wyche Scott and Susan Wyche Winter; one son, F. Lewis Wyche, Jr.; a sister, Traynham Wyche Clark; and eight grandchildren.

### Class of 1936

**Franklin H. Cook** of State College, Pennsylvania died on August 12, 1991. He was professor emeritus of business law at Penn State University, where he taught for almost forty years in the fields of economics, accounting, public utilities and business law. Although he retired from Penn State in 1976, he continued to teach a course on corporate morality and he also compiled and distributed a monthly investment service newsletter. Cook was best known for his work on public utilities; his major research and scholarly contribution was a ratio analysis of the electric power industry from 1940-69, classifying companies according to type and size.

Cook was an operator/collector of the Train Collector's Association, and had collected every American Flyer locomotive made between 1946 and 1966. He also managed three family farms in Pennsylvania for a number of years, and was active in many civic organizations, including the State College Zoning Hearing Board, the American Cancer Society, Meals on Wheels, the American Red Cross, and the Child Development Council.

Cook is survived by his wife, Anna Graybill Cook; a son, Franklin R. Cook of Annandale, Virginia; a brother, **Robert N. Cook**, also Duke Law School '36, of Cincinnati, Ohio; and a granddaughter.

### Class of 1938

**William E.S. Flory**, died April 27, 1991 at his home in Woodbridge, Virginia. He worked for state agencies in New York and New Jersey before going to the State Department in Washington, D.C. during World War II. He stayed at the State Department until the late 1950s, where he negotiated international agreements involving whaling and international commodities. From the late 1950s until retiring from the govern-

ment in 1969, he worked for the Interior Department, where he became director of the Office of Minerals and Solid Fuels. He then joined the faculty of American University's business administration school, where he taught until retiring again in 1974.

Flory helped establish the Weems-Potts Museum and also organized the Prince William County Historical Commission and was a charter member of the Prince William County Industrial Development Authority.

Flory is survived by a son, William, Jr. of Woodbridge; a daughter, Anne Arendt Naedele of Sudbury, Massachusetts; and two grandsons.

### Class of 1947

**A. John Riggall, Jr.**, of Roswell, Georgia, died November 7, 1991 in St. Augustine, Florida. He had been an associate professor of marketing at Georgia State University in Atlanta.

Riggall is survived by his wife, Mary Elizabeth Callaway Riggall; his stepmother, Frances M. Riggall; three sons, Michael, Christopher and Steven; three step-daughters; and ten grandchildren.

### Class of 1948

**Wendell Roy Wilmoth**, of Charlotte, North Carolina, died on May 9, 1991. He retired in 1976, after serving sixteen years as a lawyer with Duke Power Company.

Wilmoth is survived by his wife, Tommie; two sons, Phil Isaacs and Keith Isaacs; three daughters, Deborah Motto, Barbara Broadway, and Dianne Sharpe; a brother, Richard; a sister, Mattie-Ruth Phillips; seven grandchildren; and one great-granddaughter.

### Class of 1950

**Earl B. Hadlow**, of Jacksonville, Florida, died on January 12, 1992. He retired as vice chairman and general counsel of Barnett Banks, Inc. in 1990, a

position he held for six years. He was a former partner in Jacksonville's largest law firm, Mahoney, Hadlow & Adams. Until his death, he was chairman of the Jacksonville Transportation Authority, on the Board of Trustees of Jacksonville University, and a partner in Touchdown Jacksonville! Ltd., a group trying to bring a National Football League franchise to Jacksonville.

Hadlow had served as president of the Florida Bar Association, the Florida Bankers Association, and the Jacksonville Bar Association. He was also a former chairman of the Jacksonville Chamber of Commerce. He served with the Army in France, Germany and Austria during World War II.

He is survived by his wife, Nancy Petway Hadlow; two sons, Bryce Hadlow of Jacksonville and Richard Hadlow of Tampa; two daughters, Erin Hadlow and Janet Hadlow Catlin, both of Jacksonville; and five grandchildren.

### Class of 1951

**Robert G. Jack**, of Columbus, Ohio, died on October 2, 1991. He had practiced law in Columbus for over thirty-five years and had also served as a special agent in the FBI. Jack was a member of a number of civic organizations.

He is survived by his wife, Helen B. Jack; three sons, Jeffrey, Randall and Gary; a daughter, Cindy Caserta; a sister; a brother; and two granddaughters.

### Class of 1959

**Frank David Nichols** died on July 16, 1988 in Los Angeles, California. He was an attorney in Malibu. He is survived by two daughters, Marie Cherie and Sandra; a granddaughter; and a brother.

## UPCOMING EVENTS

Alumni Seminar .....	April 9, 1992
Barristers Weekend .....	April 10-11, 1992
Board of Visitors Meeting .....	April 10-11, 1992
Commencement .....	May 17, 1992
ABA Meeting Reception .....	August 10, 1992
Board of Visitors Meeting .....	September 18, 1992
Law Alumni Weekend .....	September 18-19, 1992

The following classes will celebrate their reunions in 1992:

Class of 1941 and prior .....	The Half Century Club
Class of 1942 .....	50th reunion
Class of 1947 .....	45th reunion
Class of 1952 .....	40th reunion
Class of 1957 .....	35th reunion
Class of 1962 .....	30th reunion
Class of 1967 .....	25th reunion
Class of 1972 .....	20th reunion
Class of 1977 .....	15th reunion
Class of 1982 .....	10th reunion
Class of 1987 .....	5th reunion

For more information on upcoming events, call the Law Alumni Office at (919) 489-5089.



Members of the Class of 1981 returned to campus in October for a tenth reunion.



*Duke Law Magazine*

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