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Amicus

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Summer 1986

### Amicus (Vol. 9, No. 2; Summer 1986)

University of Colorado Law School

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# AMICUS

Martha Nachman, Editor



## Notes from the Dean

It might be of interest to our alumni and friends to note the changes in legal education that have occurred in the last twenty-five years, both nationally and at this Law School. There have been significant changes; these changes are reflective of, and in part a response to, changes in the character of our students, of the legal profession, and of society.

### Changes in the student body.

1. *Our student body today is larger and more diverse than it was 25 to 30 years ago.* There were 128 applications for the class entering CU Law School in Fall 1962, of which 85 were accepted (two-thirds of those applying); 62 actually enrolled. For this fall's entering class, we received over 1,200 applications. We accepted one-third of those applying, or 415, and we enrolled approximately 150. Twenty-five years ago, CU's total student enrollment was 178; today it is approximately 475. In 1962, five women were enrolled. Today, the first-year class is approximately 48% women. There were no minorities in CU's 1962 entering class; today, minorities comprise 12% of the entering class.

2. *The age of our student population has significantly increased.* Each year for the past few years, our median age has continued to rise. A large proportion of our students no longer are recent college graduates. Many of our students come with families--not only spouses but children that have to be supported. Moreover, many of our older students have already had a successful career in

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## Herbert Wechsler Becomes First Rothgerber Chair Professor

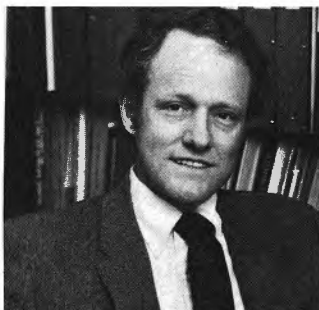
Herbert Wechsler, Harlan Fiske Stone Professor of Constitutional Law Emeritus at Columbia, who will teach a course in Federal Jurisdiction during the spring, 1987 semester, will be the first occupant of the Ira C. Rothgerber Chair in Constitutional Law. Professor Wechsler, who is a nationally recognized authority on constitutional law, earned his LL.B. in 1931 from Columbia Law School where he was editor-in-chief of the *Columbia Law Review*. He clerked for Justice Harlan F. Stone of the U.S. Supreme Court in 1932, during a



Rothgerber Chair Professor  
Herbert Wechsler.

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## Professor Williams Appointed to U.S. Court of Appeals for D.C. Circuit



Professor Stephen F. Williams.

On June 29 Professor Stephen F. Williams took his oath of office from Judge Jim Carrigan to become a Circuit Judge for the United States Court of Appeals for the District of Columbia Circuit. Judge Williams, who has served on the faculty since

1969, received his undergraduate degree in 1958 from Yale and his law degree in 1961 from Harvard Law School, where he served as an editor of the *Harvard Law Review*. After law school and a stint in the Army, Judge Williams practiced law with a private firm in New York City for three years and then became an Assistant U.S. Attorney for the Southern District of New York. As a member of the C.U. Law School faculty since 1969, he has earned a national reputation in the fields of natural resources, oil and gas, and administrative law. He is a prolific author, having written articles on topics ranging from oil and gas and water law to constitutional law.

Judge Williams readily admits that he will miss Colorado and teaching at

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another field prior to law school. These students have different expectations of what they will do and what they need to do upon graduation.

3. *The educational levels and background of our students have increased.* The median LSAT scores of our students has risen significantly over the last decade or two, and the amount of education our students have had prior to entering law school is much higher. Recent classes have enrolled several students with Ph.D.s and many with masters degrees. By contrast, 1961 was the first year in which an undergraduate college degree was required for admission to the University of Colorado Law School. Since the CU faculty has felt it to be pedagogically valuable to maintain small classes, the Law School must offer several sections of many of our core courses, rather than just one, mandating an increase in the size of the faculty.

4. *There have been dramatic increases in tuition, at public as well as private law schools, and inflated living costs.* Twenty-five years ago, the annual resident tuition at CU was \$262 and nonresident tuition was \$836. Today, resident tuition is \$2,600 and nonresident tuition \$6,800. The fact that many students need to support not only themselves but their families, coupled with restrictions on outside employment imposed by the ABA as well as the law schools, has meant that our students are increasingly dependent on financial aid. Yet the failure of financial aid to keep pace with the escalation in costs has been well documented. Our students, as is true of law students nationally, are faced with increasingly large debts when they graduate. This cannot help but have a large influence on the kinds of careers in law that they seek.

5. *The widespread perception of a "lawyer glut" has affected the attitudes of our students toward law study and the search for jobs.* Surveys undertaken by the National Association of Law Placement indicate that the same proportion of law school graduates today as a decade ago are finding law-related jobs within six months of graduation. However, it is the fear of a tight job market, regardless of the reality, that affects the behavior of law

school graduates. This has led not only our students, but also our recent graduates, to demand more assistance from the Law School in locating jobs than has been true in the past.

#### Changes in the practice of law.

1. *Law has become more complex and specialized.* Both the knowledge explosion and the technological explosion have affected the need for specialization. The growth in legislation and administrative regulations has also complicated the practice of law. Whole new areas of law and of practice seem to develop almost overnight.

2. *There has been an exponential growth of large law firms on the one hand and of the "boutique" or specialized firm on the other.* The large law firms have grown not only in numbers of lawyers, but also in the number of offices established in other cities. These firms increasingly are national law firms. Looking at some of Denver's biggest firms, Davis, Graham & Stubbs has approximately 145 lawyers today (offices in three locations); its predecessor firm, Lewis, Grant & Davis 25 years ago had 21 lawyers. Sherman & Howard has approximately 155 lawyers (offices in four locations); its predecessor firm Dawson, Nagel, Sherman & Howard had 26 lawyers. Holland & Hart has nearly 200 lawyers today (offices in eight locations) and had about 38 lawyers 25 years ago. Holme Roberts & Owen has 186 lawyers today (offices in five locations) and had 24 lawyers 25 years ago. On the other hand, more lawyers are now going into practice for themselves or joining with their equally inexperienced classmates in small firms. There is less "mentoring" and fewer opportunities for learning from a more experienced lawyer.

3. *Graduates change careers much more frequently.* Twenty-five years ago, when a student "signed on" with a law firm, he (and it was, except in very rare cases, he) was expected to stay with that law firm for most of his professional career. A recent national study of students who graduated from law school in 1981 indicated that one-half of them had changed their jobs at least once in the first five years after law school.

#### Response of the law schools.

Law schools have had to respond to the changing character of the students seeking legal education and careers in law, and to the changing nature of the legal profession and the increasing complexity of the law. Law schools have had to respond to other forces as well, such as academia, which has pressured law schools to become more like graduate schools, and the bench, the bar, and the public, which have demanded more "competent" and ethical lawyers. There are three major strains in legal education today, not always well integrated or happily married. (A thorough assessment of modern legal education that may be of interest to our alumni and friends was undertaken some years ago by our President, E. Gordon Gee, "Bridging the Gap: Legal Education and Lawyer Competency," 4 *Brigham Young University Law Review* 695 (1977).)

The first strain, which dates back 100 years ago, is the Langdellian case method introduced at Harvard, which uses court decisions as source materials and so-called "Socratic" interchange as the method of instruction.

The second strain arose out of the Legal Realist movement in the late 1920s, which criticized the case method as being the study of legal rules divorced from their social context. Thus, students were to learn the underlying values of the law and their impact on society and to inquire into the purposes of specific laws and whether those purposes were being served. Teaching materials included various aspects of the social science disciplines.

The third strain of legal education relates to the training of students in lawyering skills. Legal education should include one-on-one and small group instruction in writing and drafting, oral advocacy, negotiation, mediation, counseling, and interviewing. Lawyering skills were also to be taught through clinical courses.

1. *A larger and more diverse faculty is needed.* The increase in the size of the student body (and the desire at CU to keep classes small) has led to an increase in the faculty. Changes in legal education have also mandated a more diverse faculty with differing

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## Placement Activities

During the 1985-86 academic year, a total of nearly 100 law firms, government agencies, corporations, and public interest organizations interviewed at the Law School. The Office of Career Services is still scheduling on-campus interviews for the fall, 1986 semester. If you are interested in interviewing students at the School of Law, please contact the Office of Career Services at Campus Box 403, Boulder, Colorado 80309-0403 (303 492-8651).

Last year the Law School was privileged to have a number of distinguished lawyers visit to speak to law students regarding the recruitment process and placement opportunities. The visitors (and their topics) included Victoria (Vicki) Fowler ('75), Gorsuch, Kirgis, Campbell, Walker Grover, Robert S. Slosky ('61), Rothgerber, Appel, Powers & Johnson, Harlan Abrams, Brownstein, Hyatt, Farber & Madden, and David Schieferstein, Gibson, Dunn & Crutcher (The Recruitment Process: Law Firm Recruiters Tell All); Christopher Neal, Assistant District Counsel, Internal Revenue Service (Employment with the Office of Chief Counsel); Richard H. Forman ('74), Solicitor General, Office of the Colorado Attorney General (Career Opportunities with the Colorado Attorney General's Office); Robert Taylor, Assistant Director of International Programs, McGeorge School of Law (International Programs of the McGeorge School of Law); William Silberstein ('80), Isaacson, Rosenbaum, Woods, Levy & Snow and Linda M. Zinser ('85), Hall & Evans (First Year Orientation: The Recruitment Process); John R. Henderson ('78), Vranesh & Raisch, Howard Boigon, Davis, Graham & Stubbs, James Engleking, Saunders, Snyder, Ross & Dickson, and Lori Potter, Sierra Club Legal Defense Fund (Career Opportunities in Natural Resources); Christopher Brauchli ('61), Brauchli, Snyder, Jevons & Johnson (Musings from the Woolsack or Practicing Law in 1986); Judith B. (Judy) Walker ('77), Director of Development, CU College of Arts & Sciences (Alternative Careers for Lawyers); Chief Judge

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(L-R) Robert S. Slosky ('61), C.U. President E. Gordon Gee, James Coburn, Ira C. Rothgerber ('35), Dean Betsy Levin, and Associate Dean Clifford J. Calhoun at World Premier of *Death of a Soldier*.

## Hollywood Goes Rothgerber

On April 8 the Denver Center for the Performing Arts and the Denver firm Rothgerber, Appel, Powers & Johnson hosted the world premiere presentation of the movie *Death of a Soldier*. The movie, in which James Coburn starred, told the story of Ira C. Rothgerber, Jr.'s ('35) defense during World War II of a U.S. Army private accused of killing three women in Australia. The injustices resulting from the proceeding

ultimately led to procedural reforms in military trials. Mr. Rothgerber, who was consulted by those producing the movie, attended the premiere, which was a benefit for the Denver Center for the Performing Arts. Robert S. Slosky ('61), a partner in Rothgerber, Appel, Powers & Johnson and a member of the Board of the Denver Center for the Performing Arts, organized the benefit.

## Dean Leads Delegation to China

Dean Betsy Levin led a delegation of women lawyers, judges, and law professors in May on a visit to Beijing and a number of other Chinese cities. The Dean's trip was sponsored by the Chinese Ministry of Justice and the People-to-People Program in the United States. In addition to Beijing, the delegates visited Wuhan, Guangzhou (Canton), and Fuzhou. The Ministry of Justice organized a program of comparative law study for the delegates. Both civil and criminal law were explored through a series of

briefings, seminars, and visits to various agencies and institutions, including a jail, a juvenile reformatory, the All-China Women's Federation, the law schools of Peking and Wuhan Universities, and the Zhongnan Institute of Political Science and Law (also in Wuhan), a Street Mediation Committee, a police station, and a law office that specializes in foreign trade. The visit provided the Americans with an opportunity to learn about another system of law and to enhance contacts with China, especially contacts between C.U. Law School and Chinese law schools.



Dean Betsy Levin and Procurators on Legal Study Tour of the People's Republic of China.

## Fifth Annual Reunion and Alumni Awards Banquet

The Law School held its Fifth Annual Reunion and Banquet on May 17 in Denver. At the event, which provided an opportunity for alumni to meet with their classmates and other Law School friends, Robert A. Backus ('64), Chair of the Law Alumni Board, presented awards to seven alumni who have made significant contributions to the profession since graduating from Law School. The Law School was also honored to have present Frederick M. Winner ('36) and his wife Frankie, and Edward Pringle ('36), who was accompanied by his wife Pauline. Judge Winner, who practiced law in Denver for much of his career and who served as a Federal District Court Judge for Colorado, and Justice Pringle, who practiced for twenty years in Denver before becoming a Justice of the State Supreme Court and then Chief Justice, were both celebrating the 50th anniversary of their graduation from the Law School. James T. Moran, President of the Colorado Bar Association, was the evening's speaker.

The Reunion Chairs for the Special Reunion Classes presented class gifts to the Dean in honor of the anniversaries of their graduation from Law School. Frank G. Cooley, representing the Class of 1951, presented a check for \$4,306; Forden Athearn, Lee R. Wills, and Donald E. McMichael, representing the Class of 1956, presented a check for \$12,055; Christopher R. Brauchli,



1986 Alumni Award Recipients (L-R) Stanley D. Henderson ('61), William C. McClearn ('51), Christopher R. Brauchli ('61), Brooke Wunnicke ('45), Claus J. Hume ('65), Stanton T. Hadley ('62), and Theodore E. Woods ('73).

representing the Class of 1961, presented a check for \$7,834; Byron R. Chrisman and Robert J. Kapelke, representing the Class of 1966, presented a check for \$4,230; David L. Harrison, representing the Class of 1971, presented a check for \$5,880; and Jon F. Kottke, representing the Class of 1976, presented a check for \$7,904 and a last minute cash contribution of \$96 to bring the total gift to \$8,000.

The following seven alumni were the recipients of the 1986 Law Alumni Awards:

### Christopher R. Brauchli ('61)

*For Distinguished Achievement as a Small Firm Practitioner.* Three years after his graduation from Law School, Christopher Brauchli established a practice in Boulder, with an emphasis on trusts, estates, and probate law. He has become a recognized authority in these areas, being named a member of the Colorado Bar Council of Probate and Trust Laws and a Fellow of the

American College of Probate Counsel. He is also a recognized authority on the subject of professional responsibility, serving on the Supreme Court's Grievance Committee and on the Ethics Committees of the Colorado and Boulder County Bar Associations. He is an accomplished and prolific author, with regular satirical columns appearing in the *Colorado Lawyer* and the *Longmont Times-Call* on legal and other topics, and an ardent supporter of music, being a founder of the Colorado Music and the Boulder Bach Festivals.

### Stanton T. Hadley ('62)

*For Distinguished Achievement as an Executive in Industry.* After graduating from the School of Law in 1962, Mr. Hadley joined Ball Corporation in Boulder where he practiced general and patent law for three years. He then was Patent Counsel at Scott Paper Company in Philadelphia, and, subsequently, head of the Patent Department of United States Gypsum Company in Chicago. He rose through the ranks at U.S. Gypsum to become, in 1983, Senior Vice President for Administration and Corporate Secretary. Mr. Hadley has also been a leader in his community, serving on the boards of many cultural and civic organizations.

### Stanley D. Henderson ('61)

*For Distinguished Achievement in Education.* After graduating from the School of Law Order of the Coif in 1961, Stanley D. Henderson clerked for the Honorable O. Hatfield Chilson



(L-R) Frankie Winner, Frederick M. Winner ('36), Edward Pringle ('36) and Pauline Pringle at Alumni Reunion Banquet.

of the United States District Court for Colorado. After completing his clerkship, he practiced law with a Boulder firm for two years before accepting an appointment to the faculty of the University of Wyoming College of Law. Since 1970 he has been on the faculty of the University of Virginia Law School. In 1983 the University of Virginia Alumni Association presented him the University of Virginia's Distinguished Professor Award for his excellence as a classroom teacher.

**Claus J. Hume ('65)**

*For Distinguished Achievement as a Member of the Judiciary.* Before his appointment to the bench, Judge Hume was in private practice in Craig, Colorado and also served, first, as Deputy District Attorney and then as Assistant District Attorney. He first became a Judge in the Fourteenth District in 1974 and was named a Water Judge of Division 6 in 1978. Since 1978 he has served as Chief Judge of the Fourteenth Judicial District.

**William C. McClearn ('51)**

*For Distinguished Achievement in Private Practice.* William C. McClearn was hired by Holland & Hart in his last year of Law School and has remained with the firm for his entire professional career. He has become a senior litigation partner and chairman of the firm's management committee. In addition to being an outstanding litigator of complex commercial cases, he has served as President of the Denver and Colorado Bar Associations and was also named to the Board of Governors of the American Bar Association in 1984, thus becoming one of only eight Coloradans in the 106 year history of the American Bar Association to be elected to this position.

**Theodore E. Woods ('73)**

*For Distinguished Achievement as Corporate Counsel.* An outstanding athlete who was a member of the 1960 U.S. Olympic Track Team and a member of the 1960 All-American Track Team, Ted Woods financed his education by alternating his semesters

attending school and playing professional football. He received his undergraduate, Masters of Business, and Law degrees from the University of Colorado. In 1973 he joined the Legal Department of Mountain Bell, advancing to the position of Corporate Attorney. Mr. Woods is very active in professional, civic, and educational organizations and was elected this spring to the Law School Law Alumni Board.

**Brooke V. Wunnicke ('45)**

*For Distinguished Achievement in the Public Sector.* After graduating from the Law School at the top of her class in 1945, Ms. Wunnicke practiced law in Wyoming until 1969 when she moved to Denver. After practicing law with a Denver firm for four years, she became Chief Appellate Deputy District Attorney for Denver. For the next twelve years, she represented the State of Colorado in criminal appeals and was involved in the preparation of numerous trial court briefs. For her work as Deputy District Attorney she was awarded the Distinguished Service Award of the Colorado District Attorneys Council. Earlier this year she returned to the private practice of law. Throughout her career she has taught a variety of courses to train new lawyers and in continuing legal education, and is now an adjunct professor at the University of Denver College of Law.

## Special Reunion Classes Photos Now Available

The Law School now has available copies of the class photos which were taken at the reunion of the following special reunion classes: 1951, 1956, 1961, 1966, 1971, and 1976. If you would like to order an eight inch by ten inch copy, please send a check for \$5.00 to the University of Colorado Law School, Director of Alumni Relations, Campus Box 403, Boulder, Colorado, 80309-0403. All orders will be held until October 31 and then processed together.

## Colorado Bar Association Alumni Events

**Friday, October 10, 1986**

Cocktail Reception

The Terrace, Broadmoor Hotel  
South (Please note the change  
in location from previous  
years.)

5:00-7:00 p.m.

Sponsored by Empire Savings and  
Loan Association

**Saturday, October 11, 1986**

Thirtieth Annual Alumni Breakfast  
Ballroom, Broadmoor Hotel West  
7:30 a.m.

**Thomas G. Brown ('64)**

1986 Knous Award Recipient



Please help us identify the law students in this photograph. We will publish the names of those identified in the next issue.

## Class of '51 Celebrates Thirty-Fifth Reunion

By Frank G. Cooley

Members of the Law School class which graduated in 1951 met in Colorado for a two-day celebration in honor of the thirty-fifth anniversary of their graduation. The activities were organized by Reunion Chairs Frank G. Cooley and T. Henry (Hank) Hutchinson. The first event was a golf tournament held on Friday, May 16, in Loveland, which was won by William C. McClearn. A reception held that evening in Boulder was attended by several members of the faculty including Dean Betsy Levin and Professors Don Sears and Homer Clark. On Saturday, the class met in Denver, where they were joined by Roy Romer ('52), who is State Treasurer and in the midst of a campaign for Governor of Colorado. Members of the group then toured the Denver Museum of Western Art before attending a reception hosted by the McClearns at their Denver home. Following the reception the group joined the rest of the Law School alumni who were celebrating the anniversaries of their graduation from the Law School by attending the banquet at the Denver Radisson Hotel. Members of the Class of '51 were particularly pleased that the presentation of the Law Alumni Award for Outstanding Achievement as a Practitioner was presented to William McClearn.

Assisting Frank Cooley and Hank Hutchinson with the arrangements for the two-day celebration were Edward L. Spangler, Jr. and his wife Becky, and John M. Law and his wife Carol. William H. (Bill) Nelson, Herbert A. Lund, and Robert H. K. Chang have agreed to plan for a fortieth reunion in Hawaii.

Members of the Class of '51, and adopted members from the Classes of '50 and '52 (and their spouses), attending the banquet were: Hugh H. Arnold ('51) (Phyllis), Richard P. Cullen ('52), Melvin Dinner ('51) (Diane), Judge David Enoch ('51) (Ellen), Byron G. Larson

('51), Robert C. McHugh ('51) (Ruth), William H. Nelson ('51) (Jean), George J. Nicou ('51), R. Timothy (Tim) Robberson ('51) (Gwen), George M. Schneider ('51) (Gini), John J. Sullivan ('51) (Eileen), Robert I. Swetnam ('51) (Lee), Judge Albert J. Tomsic ('51) (Patricia), Warren L. Turner ('51) (Phyllis), Anthony W. (Andrew) Williams ('51) (Trevia), Herbert A. Lund ('51) (Mona), Raymond C. Johnson ('50) (Jacqueline), Judge Charles D. Pierce ('52), Wesley C. (Wes) Kettlekamp ('50), among others. Judge Field C. Benton ('51) had originally planned to participate in the reunion activities, but was unable to do so because of an injury from which he has since recovered.

## Class of '56 Celebrates Thirtieth Reunion

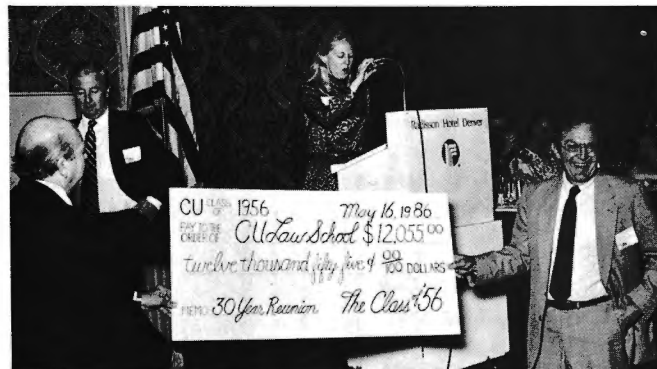
By Lee R. Wills

Members of the Class of '56 began celebrating their Thirtieth Reunion on Friday evening, May 16, by meeting at the Red Lion Inn in Boulder. Dean Levin joined the Friday evening gathering and added much to the warmth of that special occasion. The following evening the Class of '56 joined other Law School graduates at the Fifth Annual Alumni Reunion Banquet at the Radisson Hotel. Neil C. and Gretchen King ('56) invited the celebrants to their beautiful home for a nightcap and final reminiscing.

## Morrison & Foerster Hosts Reception for Alumni

On July 31 the Denver office of Morrison & Foerster hosted a reception for alumni in connection with the National Bar Association Convention, which was held in Denver from July 26 to August 1. The reception provided an opportunity for the Dean and other members of the Law School faculty as well as current minority students, to meet with the many alumni who gathered for the convention. Robert Hanley, who is teaching Advanced Trial Advocacy at the Law School as an adjunct professor, Barbara Kelley, Brian Stockmar, and Stanley Doten, as well as several associates of Morrison & Foerster presided over the event.

The class was proud to lead the donation announcements made during the banquet with some \$12,000 for the Law School. Members of the Class of '56 attending the reunion events were as follows: Philip R. Ashby, Albuquerque; Forden (Skip) Athearn, San Francisco; Wayne J. Fowler, Denver; Gerald Harrison, Golden; Thomas J. Harshman, Grand Junction; Lawrence A. Hecox, Colorado Springs; Donald J. Horst, Golden; Neil C. King, Boulder; Donald E. McMichael, Littleton; Rexford L. Mitchell, Rocky Ford; Jerry L. Smith, Pittsburgh; Merrill R. Talpers, Kansas City; Lee R. Wills, Colorado Springs; and Thomas H. Wood, Longmont.



(L-R) Forden Athearn ('56), Lee R. Wills ('56), and Donald E. McMichael ('56) presenting class gift to Dean Betsy Levin.

## Law Day and Awards Ceremony

The Law School celebrated Law Day by honoring the achievements of current students at the Second Annual Law Day Awards Ceremony. Associate Dean Clifford Calhoun presided over the ceremony at which the Honorable Sherman G. Finesilver, Chief Judge of the U.S. District Court, Colorado was the guest speaker. The following awards were presented: Bureau of National Affairs Law Student Award (to the student showing the most satisfactory scholastic progress since his or her first year), Michael F. Deneen; William O. DeSouchet Award (to students giving the best individual performance in the sections of Trial Advocacy), Judith Sprunger and Keith Tooley; Edward V. Dunklee Award (to the student with the highest cumulative grade point average at the end of his or her first year), Deanne Andrews; Joel H. Greenstein Award (to two outstanding students in the Advanced Trial Advocacy courses), Cheryl K. Hara and Lisa Smith; Edward C. King Award (to that student whose outstanding leadership and achievement exemplify the ideals which Dean King has done so much to encourage), David Brennan; Law School Award (to the first-year, second-year, and third-year students who have made the greatest contribution to the classroom



(L-R) The Honorable Sherman Finesilver, Gordon L. Allott ('29), and Welda Allott at Law Day and Awards Ceremony.

learning experience in their respective classes during the preceding year), Eileen O'Connor, John Fasching, and Britt Clayton; Legal Aid Award (to graduating students who have

participated in the Legal Aid and Defender Program, for outstanding commitment and service to the Legal Aid and Defender Program and its clients), Criminal Program: Joseph Bennett and Bruce Sarbaugh; Civil Program: Alice Ierley and Thomas Peard; Daniel A. Vigil Award (to the first-year Hispanic law student who achieved the highest grade in Civil Procedure), Daniel Hittlet; West Publishing Company Book



(L-R) Alan J. Canner ('87) receiving scholarship award from William M. Silberstein ('80).

Awards (to the first-year, second-year, and third-year students achieving the highest scholastic average in their respective classes), Conrad Swanson, first-year, Deanne Andrews, second-year, and Amy Benson, third-year.

Several donors and friends presented scholarships including William M. Silberstein ('80) of Isaacson, Rosenbaum, Woods, Levy & Snow, who announced the establishment of a new scholarship to be awarded annually to a law student who has demonstrated outstanding academic ability and financial need. In initiating this scholarship on behalf of his firm, Mr. Silberstein, who himself had been a scholarship recipient while he attended the Law School, cited the Law School's critical needs in this area.

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Alumni Awards

relations. He is active in professional organizations and has had a major impact on the Colorado Childrens' Code. In 1970, students recognized his outstanding contributions as a teacher by selecting him for the John W. Reed Award.

## Law Library Faculty

Barbara Bintliff, who has been an Assistant Librarian and Instructor at the Law School since 1984, has been appointed to fill the position of Associate Law Librarian. Before joining the Law School's library faculty, she was a Legal Consultant at the National Center for Atmospheric Research in 1980 and then a reference librarian at the University of Denver's law library from 1980-84. Ms. Bintliff, who received her law degree and Masters of Law Librarianship from the University of Washington, has authored a variety of articles on legal research, served on the editorial board of several journals, and been active in teaching and writing for Colorado CLE activities.

Ms. Bintliff's appointment fills the vacancy created by the departure of Lois Calvert who, after 20 years on the law library faculty, resigned to become Education Representative for the Rocky Mountain Regional Office of Mead Data Center (LEXIS).

Richard M. Jost has been added to the faculty of the law library in the newly established position of reference librarian. Mr. Jost, who has a Masters of Arts in Librarianship and Information Management, as well as a Masters of Arts in International Affairs, taught legal bibliography and research, with particular emphasis on Colorado legal research, to students at the University of Denver College of Law. He then joined the George Washington University law library as its collection development librarian.

## Rothgerber Moot Court

Final arguments for the Rothgerber Moot Court will be held October 20, 1986 at 3:30 p.m. in the courtroom of the Law School. Justice Hans J. Linde of the Oregon Supreme Court, who will also be the Law School's 1986-87 Jurist-in-Residence, Constance Baker Motley, Chief Judge for the Southern District of New York, and Judge Zita Weinshienk of the U.S. District Court, Colorado will be the panel of judges.

The two teams of third-year students who will be competing are: David von Gunten, and Ken Skogg; and Tami D. Cowden, Lindley R. Heher, and Michael C. Theis.



## Scholarship Winners

This year's recipients of scholarships supported by donations from alumni and friends of the Law School are: **Welda and Gordon Allott Natural Resources Law Scholarship** (to a second- or third-year student who demonstrates financial need and a strong interest in working on research projects in natural resources law at the school), **William J. Brooks; Black Alumni Scholarship** (to a promising student in support of successful completion of law school, given by black alumni), **Henry Cooper; William J. Bowe Scholarship** (to students who demonstrate academic achievement, financial need, and an interest in practicing in the areas of Taxation and Estate Planning), **Thomas M. Piccone; Jean S. Breitenstein Law Clerks Scholarship** (to a third-year



(L-R) Karen Barsch ('87), Peter J. Wall ('63), James R. McCotter ('69) and Mrs. Jean S. Breitenstein at Law Day and Awards Ceremony.

student who demonstrates high academic achievement, financial need, and intends to practice in Colorado), **Karen L. Barsch; Class of 1913 Scholarship** (to a diligent and deserving second- or third-year student), **Jess Raphael; John A. Cross Memorial Scholarship** (to a Colorado resident who is a veteran or a member of the immediate family of a veteran), **Thomas M. Piccone; Philip A. Danielson Scholarship** (to students who show promise of high achievement in the study of law and as members of the legal profession), **Paula K. Biderman and Phillis Rena Morgan; Davis, Graham & Stubbs Scholarship** (to a second- or third-year student who demonstrates high academic achievement and a commitment to the improvement of

the legal profession and enlargement of its contributions to the public interest), **Tami Cowden; The John D. Fleming and Charles J. Kelly Memorial Scholarship** (to the student or students who exemplify the achievements of John D. Fleming, Dean of the Law School from 1907 to 1927, and Charles J. Kelly, a prominent law school alumnus), **Karen Lawrence; Hispanic Alumni Scholarship** (to a student who has shown outstanding achievement, given by Hispanic alumni), **Robert Planchard; Isaacson, Rosenbaum, Woods, Levy & Snow, P.C., Scholarship** (to a student who has demonstrated outstanding academic ability and financial need), **Alan J. Canner; Moses Lasky Scholarships** (to students who have demonstrated outstanding ability, dedication to the profession and, financial need in memory of Ida Lasky, the mother of Moses Lasky), **Wendy Feuer and Stephen A. Hess; Chuck Mau Scholarship** (to students who are Colorado residents and show exceptional scholastic ability and financial need), **Samuel Ventola; Floyd Marks Scholarship** (to a student who is a resident of Adams County), **Andrew Kersting; Donald S. Stubbs Scholarships** (to students who show academic achievement and promise as practicing community lawyers, who have financial need, and who come from ranching or farming backgrounds), **Lucky E. Smith, Jr.; Leon and Dora Wolf Scholarships** (to second-year students who rank in the top 15% of the class, have financial need, and demonstrate a substantial commitment to work on the Law Review), **Deanne Andrews, Neil Duggan, and Deirdre Smith.**



Professor Aviam Soifer, Scholar-In-Residence.

## Aviam Soifer — Scholar-in-Residence

Professor Aviam Soifer, of Boston University School of Law, was C.U. Law School's Scholar-in-Residence the week of March 3. Professor Soifer, who graduated from Yale Law School and clerked for Judge John O. Newman when he was a judge for the United States District Court, Connecticut, teaches constitutional law, employment discrimination-civil rights, federal jurisdiction, law and psychiatry, and legal history. While visiting C.U., he participated in classes on several of these subjects. Professor Soifer has been the reporter for The Speedy Trial Planning Group for Connecticut and chair of the Family Law Task Force of Connecticut's Permanent Commission on the Status of Women.

On March 5, Professor Soifer presented a lecture titled "The Tenth Amendment Tested, The Spending Power Squared" in which he compared and contrasted recent Supreme Court decisions dealing with the Tenth and Eleventh Amendments, with the breadth of Congress' spending power. His lecture will be published in the *University of Colorado Law Review*.

## ACKNOWLEDGEMENT

The University of Colorado School of Law gratefully acknowledges the gift of the **Trust Group of Central Bank of Denver** and its sponsorship of this issue of the *Amicus*.

## CU Alumni Association Presents Awards to Law Professor and Three Alumni

This spring the University of Colorado Alumni Association chose Gail H. Klapper ('68), Betty Carter Arkell ('75), Clarence L. Ireland ('16) and Professor Homer Clark to receive four of the nineteen Alumni Association Awards presented this year.



Gail H. Klapper ('68).

Gail Klapper was named as one of only three recipients of the prestigious Norlin Award, which is presented to alumni of the University in recognition of outstanding achievement in their profession. Mrs. Klapper is currently a partner in the Denver firm of Klapper & Zimmerman where she has a law and consulting practice involving business, real estate, and government-related work. In 1976 she was appointed by the President of the United States to serve as a White House Fellow assigned to the Secretary of the Interior. She then served the State of Colorado in two cabinet level positions, first as the Executive Director of the Colorado Department of Regulatory Agencies from 1977 to 1981, and then as Executive Director of the Colorado Department of Personnel from 1981 to 1982. In 1982, after a difficult primary contest for the party nomination, she was narrowly defeated in the general election for Attorney General of the State of Colorado. She is active on the boards of many civic and educational organizations. In 1981 she was chosen the first recipient of the annual Leadership Denver Association Award for Outstanding Achievement. Mrs. Klapper was recently named by the *Denver Post* as one of 16 "Leaders of the Late 20th Century" in Colorado.



Betty C. Arkell ('75).

Betty Carter Arkell ('75) was selected to receive the Alumni Recognition Award which honors involvement with and commitment to the advancement of the University. Ms. Arkell is a partner in the Denver office of Kirkland & Ellis. Notwithstanding the demands of her practice and other professional activities, she took on many responsibilities as a member of the Law Alumni Board from 1980 to 1984, and served as its chair in 1984-85. She continues to serve on the Law School's Board of Visitors. She has also presided over two receptions for Denver area recent graduates which were hosted by her firm, in addition to lending her support to the Law School in a number of areas, including recruitment of applicants, placement, and fund-raising.



Clarence L. Ireland ('16).

Clarence L. Ireland ('16) received one of two Athletic Hall of Honor Awards presented this year to alumni who, while attending the University of Colorado, were awarded a varsity letter, and who have distinguished records of achievement in their professions. Mr. Ireland received varsity letters each year from 1913 to 1916 for his accomplishments in track. During these years he equaled the World Intercollegiate Record in the 100 Yard Dash and was known as one of the two fastest sprint men in the Rocky Mountains. His accomplishments as an attorney were

equally impressive. From 1920 to 1924 he served as an Assistant U.S. Attorney for the District of Colorado and, in 1932, was elected as Attorney General for the state. He was a founding partner of the firm now known as Ireland, Stapleton, Pryor &



Clarence Ireland as an undergraduate

Pascoe, P.C. In his practice he participated in many landmark decisions of the Supreme Court of Colorado and played an important role in the development of Colorado's water laws.

Professor Homer Clark received the Robert L. Stearns Award which honors members of the University faculty and staff for outstanding service or achievement, teaching, service to the University, research, or off campus service. Professor Clark, who has been on the faculty since 1953, has had an outstanding record in each of these categories. He is a frequent contributor



Professor Homer Clark.

to scholarly journals and is completing a new edition of his nationally-acclaimed treatise on domestic

Continued on p. 7

## Summer School Faculty Includes Distinguished Thomson Professor

This summer three outstanding legal scholars became visiting professors at the Law School teaching courses in Agency-Partnership, Constitutional Law, and Evidence.

Visiting Professor Victor G. Rosenblum of Northwestern University Law School is this year's Distinguished Charles Inglis Thomson Professor. He is currently President-Elect of the Association of American Law Schools and will be assuming the presidency in January 1987. Professor Rosenblum graduated from Columbia University Law School in 1948 and then earned a Ph.D. in political science from the University of California, Berkeley, in 1952. From 1952-53 he was a staff associate of the Governmental Affairs Institute in Washington, D.C. From 1954-57 he taught political science at Berkeley. He then served for two years as Associate Counsel for the Subcommittee on Executive and Legislative Reorganization of the U.S. House of Representatives Committee on Government Operations. In 1958 he became a professor of political science at Northwestern University and joined its law school faculty in 1962. He was President of Reed College from 1966-1970. Professor Rosenblum, who will be teaching Constitutional Law this summer, is the author of numerous articles in the areas of constitutional law, administrative law, educational law, and political science, as well as four books: *Law As a Political Instrument* (1955), *The Power to Govern* (1957) (with P.H. Odegard), *Constitutional Law: Political Roles of the Supreme Court* (1973) (with A.D. Castberg), and *The Making of a Public Profession* (1981) (with F. Zemans).

Professor John J. Slain, who is on the faculty of New York University Law School, taught Agency-Partnership this past summer. Professor Slain, a 1955 graduate of NYU School of Law, was associated with the New York law firm Cravath, Swaine & Moore for five years before becoming General Counsel and Vice President of ATM Companies, Inc., in Detroit, Michigan. He then taught at Indiana and Ohio State Law Schools before

joining the faculty of NYU in 1975. Professor Slain is an author of *Agency Partnership and Employment—A Transactional Analysis* and he has written a number of law review articles in the area of corporate law.

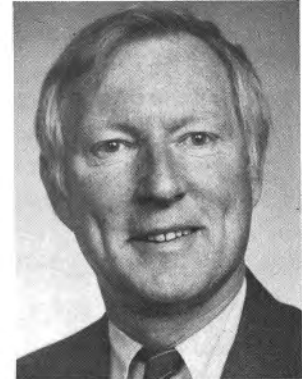
Also teaching was Visiting Assistant Professor Dale A. Nance of Northern Illinois University College of Law. Professor Nance graduated from Stanford Law School in 1977 and practiced law in San Francisco from 1977-80. He then did graduate work at the University of California, Berkeley, receiving an M.A. in Jurisprudence and Social Policy. Professor Nance joined the faculty of Northern Illinois in 1982, where he teaches courses in evidence, advanced evidence, jurisprudence and law, medicine and ethics. His most recent publication is "Legal Theory and the Pivotal Role of the Concept of Coercion" which was published in *57 University of Colorado Law Review* 43 (1985).

## Local Bankruptcy Judges All C.U. Law Grads

All four bankruptcy judges currently sitting in Colorado, Judge Roland J. Brumbaugh ('71), Judge Patricia A. Clark ('61), Judge Charles E. Matheson ('61), and Judge John F. McGrath ('50), are graduates of the University of Colorado Law School.

Judge Brumbaugh, who has been serving as a bankruptcy judge since 1982, was in the private practice of law in Denver for three years following his graduation from law school. After serving for a brief time as Chief Deputy City Attorney in Lakewood, he was named Deputy Director of the Colorado Department of Revenue. From 1978 until his appointment to the bench, he was with the Denver office of the U.S. Attorney, serving as Chief of the Civil Division in his last two years. Judge Clark, who was a partner in Holme, Roberts & Owen in Denver at the time of her appointment in 1974, became one of only a handful of women serving as federal bankruptcy judges. Judge Matheson was appointed earlier this year to fill the position left vacant when Jay L. Gueck ('63)

resigned to join the Dallas law firm Akin, Gump, Strauss, Hauer & Feld. Judge Matheson practiced for the last 25 years in Denver with the firm of Fairfield & Woods where he concentrated on bankruptcy law. Judge McGrath was in the general practice of law with Kettelkamp, McGrath & Ventro in Pueblo, Colorado for 17 years before his appointment in 1967.



Chancellor James N. Corbridge.

## Professor Corbridge Named Chancellor

Professor James N. Corbridge, Jr., who had been serving as the University's interim Vice Chancellor for Academic Affairs, was appointed Chancellor of the University this summer. C.U. President E. Gordon Gee announced the appointment, which was made after a nationwide search failed to produce a candidate, citing Professor Corbridge's experience and ability. Professor Corbridge, who has been a law professor here since 1965, has held several administrative positions with the University in addition to most recently serving as the interim Vice Chancellor for Academic Affairs. He was Vice President for Student and Minority Affairs (1970-74), Vice Chancellor for Academic Affairs (1974-77), and Interim Vice Chancellor for Academic Services (1979-81). Professor Corbridge, who received his undergraduate degree from Brown University and his law degree from Yale University Law School, is a recognized authority in natural resource and water law. He is currently working on a casebook on water law with Professor David Getches and two other coauthors.



Associate Dean and Associate Professor Mark J. Loewenstein.

### New Associate Dean

Professor Mark J. Loewenstein, who has been on the faculty since 1979, became the new Associate Dean on August 1. The associate deanship is filled on a rotating basis by members of the faculty who serve for a two to three year term. A 1974 graduate of the University of Illinois School of Law, where he served as assistant editor of the school's *Law Forum*, Professor Loewenstein practiced law in Chicago for several years before joining the Law School's faculty. Professor Loewenstein, who teaches in the area of corporation law, will serve as associate dean for two years. His experiences as a faculty member and a practitioner and as a member and chair of the Law School's faculty recruitment committee, will all be helpful to him in meeting the many diverse challenges of this position.

The associate deanship has been held for the past three years by Professor Clifford J. Calhoun. Professor Calhoun has done much during those years to advance the Law School. In addition to the usual responsibilities, which include standing in for the dean, dealing with the academic affairs of the School, and advising students, he has been instrumental in assisting the Law School enter the electronic age. Members of the Law School administration and staff feel particularly fortunate to have had the opportunity to work so closely with Professor Calhoun, to whom they are grateful for his patience, sense of humor, and unfailing willingness to help.

### Former NASA General Counsel Hosenball Lectures on Space Law

Neil Hosenball, Director of C.U.'s Center for Space Law and Policy, presented a lecture at the Law School on April 1 titled "Practicing Space Law." The former General Counsel of NASA also taught a course in International Air and Space Law at the Law School during spring semester.

Mr. Hosenball, a 1951 graduate from Harvard Law School, was in the private practice of law until 1960, when he became an attorney for NASA's Lewis Research Center. He served as Chief Counsel of the Center until 1966, when he became Assistant General Counsel at NASA Headquarters in Washington D.C. From 1967-1975 he was Deputy General Counsel and, in 1975, became General Counsel. For his accomplishments, he was awarded the NASA Exceptional Service Medal in 1967 and the NASA Distinguished Service Medal in 1973 and 1985. He was also awarded the Presidential Rank of Distinguished Executive in 1983.



S. Neil Hosenball.

Mr. Hosenball served as a member of the U.S. delegation to the United Nations' Committee on Peaceful Uses of Outer Space from 1968 to 1979 and was head of the delegation for the three years from 1977 through 1979. Before coming to C.U., Mr. Hosenball was also a professorial lecturer in air and space law at George Washington University School of Law. Mr. Hosenball has authored many publications on space law, including "Current Issues of Space Law Before the United Nations" (1973) and "The

United Nations' Committee on Peaceful Uses of Outer Space: Past Accomplishments and Future Challenges" (1979), both of which appeared in the *Journal of Space Law*, and "The Law Applicable to the Use of Space for Commercial Purposes" (1983), which was published in the *26th Colloq. on the Law of Outer Space*, 143.

### SAVE THIS DATE

**SATURDAY**  
**October 18, 1986**  
**Homecoming**

#### Schedule of Events

##### Morning:

Coffee and Doughnuts  
with the Deans  
The Law School  
Rutledge Lounge  
9:00 a.m.

##### CLE Program

The Law School  
Room 104  
Panel Presentation on  
Topical Issues in Legal Ethics  
9:30 a.m. to 11:30 a.m.

##### Alternate activities for accompanying guests:

- Heritage Center, Third Floor, Old Main -- a collection of University memorabilia
- University of Colorado Museum Henderson Museum -- various exhibits

##### Afternoon:

##### Buffet Luncheon

The Law School  
West Patio  
11:45 a.m. to 1:00 p.m.

##### C.U. vs. Iowa State CU Stadium

1:30 p.m. Game time

If you would like to participate in any of these activities but have not placed your reservation, please contact the University of Colorado Alumni Office at 492-8484.



(Front: L-R) B. Lawrence Theis ('75), Robert W. Giacomini ('57), Lee R. Wills ('56), Betty C. Arkell ('75), Robert A. Backus ('64), and Steven K. Moise ('69); (Rear L-R) Richard P. Doucette ('66), Christina K. Bearman ('76), James E. Scarboro ('70), L. Richard Bratton ('57), and Gregory K. Hoskin ('65) at 1985-86 Annual Meeting of Law Alumni Board.

## Law Alumni Board Elections Held

At the annual meeting of the Law Alumni Board of Directors on May 17, 1986, the following were elected to a four-year term on the board, beginning July 1, 1986:

James D. Brown ('73), Delta; Angela M. Lujan ('82), Denver; Robert A. Ruyle ('59), Greeley; and Theodore E. Woods ('73), Denver.

In addition Christopher R. Brauchli ('61) of Boulder was elected Chair-Elect. Robert A. Backus ('64) of Denver, the 1985-86 Chair of the Alumni Board, presided over the meeting. Lee R.

Wills ('56), Colorado Springs, assumed the Chair on July 1, 1986.

Other members of the Law Alumni Board of Directors for 1986-87 include:

Christina K. Bearman ('76), Denver;

L. Richard Bratton ('57), Gunnison;

Thomas T. Farley ('59), Pueblo; Robert W. Giacomini ('57),

Sterling;

Gregory K. Hoskin ('65), Grand Junction;

C.J. Lewis ('80), Westminster; Steven K. Moise ('69),

Albuquerque, New Mexico;

James E. Scarboro ('70), Denver;

B. Lawrence Theis ('75), Denver; David L. Wood ('62), Fort

Collins.

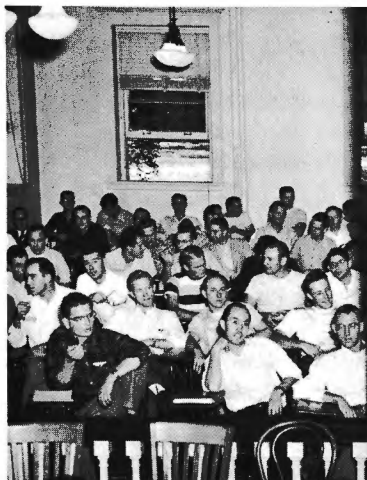


Photo Quiz — Can You Name this Room? (Please turn to page 28 for the answer.)

## Development Report

The Law School Development Program was enhanced this spring by the continued enthusiastic support of its volunteers. The Leadership Gifts Committee succeeded in raising over \$95,000, providing much needed support to our library, our scholarship program, and our faculty development fund, as well as unrestricted funds which are so essential to many Law School programs. Leadership gifts are those gifts contributed in excess of \$2,500, \$1,000, and \$500 and donors at those levels are recognized through various giving clubs.

In addition, all our reunion chairs did a superb job and were clearly responsible for the success of the 1986 Reunion. We are also very grateful to the many phonathon volunteers whose efforts have produced many increased and new gifts. I would like to take this opportunity to acknowledge the enthusiastic participation of several phonathon veterans who participated in phonathons on an annual basis during the time they were students. Tom Ayers ('81), Sharon Lee Scott ('85), Harold R. (Hal) Bruno, III ('85), Irene Tanabe ('85), Henry H. (Hal) Sprague, III ('85), and Damian S. Kassab ('86) are all to be congratulated and thanked for their participation.

Please reserve the date of Friday, May 1, 1987 for next year's Reunion which will be held at the Westin Hotel in Denver.

We would like to express our gratitude to the Central Bank of Denver Trust Department for once again sponsoring an issue of our *Amicus*. In addition, we would like to thank Morrison & Foerster for sponsoring a reception for our alumni who were attending the National Bar Association Convention, and Empire Savings & Loan Association for its sponsorship of the October Colorado Bar Association Convention Alumni Cocktail Party.

I look forward to working with many old friends and some new volunteers during the fiscal year which began in July.

Barbara S. Allar  
Director of Development

## Three Law Alumni Named Among Colorado's Greatest Lawyers

In the July, 1986 issue of *The Colorado Lawyer*, Philip S. Van Cise ('09), Charles Dunham ("Jim") Bromley ('24), and James Matthews Noland ('23) were chosen by the Awards Committee of the Colorado Bar Association as three of the most outstanding lawyers in Colorado history. They were selected from a list of distinguished nominees who "have exemplified the high ideals of the legal profession; made significant contributions to the bar association; have been of aid and assistance to other lawyers, particularly younger lawyers; who were active in civic and community affairs; were instrumental in accomplishing significant changes in the law; promoted public confidence in the legal profession; and demonstrated competency in the practice of law."

Philip Van Cise, after graduating from law school, joined his father's legal firm Van Cise & Grant. During the years 1910-14, he also served as a member of a unit of the Colorado National Guard which saw active service during the Ludlow Area Coal Strike. He served overseas during World War I and, after leaving active service in 1919, entered the reserves in which he served as a commander until his retirement from the military in 1942. A willingness to fight for what he believed in was the hallmark of his military and his legal careers. In 1921 he began serving a four-year term as Denver District Attorney. In this position he was credited with eliminating many gambling and illicit liquor and drug operations. Notwithstanding threats to himself and his family, he also took courageous stands against the activities of the Ku Klux Klan.

After serving his four-year term, Mr. Van Cise returned to the private practice of law. He was an extremely accomplished trial attorney and had a reputation for meticulous preparation. He chaired the Supreme Court's Rules Committee which revised the Colorado Rules of Civil Procedure to conform them to the federal rules, and served as President of the Denver Bar

Association from 1941-42. He also chaired a bar committee to formulate a plan for the institution of the merit system for the selection of judges. For his outstanding service to the State of Colorado and the legal profession, he received a gold medal from the University of Colorado and, in 1949, the first Colorado Bar Association Award of Merit.

Charles Bromley, who received both his undergraduate and law degrees from the University of Colorado where he had a brilliant academic career, practiced with a Boulder firm after his graduation from the Law School. He later practiced law in Denver, first, with Lee, Shaw & McCrary, and subsequently at Dickerson, Morrissey & Bromley. His practice was interrupted while he served during World War II as General MacArthur's law officer. For three years he served in Australia and then served in Japan where he helped draft the country's constitution. For his service he was awarded the Legion of Merit and the Bronze Star. As a private practitioner his handling of extremely complex litigation earned him a reputation as a "lawyer's lawyer." He represented the University of Colorado in a case involving investment of University funds, represented Colorado realtors and brokers in a landmark case involving the question of unauthorized practice of law, was responsible for the reorganization of the Rio Grande Railroad, and successfully represented small bond holders in proceedings involving the Moffat Tunnel. He also had a distinguished record of service to the University of Colorado as a regent, serving for the first time in the 1920's. He was again elected regent in 1950,

and served several continuous terms until his death in 1968. During the McCarthy Era, he was a staunch supporter of University personnel's rights of free speech. In addition to his service to the University as a regent, he provided *pro bono* legal services to the Veterans of Foreign Wars and others.

James Matthews Noland spent his entire career, which spanned 43 years, in Durango, Colorado. After graduating from the Law School in 1923, he practiced with a private firm. In 1925 he embarked upon a career in public service, serving first as deputy district attorney from 1925 to 1928 and, from 1933 to 1947, as district attorney. He was President of the Colorado District Attorneys Association for three terms. In 1947 he was appointed District Judge by Governor Lee Knous, in which position he served until his retirement in 1968. His tenure in office, which was characterized by intelligence, fairness, and compassion, led to national recognition. In 1961 *Fortune Magazine* named him one of the top ten jurists in the country. His dedication to his community and profession and his love of Southwest Colorado led him to also serve as an officer or board member of numerous philanthropic and professional associations, including the Boy Scouts, the Red Cross, the State Historical Society, and the Colorado Bar Association, of which he was a vice president and a member of the Board of Governors. In 1962 the Law School recognized this outstanding lawyer, jurist, and citizen by awarding him its highest award, the William Lee Knous Award.

## Schedule of Events

- August 27 — New Student Orientation and Registration
- September 1 — Labor Day
- September 2 — Classes Begin
- September 26 — Law Alumni Board Meeting
- September 15 - November 7 — On Campus Interview Season
- September 17 - 19 — Distinguished Natural Resources Law Center Visitor Carrol Dinkins
- October 10 — CBA Cocktail Party and Reception, Colorado Springs
- October 11 — Alumni Bar Breakfast, Colorado Springs
- October 18 — Homecoming
- October 20 — Rothgerber Moot Court Competition
- November 27 - 28 — Thanksgiving Holiday

## Minorities in the Law Day

On March 14, 1986, The University of Colorado School of Law hosted its third annual Minorities in the Law Day. The purpose of the event is to provide information to and encourage minorities considering careers in the legal profession. Over 160 high school students from the metropolitan area and many undergraduate students attended the event. Also attending were Kaye Howe, Vice Chancellor for Academic Services, University of Colorado; Theodore E. (Ted) Woods ('73); Herman J. (Jack) Maes ('75); Dimas R. Nunez ('83); Judge David E. Ramirez, Denver County Court; and Albert Ramirez, Associate Dean, Graduate School, University of Colorado. Included among the guest speakers were David F. Vela ('73), Colorado Public Defender; Charles



David F. Vela ('73).

L. Casteel ('75), partner, Davis, Graham & Stubbs; Yvonne Knight, Native American Rights Fund; Barbara Kelley, Morrison and Foerster; Edmundo A. Gonzalez ('72), Mountain Bell; and Melvin Tatsumi ('72), a Boulder practitioner. In addition to hearing the presentations of the speakers, participants attended a mock law school class conducted by Professor William Pizzi with the assistance of current law students. Law students also conducted a mock trial in which some of the high school students and undergraduates at the conference served as jurors.

The program was organized by Assistant Dean Daniel A. Vigil ('82). During the final segment of the program, Dean Vigil answered questions regarding undergraduate preparation for law school, the LSAT,

admissions criteria, law student activities, bar examinations and employment opportunities.

## Visiting Faculty

The Law School faculty will be joined this academic year by several distinguished attorneys and academics who will teach a broad variety of subjects. Professor Herbert Wechsler, who will be the first occupant of the Rothgerber Chair of Constitutional Law (please see Rothgerber Chair article), will teach Federal Jurisdiction this spring.

Joining the School as an adjunct associate professor for the full school year, are Bruce C. Swartz and Wayne M. Gazur ('81). Mr. Swartz is teaching torts, and a seminar in products liability. A 1979 graduate of Yale Law School, Mr. Swartz clerked for Judge Wilfred Feinberg of the Second Circuit Court of Appeals and, in 1980-81, for United States Supreme Court Justice Harry O. Blackmun. Since 1981 Mr. Swartz has been practicing with the law firm of Shea & Gardner in Washington, D.C. Mr. Gazur is in the new joint position shared by the Law School and the Graduate School of Business Administration. Mr. Gazur has practiced tax law, first with the Denver firm Brownstein, Hyatt, Farber & Madden, and most recently with the Denver firm Roath & Brega, P.C. Mr. Gazur will be teaching Federal Income Taxation and Business Planning at the Law School, and Research Problems in Income Tax Accounting at the Business School.

Joining the Law School for the fall semester only is Alfredo L. Silva and for the spring semester, Michael T. Andrew. Mr. Silva, a 1984 graduate of the University of California, Berkeley, has been serving as a deputy district attorney for Orange County, California. He is teaching Criminal Law and a seminar in Theories and Practice of Punishment this fall. Mr. Andrew, who graduated from Stanford Law School Order of the Coif in 1979, will teach Commercial Transactions and Bankruptcy next spring. Mr. Andrew has practiced in these areas since 1979 with the law firm of Luce, Forward, Hamilton & Scripps in San Diego, California. He is visiting at Stanford Law School this fall.



Coen Lecturer Marc A. Franklin.

## Professor Marc A. Franklin Presents Coen Lecture at Media And Law Conference

Professor Marc A. Franklin, Professor of Law at Stanford University Law School, presented the 30th Annual John R. Coen Lecture on April 11. His talk entitled "Newspapers as Bulletin Boards in Libel Cases" was the centerpiece of the two-day Media and Law Conference, which was jointly sponsored by the Law School and the Boulder County Bar Association. The Media and Law Conference brought together at the Law School television and newspaper journalists, and lawyers, judges, and legal scholars. Among the conference's speakers were Judge Murray Richtel, Chair of the ABA Subcommittee on the Model Rules for Cameras in the Courtroom, who gave a luncheon presentation on "Cameras in the Courtroom;" William A. Trine ('59), and Frank Dubofsky, President of the Boulder County Bar Association, who participated in a panel on "Personal Injury/Insurance Crisis--Real or Imagined?;" and Judge Michael R. Enwall ('69), who spoke on the exclusionary rule.

Professor Franklin, a 1956 graduate of Cornell Law School, clerked for Chief Justice Earl Warren in 1958-59. He is the author of numerous publications on libel law, including the text *The First Amendment and the Fourth Estate: Communications Law for Undergraduates* (Foundation Press, 1985) and numerous articles including, "What Does Negligence Mean in Defamation Cases?" *Comment Law Journal* (1984) and "Good Names and Bad Law: A Critique of Libel Law in a Proposal," 18 *University of San Francisco Law Review* (1983).

## Natural Resources Law Center Conference

The Natural Resources Law Center's September conference "External Development Affecting the National Parks: Preserving 'The Best Idea We Ever Had,'" was planned to address issues which arise when activities outside park boundaries adversely affect the values and purposes for which our "national treasures" were established. The conference's theme grew out of research of the Center's spring 1986 research fellow, David Mastbaum, an attorney with 15 years experience in environmental litigation. A distinguished group of national speakers gathered to examine the heritage of the parks, and the legal and management issues involved in park protection.

The Center welcomed as its Research Fellow for the summer and fall Cheng Zheng Kang, an associate professor of law at Peking University. Professor Cheng not only teaches Environmental Law in Peking, but also acts as legal advisor to the National Environmental Protection Bureau of the People's Republic of China (PRC). Between 1981 and 1985 he organized and led the drafting groups charged with establishing laws in the PRC related to water pollution control, environmental noise control, wildlife, toxic substances, and other issues. While visiting the Center, Professor Cheng is also spending time at the Office of the Regional Counsel for the U.S. EPA Region VIII learning about U.S. environmental law.

The Center is also publishing a book, *Tradition, Innovation, and Conflict: Perspectives on Colorado*



Ann McLaughlin, Undersecretary of the Interior.

*Water Law* from the edited papers and proceedings of last October's conference "Colorado Water Issues and Options: The 90s and Beyond," which will be available this fall.

Colorado Governor Richard Lamm, Under Secretary of the Interior Ann McLaughlin, and John W. Welles, Regional Administrator of the Environmental Protection Agency, Denver, were among the distinguished speakers at the Natural Resources Law Center's annual conference series in June 1986.

The first conference, "Western Water: Expanding Uses/Finite



(L-R) : Raphael J. Moses ('37) and Professor Charles W. Howe, C.U. Department of Economics.

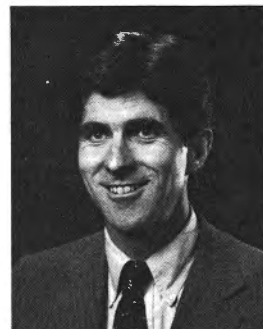
Supplies," which was held June 2-4, explored the legal and institutional changes resulting from the increasing demand for water for municipal and industrial (rather than agricultural) uses. Water marketing and pricing procedures to offer incentives for conservation were among the many topics discussed by the 19 speakers and 125 participants. Raphael J. Moses ('37) argued that it would take only limited legislative changes to provide economic incentives to farmers to conserve, thus allowing the West to "Eat Your Water Cake and Have It Too." John Wittemyer ('65) reported on recent practical problems associated with changing water rights in Colorado.

The June 9-10 conference, "Getting a Handle on Hazardous Waste Controls," considered the two major pieces of federal legislation on the subject, RCRA (The Resources Conservation and Recovery Act) and CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act), more commonly

known as Superfund. Twenty-one speakers addressed 100 conferees on the most current amendments and applications of these laws. Richard L. Griffith ('78), First Assistant Attorney General in Colorado, Natural Resources Section, reported on current activities within Colorado's hazardous waste program.

In March the Center cosponsored with the Boulder County Bar Association a Saturday morning CLE program on "The Section 404 Dredge and Fill Permit Program." Fifty-four registrants heard five speakers discuss the widespread applications of Section 404 of the federal Clean Water Act, which can affect anyone who wants to develop property, whether for housing or commercial purposes.

Anyone interested in receiving the Center's quarterly newsletter, *Resource Law Notes*, may contact the Center at (303) 492-1286.



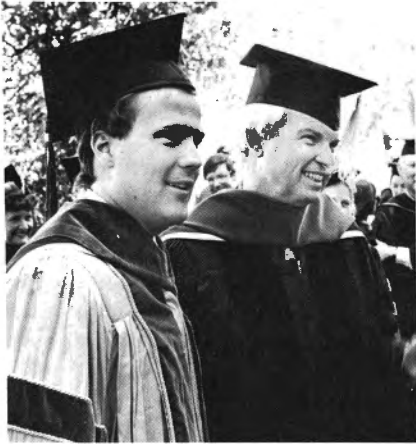
Professor David H. Getches.

## Professor Getches Returns to Law School

Professor David H. Getches, who has been on leave from the Law School to serve as the Executive Director of the Colorado Department of Natural Resources since his appointment by Governor Richard Lamm in September, 1983, resumed teaching at the Law School this fall, where he is teaching a course in American Indian Law, a subject on which he is regarded nationally as an expert. He will return to the Law School full-time in the spring of 1987, and will teach courses in Water Resources Law and Public Land Law. After graduating from the University of Southern California School of Law, where he served as a member of its

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Class President Keith Tooley ('86) and Governor Richard D. Lamm at Commencement.

## Governor Lamm's Commencement Address

*Colorado Governor Richard D. Lamm delivered the Commencement address to the May 1986 Law School graduating class. He has graciously permitted Amicus to print edited excerpts of his talk.*

Not long ago, I was sitting right where you are today. I graduated from law school in 1961. I too was deciding how best to use that law degree for which it seemed I had sacrificed so much for so long. I too was in the midst of that incredibly humbling process of interviewing with law firms.

The past 25 years really feel as though they have passed in the wink of an eye. The velocity of life's flow of events is staggering—like the view outside of a train window, it seems that by the time you are able to focus, the scenery has totally changed. Just stop and think about how much has changed in the fifty years since I was born.

My first memory was Pearl Harbor. I was before penicillin, polio shots, antibiotics and Frisbees. Before frozen food, nylon, dacron, credit cards and ballpoint pens. For my generation, timesharing meant togetherness, not computers; a chip meant a piece of wood; hardware was a kind of store; and software wasn't even a word. Every Saturday morning, I went to the movies and saw Abbott and Costello and the Lone Ranger. I graduated from college before Hawaii and Alaska became states.

When I graduated from law school, I had never seen a man with long hair—except perhaps Native Americans. There was one woman in my law school graduating class—and I had never ridden on a jet airplane. I had never heard the word "computer." I personally had Prosser for torts and Frazier for property. If you would have told me six years after graduating from law school a man would walk on the moon, I would have reported you to a mental health worker. The only Beatles I knew infected trees. Until I was 30 years of age, "Made in Japan" meant junk.

When I was growing up, lawyers relied on their reputation to generate business. There wasn't any television to advertise on. Clinics were places you took your medical, not your legal problems. "All deliberate speed" applied to relay races, not desegregation orders, and product liability was just a twinkle in some trial lawyer's eye. A lawyer who said that he used "Lexis" to do his legal research was probably bragging about a newly hired law clerk, and lawyers used something called "carbon paper" to make copies.

If *these* changes aren't enough to make your head spin, just wait. Change is accelerating. You as a generation and you as attorneys will likely see change that will make it seem that my generation was moving underwater. I believe—deeply—that your generation has a rendezvous with Destiny. You will spend your adult working lives in a time of testing, a time during which many different forces will converge. Some collisions will define new and difficult challenges and many will liberate enormous possibilities.

Each generation encounters its own historical challenge, the outcome of which leaves a legacy of opportunities and challenges for the next generation. Your generation's decisions about the major institutions that organize us as a society may well decide whether democracy survives, America's problems are solved and potential is realized or, outrageous though this may sound, whether our species survives.

Next year is the 200th anniversary of the U.S. Constitution. In the spirit of our revolutionary founding fathers, we should celebrate by challenging the

assumptions upon which many of our basic institutions are founded. As the great social scientist, Schumpeter, predicted would happen, our institutions have lost much of their problem-solving capacity. They have grown too incestuous, bureaucratic, unresponsive, risk adverse, noncreative and complacent. A societal hubris infects America and prevents us from coming to grips with our substantial problems. We must rehabilitate, and in many cases redesign our social machinery.

You, as attorneys, will be the engineers for this job. The sleep lost and opportunities sacrificed over the past three years of your life have equipped you to be far more than hired guns, to do so much more than to make money. I would suggest to you that you will have to rejuvenate many of our basic institutions.

Our health care system is the most bureaucratic and inefficient health care system in the world. Chrysler has to spend \$550 for every automobile just for its health care costs. When it was competing with General Motors and Ford, it didn't make any difference, as long as they were all tied into the health care system. But now, when they are competing in an international marketplace and their health care costs are 400 percent higher than Japan, they have to be concerned about their health care costs. Health care is a prime example of a bloated, inefficient system that needs your thinking to be streamlined.

Another one is our tax system. We take 300,000 of our best and brightest young men and women and make them tax advisers. Do you think for a minute that the Japanese take 300,000 of their best and brightest and make them tax advisers? The number of tax shelter cases has gone from 11,000 ten years ago to 263,000 today. That is outrageous.

You are going to have to look at your own profession. It does not make any sense for the United States to be the most litigious nation on earth. It cannot help our international competitiveness. Litigation adds an insurance component to American goods that are increasingly making our goods uncompetitive. When a plane accident happens in Japan, within three weeks the whole thing is taken care of. In the United States, it drags on for

years. We must be able to find ways to resolve disputes better. When somebody dies in the United States, why does it take so long to probate the will and why are the legal charges so high?

You are going to have to look at the education system and rejuvenate that also. The nation that is second best educationally will be second best economically. The American education system is not doing well. An average eighth grader in Japan knows more math than an MBA in the United States. A Japanese student graduating from high school has 11 IQ points higher than an average American student. We simply do not have the standards of excellence in our education system that we need to compete on an international level.

We have to find better ways to elect people to political office without the influence of money. The United States has a "for sale" sign hung on its political system.

And lastly, you have to look at the question of intergenerational equity. We have unsustainable retirement systems. We cannot, for instance, allow 26 percent of the people who retire from the military to retire while they are still in their 30's. We simply cannot allow systems where people live into their 80's and retire in their 30's with indexed pensions and health care. All of these retirement systems need to be investigated. My generation has been a generation of prodigal parents. We've enriched ourselves at your expense. I would suggest to you one of the coming issues of our time is the question of intergenerational equity—when your generation wakes up and finds out what kind of chain letter my generation has left you.

Let me give you one bit of wisdom, or at least counterfeit wisdom. It has meant a lot to me in my life. You have an understanding of the mechanics of many of our social institutions, and your natural critical intelligence has been trained to see all sides of an issue. You possess the open mind that is a prerequisite to asking tough questions. An open mind, as the poet Phyllis McGinley says in her poem "Lament for a Wavering Viewpoint," can be chilly, uncomfortable and risky. But your open minds will be necessary to meet the challenges of the future.



Professor Don Sears and Benjamin F. Stapleton, Honorary Order of the Coif recipient, at Commencement.

## Stapleton Receives Honorary Order of the Coif

Benjamin F. Stapleton, senior partner in the Denver law firm Ireland, Stapleton, Pryor & Pascoe, P.C., received honorary membership in the Order of the Coif at the University of Colorado Law School's Commencement Exercises on May 23. Membership in the Order of the Coif, a national legal honor society which recognizes law scholarship and service, is conferred annually by the Law School on a distinguished Colorado lawyer in recognition of contributions to the legal profession. Mr. Stapleton graduated from Yale University Law School in 1942. During the war years he served as a navigator on a destroyer in the Pacific and was awarded a Purple Heart. In 1945 he was admitted to the practice of law in Colorado and has practiced continuously since 1946 with the firm of which he is a named partner. From 1948-50 he was an Assistant Attorney General of Colorado. He was chairman of the Colorado Water Board of Conservation

from 1958-80, serving under five governors. Mr. Stapleton, whose practice is devoted primarily to banking, insurance, business finance and acquisitions, and antitrust economics and litigation, is a past member of the Board of Governors of the Colorado Bar Association. He is also a past president of the YMCA of Metropolitan Denver, past chair of the Regional Advisory Committee and past national trustee of the Institute of International Education, Honorary Consul of France for Colorado, and a trustee of the Bonfils-Stanton Foundation, the Harnes C. Fishback Foundation, and the Legal Aid Foundation. Mr. Stapleton was the 1958 and 1960 recipient of the People-to-People National Citation and was awarded the Chevalier du National Ordre de Merite of France. The honorary membership in the Order of the Coif was presented by Professor Don Sears, President of the Colorado Chapter of the Order of the Coif.

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Placement Activities

David W. Enoch ('51), Judge Aurel M. Kelley, and Judge Edwin P. Van Cise (Judicial Clerkships with the Colorado Court of Appeals); Peter van Veen, Gibson, Dunn & Crutcher and Professor Mark Loewenstein (How to Interview Successfully).

Every month the Office of Career Services prepares and mails a placement newsletter for the exclusive use of the Law School's alumni who are interested in learning of new career opportunities. If you would like to receive a copy of the newsletter

(\$7.50/6 issues -- \$9.50/12 issues) or place a job notice in the newsletter for new/experienced alumni, please contact Helga Sproul, Career Services Coordinator, at 492-8651.

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SEC Role

would assure an airing of all views:

Congressional oversight would exist to check overzealousness on the part of the SEC; and

The state law regulation of fiduciary duties outside the tender offer context would continue as it traditionally has.

## SECURITIES LAW CONFERENCE

The Law School hosted the Fifth Annual National Institute on Securities Regulation May 28-30. The three day conference, which was organized by Professor Ted J. Fiflis, brought together an outstanding group of experts in securities law, which included the present and two former general counsels of the Securities Exchange Commission, as well as the newest commissioner, Joseph Grundfest. Commissioner Grundfest, who was sworn in earlier this year, examined general policies of the SEC regarding recent insider trading cases. Daniel Goelzer, General Counsel of the SEC, added details of the commission's policies.

Additional speakers included Marti Cochran, Senior Counsel, U.S. House of Representatives Subcommittee on Telecommunications, Consumer Protection and Finance, who presented an overview of the legislative outlook for the remainder of the current session of Congress; Mary Beach, Associate Director, Division of Corporate Finance, Securities and Exchange Commission, who provided current news of the SEC on "Integration" and "General Solicitations" on private offerings; Stephen L. Hammerman, Executive Vice President and General Counsel, Merrill, Lynch & Co., New York, whose topic was "Arbitration of Claims after *Byrd v. Dean, Witter*"; and Arthur Fleischer, Jr., Fried, Frank, Harris, Shriver & Jacobson, New York; Edward F. Greene, Cleary, Gottlieb, Steen & Hamilton, Washington, D.C.; Linda Quinn, Executive Assistant to the Chairman, Securities and Exchange Commission, Washington, D.C.; Ilan K. Reich, Wachtell, Lipton, Rosen & Katz, New York; and C.U. Law Professor Mark Loewenstein, who participated in a panel discussion on "State and Federal Law Development in Takeovers, Repellants and Defenses."

### Securities Regulation Institute Notebooks Available

A limited number of notebooks from the Fifth National Institute on Securities Regulation are available. The materials constitute an intensive

review of current federal securities law by more than twenty nationally known authorities, including professors of law, government administrators and leading practitioners. The price for the notebook is \$60.00, which includes postage and handling. Tapes of the conference are also available. To order, write or call the National Institute on Securities Regulation, University of Colorado Law School, Boulder, Colorado, 80309-0401 (303) 492-1286.

## Court of Appeals Holds Session at Law School

On March 4, 1986, a panel of the Colorado Court of Appeals consisting of Chief Judge David W. Enoch ('51), Judge Aurel M. Kelly, and Judge Edwin Van Cise, heard oral arguments in three cases at the Law School. The students and Law School visitors who filled the Courtroom had the opportunity to view the Court in session and watch advocates present arguments on a wide variety of substantive and procedural issues. In *James v. Harris*, a tort case, one of the issues on appeal was whether the court should adopt a rule allowing recovery by a bystander for infliction of emotional distress based on a foreseeability test. *Eggert v. Mosler Safe Company*, a products liability case, involved the burglary of the Swiss Security Vaults. Among the issues in *People v. Arevalo*, a criminal case, were questions regarding pretrial publicity, challenges for cause to prospective jurors, alleged defective information, and sufficiency of the evidence. Following the arguments, the judges responded to questions from students. A reception was then held for the judges.

## Graduates From Class of '85 Obtain 23 Clerkships

Twenty-three members of the Class of 1985 obtained positions as judicial clerks upon their graduation from Law School. Five of these positions were with United States District Courts, four were with the Colorado Supreme

Court, and four were with the Colorado Court of Appeals. Those members of the class of 1985 who were clerking and the judges whom they served are as follows:

### Wanda J. Abel

Chief Justice Joseph R. Quinn  
Colorado Supreme Court  
Denver, Colorado

### Claudia J. Bayliff

Judge Murray Richtel  
20th Judicial District  
Boulder, Colorado

### Charles R. Beach

Justice William H. Erickson  
Colorado Supreme Court  
Denver, Colorado

### Fred Y. Boyer

Justice William H. Erickson  
Colorado Supreme Court  
Denver, Colorado

### Paul G. Butler

Judge Joe A. Cannon  
4th Judicial District  
Colorado Springs, Colorado

### George H. Cave, III

Judge C.J. Eino Jacobson  
Arizona Court of Appeals  
Phoenix, Arizona

### Gregory T. Costello

Chief Judge Sherman G. Finesilver  
U.S. District Court  
Denver, Colorado

### David J. Dworkin

Judge William F. Dressel  
8th Judicial District  
Fort Collins, Colorado

### Sally A. Easter

Judge Clarence Brimmer  
U.S. District Court  
Cheyenne, Wyoming

### Steve B. Epstein

Judge John L. Kane  
U.S. District Court  
Denver, Colorado

### Jane Golterman

Judge Edwin P. Van Cise  
Colorado Court of Appeals  
Denver, Colorado

### Pamela B. Graham

Judge Richard McLean ('58)  
20th Judicial District  
Boulder, Colorado

### Linda Gurwitz-Mogren

Chief Judge David W. Enoch  
( '51)

Colorado Court of Appeals  
Denver, Colorado

### Carol M. Haller

Judge Michael R. Enwall ('69)  
20th Judicial District  
Boulder, Colorado

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Professor Ted J. Fiftlis.

## SEC Should Have Role in Tender Offer Regulation

By Professor Ted J. Fiftlis

*This article originally appeared in the May 19, 1986 issue of Legal Times and is reprinted with permission. It was also the basis of Professor Fiftlis' Austin W. Scott, Jr. Lecture, presented at the Law School on February 11, 1986.*

The linchpin of virtually every free marketeer's objection to regulation of management's duties to shareholders in the past two decades has been that tender offers adequately serve to discipline managers who might otherwise stray from what these free market champions perceive as the manager's primary purpose--maximization of shareholder wealth. (For example, see Werner, "Management Stock Market and Corporate Reform: Berle and Means Reconsidered," 77 *Column. L. Rev.* 388, 404 (1977); Winter, "State Law, Shareholder Protection and the Theory of the Corporation," 6 *Journal of Legal Studies* 251 (1977).) The deregulatory mood has thus been made especially powerful with respect to corporate governance, which has seen little or no legislation since the Foreign Corrupt Practices Act of 1977; the clamor for federal chartering or federal minimum standards of fiduciary duties, so strong in the mid-70's, has been quelled.

So powerful is the current mood, that the Securities and Exchange Commission and Congress--despite the continuing swelling of the largest wave of takeovers in history, and public indignation over the coercive effects of two-tier, front-end loaded tender offers, poison pills, greenmail,

lollipops, and the like--have decided, Nero-like, to abdicate all responsibility to the states.

The incongruity of defending the continuation of state regulation of managers' duties on the basis that the overhanging threat of a takeover provides a sufficient safeguard against abuse, while at the same time permitting takeover defenses to be made nearly invincible under the same state law, seems to have gone generally unnoticed.

Thus the Supreme Court--which in *Santa Fe Industries, Inc. v. Green*, 430 U.S. 462 (1971), held that state law should generally regulate fairness in corporate securities transactions--has held, largely on the basis of *Santa Fe*, that state law similarly should regulate fairness in takeovers, thereby rendering federal law impotent. *Schreiber v. Burlington Northern, Inc.*, 105 S. Ct. 2458 (1985).

The deregulatory mood has been made powerful with respect to corporate governance, which has seen little legislation since the Foreign Corrupt Practices Act.

Even Judge Ralph K. Winter in *Data Probe Acquisition Corp. v. Datatab, Inc.*, 722 F.2d 1 (2nd Cir. 1983), anticipating *Schreiber*, had held that an invincible stock lock-up was not a matter for federal concern. He so held although a decade ago he had written the article cited above pointing out that the justification for continued state regulation of fiduciary duties is the disciplinary effect of a threatened takeover and that for this reason state statutes inhibiting takeovers are unsound. It would have been only a slight logical extension of his thesis to have held, in *Data Probe*, that state common law inhibitions on takeovers (e.g., upholding lock-ups and poison pills) are equally unsound. Granted, Judge Winter may have felt constrained by *Santa Fe*, but he should not have so felt; Judge Abraham D. Sofaer in the trial court opinion in *Data Probe* (568 F. Supp. 1538 (S.D.N.Y. 1983)) had pointed out sufficient differences in the policies of Rule 10b-5, the subject of *Santa Fe*, and Rule 14(e), the subject of *Data Probe*, to have enabled distinguishing *Santa Fe*.

The incongruity of defending state law control of managers' duties on the basis of the disciplinary effect of takeovers thus approaches irrationality when states are also allowed to remove

the takeover threat by allowing invincible takeover defenses. Irrationality approaches perverseness when it is recalled that the states' thirst for corporate charters encourages catering to managers' desires for invulnerable takeover defenses.

### A Proposal for Legislation

Once it is determined that Congress, not the states, should adopt policy to regulate tender offer defenses, the next question is what should that policy be? Here we meet the cause of prior inaction--the absence of a consensus as to which point on the continuum of potential policies is correct. Given this indecision, it is clear that Congress should not implement any one of them at the present time. And it is equally clear that it is probably wise to allow the 50 state "laboratories" to continue to experiment with various laws affecting tender offers.

However, there are already some aspects of tender offer defense law that are the subject of general consensus based on neutral principles, and doubtless with the passage of time greater consensus will eventuate. One of these is greenmail; perhaps another is the poison pill.

To accommodate all of these considerations is a surprisingly simple matter. All that is required is that the SEC be authorized to adopt rules and regulations concerning tender offer defenses--a power the SEC does not now have in the wake of *Schreiber* (except for a limited power to prevent misrepresentations and non-disclosures). This amendment would serve several valuable functions:

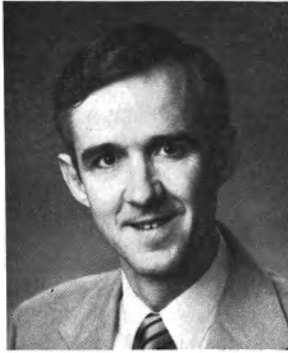
State law of tender offer defenses would continue to apply, until and unless the SEC adopted a contrary rule:

A national lawmaking forum, the SEC, would exist, in full public view and subject to the normal political processes, and would take into account national interests, allowing thorough consideration of poison pills, lollipops, lockups, and the like:

Flexibility would exist because there would be no need to invoke the cumbersome congressional legislative process to enact new rules or amend or repel old ones:

Procedural due process provided by current rule-making processes under the Administrative Procedure Act

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Professor Christopher B. Mueller.

## Faculty Profile Christopher B. Mueller

Though he is the newest full-time member of the Law School faculty, Professor Mueller is new neither to C.U. Law School nor to teaching. He served most recently on the faculty of the University of Illinois College of Law (1983-1985), and before that he was at the University of Wyoming College of Law (1973-1983), with time out for visits at Emory University in 1981 and here at C.U. in the summers of 1982 and 1983. Since becoming a professor here in 1985, he has taught courses in Evidence and Criminal Procedure, as well as two new entries in the curriculum--Complex Civil Litigation, and a seminar in Law and Medical Ethics.

Professor Mueller has been twice formally recognized for his outstanding teaching, receiving the John P. Ellbogen Meritorious Teaching Award at Wyoming in 1981 and being selected by Wyoming students for the Outstanding Faculty Award in 1976. The students who took his summer course in Evidence at C.U. sought his return to the faculty. "I'm delighted to be here," comments Mueller, "because this place is a terrific environment for teaching and study. The students are able and concerned about the issues of our time, and classes work the way they should--not just as places where students come to grips with the law, but as occasions to talk about the harder problems, where shibboleths abound but real answers are elusive."

Professor Mueller particularly enjoys teaching the Complex Civil Litigation course. "Complex Litigation is a course whose day has come," comments Mueller, "because the problems courts are being asked to

solve are hard not only substantively but procedurally too. Our rules of procedure were drafted in a simpler age, when courts usually dealt with one-against-one disputes, but the forces which generated the explosion in tort litigation have also put tremendous pressure on the very rules which define the scope and consequences of litigation. Similar expansion having like effect is visible in areas such as environmental law and employment discrimination."

"In the Bhopal disaster, just to take a recent example, we don't have mechanisms in place to do what the court thinks should be done--transfer the case to India for trial while insuring that American rules of discovery (collecting and preserving evidence) are observed and that American companies connected with the disaster can be made responsive to whatever judgment might be rendered over there. And in discrimination suits, procedural doctrine and substantive principles shade into one another and sometimes work at cross-purposes. Our rules either have to bend or break, until we learn enough about these complicated cases to draft new rules."

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*... the forces which generated the explosion in tort litigation have also put tremendous pressure on the very rules which define the scope and consequence of litigation.*

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Professor Mueller has concentrated his research and writing in the area of evidence. In addition to the many law review articles which he has written during the past several years, he has coauthored a treatise entitled Federal Evidence (five volumes, with yearly supplementation, Lawyers Co-Operative Publishing Company) with the late David W. Louisell, who was teaching at Berkeley when Professor Mueller went there to law school. The book deals with the Federal Rules of Evidence, which apply in federal courts and in twenty-seven states, including Colorado. "That project took the better part of seven years, and accounts (I'd like to think) for most of my grey hair, but the Federal Rules represent a

significant advance and they really require a modern treatment of an old subject."

"Actually my interests in evidence and teaching both came from the same source--David Louisell. He was what you'd call a role model, and he has a lot to do with the fact that I decided to teach law. He was a growly bear of a fellow in class, with a knack for getting at the most thoughtful part of a student comment and ignoring the rest, all in a way that conveyed his devotion to the subject and his respect for people as individuals. I'll never forget taking his civil procedure exam in the first year, and then retreating to the swimming pool to drown my shame. I was swimming laps trying to forget how badly I'd blown it, when who should appear going the opposite direction but the man himself. He didn't see me then, and much later I discovered I'd gotten the high mark in that course, something I wish I could have done more often. That taught me that if you see some of the difficulties that inspire exam questions you are likely to be frustrated no matter how much you know."

Notwithstanding the demands of the Law School, Professor Mueller makes time for his wife Martha Whittaker, who works as a librarian at Norlin, and for eight-year-old Gretchen and six-year-old David, whom he picks up after school. "Family existence gets complicated when all the adults pursue careers. But it's an honor to have those little guys in my life, and you just have to find time for them. Here in Boulder a lot of people are in the same boat, and we're just at the beginning of understanding the kinds of social adjustments which these situations require."

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Continued from p.1  
Williams Appointment

the Law School. He is, however, excited by the challenges which his new position will present. He believes his new responsibilities will demand the type of scholarship expected of a professor. He is pleased to be on the D.C. Circuit, since many of its cases raise issues that have interested him as an academic.

Judge Williams is the first full-time C.U. law professor to be appointed to serve on the United States Court of Appeals.

## Faculty Notes

Barbara Bintliff of the Law Library faculty has been named the Associate Director of the Library, filling the position held for the last twenty years by Lois Calvert (please see Library Faculty article). In addition to her new responsibilities, she continues to serve on the editorial board of the *Legal Reference Services Quarterly*. At the annual meeting of the Southwestern Association of Law Libraries, held March 20-22 in Waco, Texas, she was elected Vice President/President-Elect. She continues to serve on the Association's Finance Committee and Executive Board.

Professor Clifford J. Calhoun returned to his teaching position upon expiration of his three-year term as Associate Dean (please see New Associate Dean article). He will be on sabbatical for the 1986-87 school year.

Associate Professor Emily M. Calhoun continues to serve as the University's interim Associate Vice President for Human Resources with responsibility for coordinating faculty and staff development, as well as affirmative action efforts.

Associate Librarian Lois Calvert resigned this past spring to accept a position as Education Representative for the Rocky Mountain Regional Office of Mead Data Central. She will work with law schools in a six-state region teaching the use of LEXIS and other Mead Data databases.

Professor Homer H. Clark, Jr. is working on the final stages of the second edition of his treatise on domestic relations law to be published by the West Publishing Company. At commencement last spring Professor Clark received the Stearns Award which is awarded by the Alumni Association to faculty and staff for outstanding contributions to the University (please see University Awards article).

Professor James N. Corbridge, Jr., who had been serving as the University's Vice Chancellor for Academic Affairs, has been appointed Chancellor of the University for a three-year term (please see Corbridge Named Chancellor article).

Professor Ted J. Fiftlis chaired the Fifth Annual National Institute on

Securities Regulation held in Boulder on May 28-30, at which several leading securities lawyers spoke. Professor Fiftlis has been appointed to review the offerings of the Legal Studies Department of the Wharton School at the University of Pennsylvania next year. His responsibilities as a member of the Financial Accounting Standards Board task force on consolidations will end this year when the Board issues its final research report.

Associate Professor David S. Hill joined, by invitation, the Colorado Association of Corporate Counsel and continues to serve as chair of the Law School Admission Council's Audit Committee. Harrison Company will publish his book on Colorado landlord and tenant law, which he prepared this summer. In July, Professor Hill lectured for the SMH Bar Review course.

Dean Betsy Levin completed an article entitled "Educating Youth for Citizenship: The Conflict Between Authority and Individual Rights in the Public School," to be published in the *Yale Law Journal*. She is continuing to work on a new edition of Yudof, Kirp, & Levin, *Educational Policy and the Law: Cases and Materials*. This past spring, at the Annual Meeting of the American Educational Research Association, she gave a lecture on "The U.S. Courts as Educational Policymakers" as part of a symposium on the federal role in education in the U.S. and Australia. She continues to serve on the nine member Colorado Commission on the Bicentennial of the Constitution of the United States. She was reelected to the National Board of the Society of American Law Teachers. In May, Dean Levin was the "educational leader" of a group of women judges and lawyers on a three week legal study tour of the People's Republic of China (please see Dean Visits China article).

Associate Dean and Associate Professor Mark J. Loewenstein presented a paper, "The Interference Tort as a Factor in Mergers and Acquisitions," at the National Institute on Securities Regulation (1986). Professor Loewenstein discussed the impact of the common law interference tort in the recent Texaco-Pennzoil litigation and potential uses of the tort in hostile takeover attempts. He is

completing for publication a manuscript tentatively entitled "Challenging Defensive Maneuvers to Takeover Attempts: A New Look at Old Learning." This article disputes the use of the business judgment rule as a basis for analyzing director resistance to unwanted tender offers. Professor Loewenstein became Associate Dean of the Law School on August 1, 1986 (please see New Associate Dean article).

Associate Professor Daniel B. Magraw, Jr. is the author of "Transboundary Harm: The International Law Commission's Study of 'International Liability,'" 80 *American Journal of International Law* 305 (1986), which analyzes international accountability in situations such as the recent Chernobyl nuclear reaction disaster. He is working on other pieces in that area, as well as other international law topics. He chaired a panel at a program on immigration law in Denver, presented a paper on international law teaching materials at the Annual meeting of the American Society of International Law, spoke regarding the Act-of-State doctrine to the International Law Committee of the Colorado Bar Association, and lectured on "International Law and Nuclear Weapons" to undergraduates at CU-Boulder. He recently became a member of the Asian Studies Committee at CU-Boulder and was appointed Chairman of the Goal VIII Committee (to advance the rule of law in the world) of the American Bar Association's Section on International Law and Practice. In May, Professor Magraw spoke on "International Law as it Relates to the Development of Natural Resources," at the Glenwood Springs/Aspen Area Alumni Chapter Meeting held in Glenwood Springs.

Professor Alfred T. McDonnell presented Conrad's *Secret Sherer* and Orwell's *Shooting an Elephant* to a group of judges and their spouses at the Justice and the Humanities Conference sponsored by the Colorado Supreme Court in Denver last April. Other participants were Saul Touster of Brandeis and English professors from local schools.

Associate Professor Hiroshi Motomura published "Using Judgments as Evidence" in the May 1986 issue of the *Minnesota Law*

Review. He also joined the Executive Committee of the American Association of Law Schools' Comparative Law Section. His review of a new casebook, *Immigration Law: Politics and Policy*, by Aleinikoff & Martin, will appear shortly in the *International Lawyer*. For much of this past summer, Professor Motomura was at the Max Planck Institute for Foreign and Private International Law in Hamburg, Germany, on a grant from the German Academic Exchange Service. His research was part of his current research project on the relationship between arbitration and the courts. Professor Motomura was recently appointed Fulbright lecturer at Hokkaido University in Sapporo, Japan, for the academic year 1987-88.

Professor Christopher B. Mueller is currently working on a coursebook on evidence with Professor Laird C. Kirkpatrick of the University of Oregon for publication in 1988 (please see Faculty Profile). He was named Chair of the Law School's Curriculum Committee, which is reviewing the School's overall curriculum.

Professor Robert F. Nagel gave a talk at the annual convention of the American Association of Law Schools on "The Constitution Outside the Courts." He conducted faculty colloquia at Northwestern Law School and the Michigan Law School on his paper, "The Formulaic Constitution," which appears in 84 *Michigan Law Review* 165 (1985). On the subject of federalism after the Supreme Court's recent decision in *Garcia v. Metropolitan Transit Authority*, he delivered a paper at the University of Indiana and spoke at the Attorney General's Conference on Federalism in Williamsburg, Virginia. He participated in a program on "Freedom and Liberty in Contemporary America" sponsored by Governor Lamm's Advisory Committee for the Commemoration of the Statue of Liberty.

Professor William T. Pizzi's article, "The Privilege Against Self-Incrimination in a Rescue Situation," was the lead article in 76 *Journal of Criminal Law & Criminology* 567 (1985).

Professor Norton L. Steuben completed the Teacher's Manual for his coursebook *Problems in the Taxation*

*of Partnerships and Corporations* (coauthored with Professor William Turnier of the University of North Carolina School of Law) and the 1986 Supplement to his *Cases and Materials on Real Estate Planning*, 2d edition. Each of these works was published by The Foundation Press, Inc. He continues his work on a report titled "The Legal Aspects of the Siting of the Super-Conducting Super Collider in Colorado," which is funded by a grant from the Colorado Advanced Technologies Institute. In June, Professor Steuben spoke to the members of the National Association of Housing & Redevelopment Officials on the "Legal and Tax Aspects of Public Housing Authorities Acting as Developers."

Professor Arthur H. Travers has just completed an article on the *Aspen Skiing* antitrust case, to appear in a forthcoming issue of the *Colorado Law Review*. He is also completing a nutshell on the *Economic Analysis of Law*, to be published by West Publishing Company.

Associate Professor Marianne Wesson was recently elected an Associate of the American Psychological Association and Honorary Member of the Colorado Society for Psychology and Psychoanalysis. In July she spoke at the ALI-ABA Conference on Advanced Labor and Employment Law on "Sexual Harassment" and "Pregnancy and Parenthood Discrimination." Professor Wesson served last year on the University's Program Review Panel and recently argued (and won) a case in the Colorado Court of Appeals concerning the enforceability of antenuptial contracts. She will be on sabbatical during fall 1986.

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Getches' Return

Law Review, he was an attorney with California Indian Legal Services and an instructor at the University of California, San Diego. In 1970 he moved to Boulder, becoming the Founding Director and Attorney for the Native American Rights Fund. He served in that capacity until 1976 when he entered the private practice of law in Boulder. From 1975-1978 he was a visiting lecturer at the Law School and, in 1979, joined the

Continued from p. 1  
Herbert Wechsler

period when there was intense questioning of "the scope of the Supreme Court's power of constitutional review."

Professor Wechsler's text *The Federal Courts and the Federal System*, written with Henry M. Hart, Jr., is recognized for its analysis of the relationship between the federal courts and the other branches of government, as well as the relationship between federal and state law. Since its publication, the Supreme Court has relied on the text in its opinions on many occasions. Professor Wechsler is also the author of several other books and many articles, including "Revision and Codification of Penal Law in the United States," *Dalhousie Law Journal* 219 (1983); "Appellate Jurisdiction of the Supreme Court: Reflections on the Law and the Logistics of Direct Review," 34 *Washington and Lee Law Review* 1043 (1977); and "The Francis Biddle Lectures," 9 *Harvard Civil Rights, Civil Liberties Law Review*, 426 (1974).

He is the recipient of numerous awards and honors, including the Columbia Law Alumni Medal for Excellence (1971), the City College Alumni Association Townsend Harris Medal (1969), and the New York City Bar Association Medal for Outstanding Contributions to the Legal Profession. Professor Wechsler served for more than ten years as chief reporter for the Model Penal Code, which was adopted by the American Law Institute in 1962. He also served as the Executive Director of the American Law Institute from 1963 to 1984, and continues to serve as a member of the Council of the American Law Institute.

faculty.

In addition to serving as Executive Director of the Colorado Department of Natural Resources, Professor Getches is on the Colorado Water Conservation Board, the Ground Water Commission, Mine Land Reclamation Board, and the Colorado River Salinity Control Forum. He has also continued to participate in conferences organized by the Natural Resources Law Center and to serve on the Law School's Faculty Advisory Committee to the Center.

## ALUMNI NOTES

Lawrence Thulemeyer ('32) of La Junta, who is retired from his position as a District Judge for Colorado, and his daughter, Ann Allott ('65), were the first father-daughter graduates of the Law School.

Edward E. Pringle ('36) and Frederick M. Winner ('36), who celebrated the fiftieth anniversary of their graduation from the Law School in May (please see Reunion Banquet article), received Honorary Life Memberships in the Denver Bar Association this summer. The certificates were awarded "because of eminence and honorable record in the practice of law."

Laurence B. Flanders, Jr. ('40) retired in June after 46 years as a Longmont attorney with the firm of Flanders, McCarty & Wood. Over the years Mr. Flanders had served as a Vice Chairman of the Longmont Water Advisory Board, Chairman of the Longmont Long Range Planning Committee, and President of the Longmont Rotary. He was also a Vice President of the Boulder County Bar Association and of the Colorado Bar Association, and had been named an American Bar Fellow. In recognition of his years of dedicated service to the community, the Flanders Foundation was established for the city's library. This was the first time a foundation was created in honor of a living person for the library.

Robert M. Vote ('47), a retired government attorney, is now living in Europe.

Donald L. Giacomini ('53), a partner in Rothgerber, Appel, Powers & Johnson, was elected a trustee of the Denver Bar Association.

Jack Kintzele ('61) resigned last spring from his position as a Commissioner of the Denver Election Commission to seek the Democratic nomination for Colorado Attorney General.

John W. Madden III ('62), of Brownstein, Hyatt, Farber & Madden, spoke at the Colorado Women's Bar Association Convention in Keystone, Colorado in May. His presentation was entitled, "RICO: A Mandatory Second Claim for Relief Against a Corporate Defendant in Civil Actions."

Katherine A. Tamblyn ('63)

and John G. Herbert ('65) were married in June at Castle Pines.

Donald E. Cordova ('64) was chosen president-elect of the Denver Bar Association this summer. Mr. Cordova has practiced in Denver for 22 years. He served as President of the Hispanic Bar Association in 1984, was on the Colorado Bar Association's Board of Governors from 1970 to 1972, was Vice President of the Colorado Bar Association from 1978-1979, and Vice President of the Denver Bar Association from 1980-1981. In 1973 he received the Colorado Outstanding Young Lawyer Award. He will succeed the association's new President Robert J. Kapelke ('66), a partner in Gorsch, Kirgis, Campbell, Walker & Grover, on July 1, 1987.

William D. Neighbors ('65), a former Colorado State Supreme Court Justice who is now with the Judicial Arbiter Group in Boulder, spoke on "Alternative Dispute Resolution" at the May Convention of the Colorado Women's Bar Association.

Jon K. Mulford ('66) and Sharon Feller Mulford ('84), former Assistant Dean for Admissions and Financial Aid, were married this summer. They have opened an office for the general practice of law in Aspen.

Carlton R. Stoiber ('69), Counsellor for the United States Mission to the United Nations System Organizations in Vienna, has been coordinating the U.S. effort in policy-making divisions of the International Atomic Energy Agency to ensure that the results of the Chernobyl incident are adequately addressed. In August he served as a member of the delegation which negotiated international agreements for early notification and emergency assistance in nuclear accidents.

Pepe Mendez ('70), a sole practitioner in Denver, who was appointed by Reagan in 1984 to serve on the board of the Legal Services Corporation, is Chair of the Advisory Council of the Denver Salvation Army Adult Rehabilitation Center. He recently completed a four year term on the Board of the Denver Justice Information Center, an organization which provides legal advice to minorities and the poor.



Stephen M. Duncan ('71).

Stephen M. Duncan ('71), who is currently serving as Vice Chairman of the Litigation Section of the Colorado Bar Association and as a Trustee of the Denver Bar Association, recently served as a faculty member at the Trial Advocacy Institute of the University of Virginia School of Law. Mr. Duncan has previously served as a faculty member at other trial advocacy programs. He is a partner in the Denver firm of Hopper, Kanouff, Smith, Peryam, Terry & Duncan, which is engaged in the practice of complex civil litigation.

David Schermerhorn ('71) of Seattle, Washington is working in the field of commercial real estate development. Projects he has been involved with include Denver's Tabor Center and River Center in San Antonio.

Gregory A. Thomas ('71), of Sausalito, California, has a law and consulting practice in the areas of natural resources and the environment, international trade and investment, and civil litigation.

Frances A. Koncilja ('72), a partner in Morrison & Foerster's Denver office, spoke on "Lawyers and Advertising: Ethical Issues" at the May Convention of the Colorado Women's Bar Association.



Beverly E. Ledbetter ('72)

Beverly E. Ledbetter ('72) recently became Vice President and General Counsel of Brown University. She had been serving as that



university's General Counsel since 1978.

**Dorothy F. Nuttall ('72)** joined the staff of the Colorado Court of Appeals last year.

**Luize Zubrow ('72)** is a professor of law at George Washington University Law Center where she teaches Commercial Paper, Sales and Sales Financing, and Creditors' and Debtors' Rights. Before joining the Law Center's faculty in 1981, she practiced law with Covington & Burling. In the academic year 1976-1977 she taught at the University of Colorado Law School.

**William K. Brown ('73)** became a partner with Holland & Hart this summer. He practices in the firm's Colorado Springs office.

**Steven R. Lake ('73)** is practicing divorce, matrimonial, and family law in Chicago with his own firm, Steven R. Lake & Associates.

**Donald Marritz ('73)** is Managing Attorney for Legal Services, Inc. in Gettysburg, Pennsylvania.

**Linda K. Neuman ('73)** was appointed the first woman in Iowa's 140 year history to serve on the State's Supreme Court. She has been serving as a state District Court Judge since 1982.

**Manuel A. Ramos ('73)** was recently named Deputy Director of Litigation for the Legal Aid Society of Metropolitan Denver. Mr. Ramos took second place in the *Westword* fiction contest for his short story, "White Devils and Cockroaches."

**Theodore E. Woods ('73)**, an attorney with Mountain Bell who received a Law Alumni Board Award at the May Reunion for Outstanding Achievement as Corporate Counsel (please see Reunion Banquet article), was elected one of the Denver Bar Association's representatives to the Colorado Bar Association Board of Governors.

**Robert E. Tornstrom ('74)** was recently elected Vice President and Associate General Counsel of Occidental International Exploration and Production Company. Mr. Tornstrom drafted and negotiated the company's petroleum and coal agreements in the People's Republic of China.

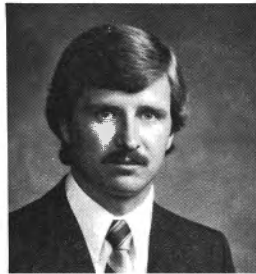
**J. Wallace Wortham, Jr. ('74)** was installed last year as the

president of the Sam Cary Bar Association.

**Donald R. Bross ('75)** coedited the book *Foundations of Child Advocacy: The Role of the Guardian Ad Litem*, which covers topics ranging from legal issues facing the *guardian ad litem* to protection of child witnesses.

**Christina K. Bearman ('76)** is now working at the law office of Thomas C. Seawall where she specializes in the representation of creditors in bankruptcy proceedings.

**Robert C. Clark ('76)** joined the litigation department of Isaacson, Rosenbaum, Woods, Levy & Snow, where he will concentrate in civil litigation, bankruptcy, and banking.



Max S. Main ('77).

**Max S. Main ('77)**, partner in Bennett & Main, P.C., Belle Fourche, South Dakota has been appointed as a Trustee of the Rocky Mountain Mineral Law Foundation. Mr. Main will represent the South Dakota State Bar on the Foundation's Board of Trustees.

**Leslie Pizzi ('78)** recently joined the Boulder firm of Edwards, Terrill & Mygatt, P.C.

**Frances J. Pottick ('79)** recently announced the opening of offices in Denver, Fort Collins, Pueblo, and Frisco and the change of the name of her firm to Pottick & Associates. **Kathleen K. Winters Hearn ('79)** has become Of Counsel to the firm.

**Gil Romero ('79)** is the Colorado State Representative for Pueblo, Colorado.

**Bonnie Tucker ('80)**, a litigation attorney with Brown & Bain in Phoenix, was featured in an article in *Arizona Briefs*, the publication of the State Bar of Arizona. Ms. Tucker, who has been deaf since infancy, graduated Order of the Coif and was

Editor-in-Chief of the *Law Review*. Before joining the firm she clerked for Judge William E. Doyle of the Tenth Circuit U.S. Court of Appeals.

**Peggy Ventura ('80)**, who was formerly working with the Colorado Lawyers' Committee, is now an Assistant Attorney General for Colorado in the Natural Resources Section.

**Michael D. Burns ('81)** has recently become associated with the Denver firm Walters & Theis.

**Thomas J. Redder ('81)**, who was appointed Municipal Judge of Wellington, Colorado in 1983 and of Timnath, Colorado in 1985, has been engaged in the general practice of law in Fort Collins since 1981.

**Cheryl Toman-Cubbage ('81)**, an associate with Hall & Evans, specializes in the defense of professional malpractice suits. She is currently writing a book for Prentice-Hall entitled *Professional Liability Pitfalls for Financial Planners*.

**John D. McKenzie ('81)**, who owns and operates a farm in northeast Boulder where he grows "gourmet beans," was recently featured in an article in the *Boulder Daily Camera*.

**Jamie L. Zveitell Kwiatek ('81)** was recently married and is now living in St. Louis, Missouri.

**Sharon Caulfield ('82)**, an associate with Davis, Graham & Stubbs, was one of four persons selected to "at-large" seats on the board of directors of the University of Colorado Alumni Association. She will serve a three year term.

**Stanley L. Garnett ('82)**, a Deputy District Attorney in Denver, recently co-authored an article in the *University of Denver Law Review* entitled "*Miranda Rights in a Terry Stop: The Implications of People v. Johnson.*"

**Angela Lujan ('82)** joined last summer the Colorado Attorney General's Office, where she represents the Department of Corrections and the Parole Board. She was previously an associate with the Denver Office of Ballard & Spahr.

**Alix R. Kettleson ('83)**, a civilian Attorney and Adviser with the U.S. Army's Office of Command Judge Advocate, attended the ALI-ABA Labor Law Conference at the Law School this summer. She specializes

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## In Memoriam

**Lawrence G. Giacomini ('13)** of Sterling, Colorado, died on March 14, just ten days before he would have celebrated his 98th birthday. After being admitted to the Colorado Bar in 1914, he established a law practice in Sterling and became one of the community's leading citizens. He was active in many civic organizations including the Sterling Rotary Club, Elks Lodge, and Knights of Columbus. A member of the Thirteenth Judicial District Bar Association, he was an Honorary Life Member of the Colorado Bar Association. For his fifty years of service to the University of Colorado, he was awarded an honorary Life Membership in the University of Colorado Alumni Association. In 1979, the Logan County Chamber of Commerce presented him its distinguished service award. Mr. Giacomini was the first of three generations of CU law graduates in his family to graduate from the Law School. His sons **Donald L. Giacomini** and **Robert W. Giacomini** graduated from the Law School in 1953 and 1957, respectively. Lawrence Giacomini's grandson and Robert Giacomini's son, **Matthew R. Giacomini**, received his degree in May, 1984. We at the Law School agree with Robert Giacomini's tribute to his father, "He had a full life, and made us all very proud."



**John W. Henderson ('16).**

**John W. Henderson ('16)** died on March 10 at the age of 93 in Greeley, Colorado where he practiced law continuously for the 69 years from

the time of his graduation to the time of his death. A leading citizen of Greeley, he was a Director of the First National Bank of Greeley, served on the Greeley Library Board, and on the Board of the Greeley Museum. He had served as attorney, director, and officer of many corporations including the Greeley Land and Coal Company, Greeley Coca-Cola Bottling Company, Consolidated Hillborough Ditch Company, and several others. He was a devoted member of the profession and to the Law School. A Past President of the Weld County Bar Association and a member of the Board of Governors of the Colorado Bar Association, he was named an honorary member of the American Bar Association and of the Colorado Bar Association. In 1968 he became a charter member of the Law School Dean's Club and in 1972-73 served as class chair of the Law School's Alumni Fund.

Mr. Henderson's son David, a graduate of CU's Business School, has established a fund at the Law School in memory of his father. Contributions may be made to the University of Colorado Foundation, Campus Box 462, Boulder, Colorado 80309-0462.

**Louis E. Kearney ('25)** died last December in Los Angeles. He served as a member of the Judge Advocate Division of the Army Air Force, rising to the rank of Lt. Colonel. For his service he was awarded the Bronze Star Medal. In 1945 he returned to the practice of law with the firm of Belcher, Kearney & Fargo.

**M.E.H. (Max) Smith ('29)** died in March of this year.

**Rex H. Scott ('50)** died of a heart attack on July 1. He had been on medical retirement from his position as a district judge since 1982. Judge Scott's public career began in 1952 when he became a municipal judge in Boulder. He served as municipal judge until 1964 when he was elected district attorney for the County of Boulder. He was President of the Colorado District Attorneys Association in 1967 and was named the Outstanding Colorado District Attorney by that group in 1968. He returned to private practice in 1968. Four years later he was appointed to the district court by Governor John Love. Judge Scott had

been working on a book on the part of his life spent in the judiciary, intending to call it "Making of a Judge." Judge Scott recently wrote of his fondness for the Law School recalling teaching here for several semesters and, in later years, visiting as a guest lecturer in the course on Criminal Law and Procedure taught by Judge Jim Carrigan.

Judge Scott's family has established a scholarship in his name. Friends desiring to contribute to the fund should write the Rex Scott Scholarship Fund, University of Colorado Foundation, Campus Box 462, Boulder, Colorado, 80309-0462.

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Graduates from '85

**Cynthia A. Hunt**  
Judge **Morris W. Sandstead ('67)**  
20th Judicial District  
Boulder, Colorado

**Don B. Huntzinger**  
Judge **Ruth A. Polidori**  
1st Judicial District  
Golden, Colorado

**Joyce L. Jenkins**  
Judge **Joseph J. Bellipanni ('76)**  
20th Judicial District  
Boulder, Colorado

**Susan Machmer**  
Chief Judge **Daniel J. Shannon**  
1st Judicial District  
Golden, Colorado

**Kathleen B. Nalty**  
Judge **John L. Kane**  
U.S. District Court  
Denver, Colorado

**J. Scott Needham**  
Judge **Alan L. Sternberg ('50)**  
Colorado Court of Appeals  
Denver, Colorado

**Linda A. Perkins**  
Justice **William D. Neighbors ('65)**  
Colorado Supreme Court  
Denver, Colorado

**Susan Schermerhorn**  
Judge **John P. Moore**  
U.S. District Court  
Denver, Colorado

**Robert L. Sperberg**  
Judge **Lewis T. Babcock**  
Colorado Court of Appeals  
Denver, Colorado

interests and competencies. As the persistence of the case method as the only pedagogical technique began to diminish, other types of teachers were needed. Twenty-five years ago, the CU faculty consisted of eleven full time professors. Today, the faculty is thirty in number, including four clinical staff attorney/instructors, and all have had experience in private practice or government before embarking on a teaching career.

2. *Legal education now includes processes and approaches that teach students not only to "think like a lawyer," but also to "act like a lawyer."* Professor Roger Cramton of Cornell has pointed out that in the complex era in which we live, it is unrealistic to expect a law school "to turn out a fully finished product capable of handling any legal task." We have already seen tremendous change in the law and legal institutions in the past twenty-five years. Change is likely to come at an even faster pace in the years to come. Our job is to give students the skills to acquire and apply new knowledge as changes occur, and to provide them with the tools for continued self-learning throughout their professional lives.

In addition to the case method of teaching, many teachers use the problem-oriented method, and others use simulations or role playing. Lawyering skills have an important place in our curriculum. The greatest change in legal education has been the widespread development of clinical education programs, both simulation and live client. Clinical programs used to be external to the law school--"farmout" programs. Today, most such programs have moved in-house, where better and more consistent supervision can be provided. At CU, as at many law schools, lawyering skills are not only taught through clinical programs with clients and in separate courses such as Commercial Drafting or Trial Advocacy, but also are incorporated in the more traditional courses. We also offer more courses in the area of planning or preventive lawyering--such as estate planning, business planning, real estate planning, etc.

3. *The role of the social sciences in legal education has increased, as has the number of interdisciplinary*

*programs.* An increasing number of law schools offer joint-degree programs of various kinds. At CU, we now offer a joint J.D.-M.B.A. degree and have established a position to be shared jointly with CU's College of Business and Administration.

In the area of the social sciences, the major development of the last decade or more has been the utilization of the methodology of economic analysis in law. The growing influence of economic analysis of law among judges and lawyers requires students to understand the contributions that economic analysis can make to law. At CU, in addition to including economic analysis in other substantive courses, we offer a course in Economic Analysis of Law and a seminar in Problems in Law and Economics.

Several of our faculty have interests in the areas of psychology, medicine, and bioethics, which they have incorporated into their courses. As courts take on more policymaking roles, our graduates will need a better understanding of the use and misuse of social science studies, data, and methodologies. For example, a knowledge of statistics and statistical analysis is important in the area of employment discrimination, as is knowledge of sociology and psychology in criminal law.

4. *The technological explosion is having an impact on legal education that is likely to increase substantially.* The use of electronic technology, not only in legal research but also in instruction, is beginning to take hold in the law schools. We are now in the most rudimentary stages of computer-assisted legal instruction, but increasingly more sophisticated technologies may change the shape of legal education more than we can imagine today. For example, some schools are experimenting with video disks and interactive computers, which allow students to interact with a videotaped trial or negotiation, the nature of the interaction affecting the course of the trial or negotiation. Already, videotapes have become an important teaching tool. In our trial advocacy courses, our course on Legal Negotiation and Dispute Resolution, or in our clinical programs, the videotape provides feedback to individual students in a way that cannot be provided in the classroom.

Computer-assisted instruction also provides the student with immediate feedback and allows him or her to engage in self-analysis.

5. *The number of courses now being offered in law schools has greatly increased over the offerings available twenty-five years ago.* In 1961, we offered 38 upper level courses, including seminars. Today we offer 89 upper level courses and seminars. Some of those offered today that were not offered in 1961 include Alternatives to the Adversary System, Bankruptcy, Business Planning, Complex Civil Litigation, Employment Discrimination, Environmental Law, Immigration Law, Law and Mental Health, Legal Negotiation and Dispute Resolution, Mergers and Acquisitions, Products Liability, Securities Regulation, and Toxic and Hazardous Wastes.

Many courses offered today, however, are not new areas of the law, but merely reflect the increasing complexity of traditional areas of law. In 1961, Professor Courtland Peterson offered a three-credit hour course in Foreign and International Law that included some comparative law, foreign trade law, and public international law. Today that course has become three separate courses: Public International Law (3 credit hours), International Business Transactions (3 credit hours), and Comparative Law (2 credit hours). Twenty-five years ago, Professor Clyde Martz offered a course, Natural Resources I, which included mineral rights, oil and gas law, and public lands law, for three credit hours. Today, as each of these fields has grown and taken on greater importance, we offer Public Lands Law (3 credit hours), Mining Law (2 credit hours), and Oil and Gas Law (3 credit hours).

Thus, the curriculum has expanded as new areas of law have developed--often around major new federal statutes and their implementing regulations--that touch on important areas of our lives not perceived to be a federal responsibility twenty-five years ago. (Obvious examples include discrimination on the basis of race, gender, age, or national origin; and the quality of our environment.) And the curriculum has also expanded as the more traditional areas of law have

increased in complexity and scope. The study of administrative and legislative materials is assuming increasing importance, although the study and analysis of court decisions is still preeminent.

Professional responsibility has come to be an important addition to the curriculum. At CU we want to convey to our students a profound awareness of and sensitivity to ethical issues and standards. Thus, we not only require all students to take a separate two-credit course in professional responsibility, but we also incorporate an awareness of ethical considerations in many aspects of other courses. Professional responsibility is also an extremely important component of clinical teaching.

#### **Problems law schools encounter in making these changes.**

1. *There is a continuing tension between theoretical instruction and practical skills training.* The opponents of skills training in the law schools argue that skills training and particularly clinical education, requiring one-on-one or small group instruction, is too costly. Many also do not agree that law schools are the best place for training in professional skills. Perhaps such training could be better done by the bar in programs for recent graduates after the law schools have provided them with analytical and research skills and knowledge of substantive law.

Clinical education is expensive, often conflicts with the regular academic schedule if the program is one involving real clients with real cases rather than simulation, and usually requires teachers with different backgrounds and interests than the teachers of more traditional courses. Moreover, there are disputes about the appropriate balance between clinical or lawyering skills courses and the more traditional courses, particularly as the curriculum is being squeezed by expanding and new areas of substantive law. On the other hand, proponents note that in clinical education, concrete, specific problems are presented, not abstract ones, as they are in practice. Students must decide on and be responsible for a course of

action, whereas most traditional courses are decision-free. Like many schools, CU is still wrestling with these issues.

2. *The changes in legal education have had a significant impact on the law library.* The annual increase in the cost of books has been fifteen percent, far outpacing inflationary increases in other areas. And loose leaf services have increased twenty-eight percent per year. The annual cost of computer research and information retrieval tools has added to the library's budget, and the need for staff to train students and faculty in the use of this technology has expanded. The demands on our library for new materials and for assistance from staff have increased as practicing lawyers, the faculty, and students become involved in more specialized areas of the law. As we have moved from the case method of legal analysis as the only form of pedagogy to other methods of teaching, there have been demands on the Law Library for different kinds of resources, such as materials for teaching alternative dispute resolution, materials for other skills training, and for newer substantive law areas. In addition, there are increasing needs for new statutory and administrative materials and services.

3. *The changing character of our students and the escalating costs of a legal education have required CU to seek out new sources of financial aid.* As federal sources continue to decline, the burden on the Law School to raise more funds for financial aid will increase substantially.

#### **Other demands on law schools.**

Universities have significantly increased their expectations for scholarship and service. The tension between the bench and bar seeking more "practical" or skills training and the university's demand for more traditional and less practice-oriented scholarship has been experienced by a number of law schools, including CU. There are also increased demands by universities for more involvement by the faculty in the graduate and even the undergraduate programs on campus, at the same time that faculty are being asked to take the lead in law reform through bar association committees, the legislature, or other organizations.

The growth in the need for continuing legal education because of the increasing complexity and specialized nature of some areas of law as well as the burgeoning development of new areas of substantive law have put pressure on the law schools to offer programs for the bar. In states where CLE is mandatory, as in Colorado, the pressures are particularly acute. Yet the time of faculty spent in such programs is time not spent on more traditional scholarship, something the University frowns upon.

In view of the expanding areas of law and the pressures to teach more skills-type courses, some faculty feel the need to retain some links with the practice of law in order to be good teachers. Yet time spent in practice is inconsistent with the duties and schedule of a teacher and scholar. Courts do not schedule trials around one's class schedule; students must take priority over clients; a scholar should be objective and not an advocate.

Because of the concerns of today's students with regard to the market for lawyers, the demands upon the Law School for increased assistance in finding specific jobs and education about career opportunities generally has dramatically increased in the last few years. Our Career Services Office has tried to respond to the need, but sufficient resources are not available at CU to permit adequate staffing of a modern career services office that can offer full services to both current students and recent (and sometimes not so recent) graduates.

The changes in legal education and in the demands on faculty and the administration of the Law School when compared with the situation only twenty-five to thirty years ago are substantial. The changes may come at an even faster pace in the next 15 years. What will law schools look like after the year 2000? Langdell wrought a revolution in legal education that persisted as almost the sole pedagogical method for nearly 100 years. If the present is prologue to the future, however, change will probably not come about in a single revolution, but it will come much more rapidly, and no one pedagogical method will prevail.

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- Being listed as a non-interviewing employer who wishes to receive resumes.

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### Alumni Information

Name \_\_\_\_\_

Year Graduated \_\_\_\_\_

Address New ( ) \_\_\_\_\_

Business Address New ( ) \_\_\_\_\_

Recent Professional Activities \_\_\_\_\_

Recent Awards, Honors, Other \_\_\_\_\_

Please submit this form to *Amicus* Editor, University of Colorado School of Law, Campus box 403, Boulder, Colorado 80309-0403

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Alumni Notes

in labor law, legal assistance, privacy/freedom of information, and administrative, civilian, and military personnel law.

**Jane B. Silverman** ('83) has left the New York firm Davis, Polk & Wardwell to join the faculty at the University of Arizona Law School. This fall she will teach employment discrimination, labor, and corporations law.

**P. Kathleen Lower** ('84), who was formerly associated with Davis, Graham & Stubbs, has joined with another attorney to form the firm Morris & Lower, which specializes in trial appeals involving employment discrimination, commercial contract, and business tort cases.

**John B. Greer** ('85) will be taking a leave of absence from Gibson, Dunn & Crutcher to study as a Fulbright Fellow in New Zealand.

### Photo Quiz Answer

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The room is the Courtroom  
in the Guggenheim Building