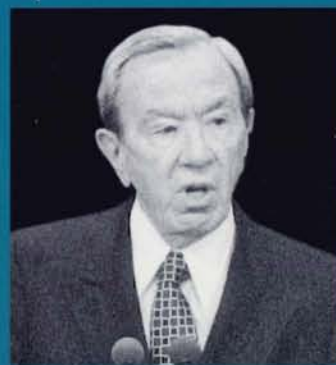


Stanford LAWYER

International Legal Studies
Affirmative Action: Pro and Con
Very Personal Property



WARREN
CHRISTOPHER
on
GREEN
DIPLOMACY

COVER

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FROM THE DEAN & RESPONSE

2

Affirmative Action: The Reason Why

A diverse student body is essential in
 preparing leaders for the coming century

by Dean Paul Brest

4

Affirmative Action: An Impermissible Solution

A response—by invitation—to
 Dean Brest's "From the Dean" Message

by Congressman Tom Campbell

FEATURE ARTICLES

6

Green Diplomacy

The Secretary of State
 presents a major policy initiative at Stanford

by Hon. Warren Christopher '49

10

Beyond Price

Why we need to think twice about trade
 in sex, children, body parts, and
 other personal things

*An interview with
 Professor Margaret Jane Radin*

14



DEPARTMENTS

14

School News

33

Class Notes

80

In Memoriam

83

Alum Gatherings

86

Letters

Back cover

Coming Events



LAW FUND

ANNUAL REPORT 1995-96

Following page 28

From the DEAN

AFFIRMATIVE ACTION: THE REASON WHY

by Paul Brest

Richard E. Lang Professor and Dean

Stanford Law School is committed to the goal of diversity and to constructive means for bringing that about. Dean Paul Brest explained why in his Commencement talk, June 16, 1996.

Because the School is equally committed to vigorous debate, the Dean invited Professor (on leave) and Congressman Thomas Campbell to respond. Campbell's response is on pages 4–5ff.

NOT LONG AFTER I became Dean, I stopped making or signing statements that took positions on controversial political or legal issues of the day—unless they quite directly implicated the Law School. The danger that my views would be taken as the School's "official" views seemed too great; and, in any event, it is not wise for an institution of higher education to have official views on matters that do not directly concern its mission.

I shall speak today about a highly controversial issue that *does* have deep implications, not just for Stanford, but for every law school in the country and for the legal profession itself. The mission of Stanford Law School and our role in the leadership of the profession depend on the excellence and diversity of our student body. And, as I speak, the diversity that is a condition for our excellence is at risk.

When I welcomed the Class of 1996 to Stanford three years ago, I noted that you were diverse in many, many dimensions—and that the variety of your backgrounds and experiences, added to your sheer intelligence, was among your greatest collective assets. Race is only one dimension of your diversity, but it is a dimension that is absolutely essential to the education of lawyers who will practice in the coming century.

Our ability to provide that education has been thrown into doubt. Stanford is not directly affected by the Regents' decision to prohibit the

University of California from engaging in affirmative action; nor would it be directly affected by passage of the California Civil Rights Initiative, which applies only to public institutions. But we would be immediately affected if the Fifth Circuit's decision in *Hopwood v. University of Texas* became the law of the land. While that case, like *Bakke* two decades earlier, involved a state university and was based on the Fourteenth Amendment, the Supreme Court has repeatedly held that its interpretations of the Equal Protection Clause apply as well to private institutions under Title VI of the Civil Rights Act of 1964. Thus, if the Court held that the University of Texas could not engage in affirmative action in its admissions process, Stanford would almost certainly be prohibited as well.

The *Bakke* case, as you know, held that it was permissible for a university to seek racial diversity in its student body under a carefully designed admissions program—one that did not establish quotas, but treated race as one relevant factor among others. The justices who decided *Bakke* were not advocates of the proportional representation of racial groups, let alone of "multiculturalism"—a term that would, indeed, have sounded strange to their ears. But they believed that diversity was an essential component of a good education, and (as Justice Blackmun put it) that to achieve the ultimate goal of a color-blind society, we must sometimes take race into account. Your generation is heir to the deep and pervasive consequences of long-standing practices of discrimination. Color-blindness alone cannot undo those consequences. That is the point of affirmative action.

WHAT'S AT STAKE

Just why is it so important for Stanford Law School to have a diverse student body? The answer begins with the observation that virtually



every important issue of social policy ultimately finds expression in the law. The dynamics of the legal process reflect the interplay—often the struggle—of diverse interests and cultures. And the interaction of these perspectives within the walls of the Law School is essential to understanding the legal system and preparing our graduates for the practice of law in an increasingly complex society.

The importance of a diverse student body does not depend on the false notion that one's race or ethnicity defines a particular way of thinking or a particular set of beliefs. Rather, it is

*A diverse student body
is essential in preparing
leaders for
the coming century*

based on the reality that people of different races often have different life experiences which affect their views on issues of legal policy. I recall an enlightening and moving discussion after our class watched a *Prime Time Live* segment that documented the discrimination encountered by well-dressed middle-class African Americans in department stores and public accommodations. White students in the class scarcely believed this still really happened—until minority classmates described their own experiences.

Policies that seem “neutral” to the majority may have quite different meanings for the members of minority groups. Ultimately what matters

to our educational mission is not group membership as such, but a multiplicity of perspectives. And it is simply a fact that people's backgrounds affect the way they perceive and assess the world. As Georgetown professor Mari Matsuda has observed, “Human beings learn and grow through interaction with difference, not by reproducing what they already know.” And I have seen the educational benefits of your differences time and again during your three years at Stanford—in classes ranging from constitutional law to family law to criminal and civil procedure; in private conversations outside of class; and in public debates and panel discussions. Indeed, your different backgrounds and experiences have contributed to vigorous debates about the very issue I am talking about—the importance of diversity and the means that may be used to achieve it.

The opportunity to encounter people from different backgrounds allows us to explore the nature of our differences and to learn to communicate across the boundaries they may create. It allows learning not just about differences, but also about the strong commonalities that exist among seemingly diverse groups. This is especially important for lawyers, who will wield enormous power and play leadership roles in political, civic, and private organizations. No less than anyone else, lawyers hold stereotypes based on race and ethnicity. Encounters among students with different backgrounds tend to break down such stereotypes. It is readily apparent that the friendships that have developed among the members of the Class of 1996 draw as much strength from your differences as from what you hold in common.

It is for all of these reasons that a diverse student body is essential in a school committed to preparing, not just good lawyers, but the leaders

Continued on page 29

Tn RESPONSE

AFFIRMATIVE ACTION: AN IMPERMISSIBLE SOLUTION

by Thomas J. Campbell

Professor (on leave) and Congressman

WITH TYPICAL GRACE and fairness, Dean Brest has invited me to write a reply to his commencement address on affirmative action [pages 2-3ff]. Of all the people with whom I have dealt in debating this most difficult issue, Paul Brest stands out for the sincerity of his desire to explore different viewpoints through scholarly debate, and his fairness to those who disagree with him. If all approached affirmative action this way, how very much stronger would be our society, whatever outcome is eventually reached!

Dean Brest presents the value to Stanford of having a diverse student body—diverse in many ways, an important one of which is race. He makes his case well. However, he does ignore the price paid to achieve this value.

There are many different expressions of this price. Some believe that the price includes denigrating the achievements of minority race students in their own minds, in the minds of their colleagues, and in the minds of their teachers.

Some believe that the price includes a heightened focus on race, which lesson students inevitably learn along with substantive legal topics at our law school. A student of mine, while meeting in my office, once referred to another student as “one of the brightest minority students around here.” The student saying that did not appear in any other way to be racist; he was observing what he



Thomas J. Campbell

was taught to observe.

Some believe the price includes a generation of consumers whose prejudice about race is heightened: we have all heard the stories about patients preferring doctors of races not favored under affirmative action. I have no idea how widespread that reaction is.

I note these as possibly defensible rebuttals to the benefits of affirmative action, but I do not stress them, because it is impossible to measure their relative salience. I would rather deal in principle; and to do so, I would like to focus for a moment not on Stanford but on the University of California.

A QUESTION OF FAIRNESS

UCLA and UC-Berkeley have admitted that, right up to the present day, some Asian Americans are excluded in order to make room for African Americans and Hispanic Americans. The UC administration has even stated that UCLA and Berkeley admit some African Americans and Hispanic Americans whose families have higher incomes than those of the Asian Americans not admitted. Berkeley and UCLA have admitted these students even when the objective academic criteria of the Asian American applicants are higher.

In 1989, an applicant to Boalt Hall, UC-Berkeley's law school, received a letter stating that she was number 43 on the “Asian Waiting List.” The number 43 was written in over a blank, and the word “Asian” was written in over a blank. I know, because I saw the letter.

This young woman, whose parents had escaped their native country by boat, worked hard to get good grades to be admitted to our state university and its law school, only to be told that the color of her skin determined the waiting list to which her application would be sent.

Over the 146 years of our statehood, California's record in treating Asian immigrants has been appalling. Horrible conditions reserved for railroad workers from China, wartime deportations of Nisei to the intermountain high desert, denial to Americans of Chinese origin of the right to try civil cases in California

courts—all these have greeted Asians coming to California, and their children. And now, the universities of our state say that your Asian ethnicity will count against you in getting into college and law school.

All this has been admitted by the University of California.

Let us assume all the benefits stipulated by Dean Brest in his defense of affirmative action. If he were Dean at Boalt, a state school, instead of Stanford—would any of those benefits justify the wrong done to the student who applied, and was told she was number 43 on the Asian waiting list?

Boalt Hall took a consent decree over incidents like that. But this was 14 years after *Bakke*! Didn't the admissions committee at Boalt know that *Bakke* forbade a separate waiting list based on race, restricting the use of race to only a "plus factor"?

No, they didn't; and the reason is as simple as it is painful. There is no logical distinction between taking someone's race into account as a "plus factor" and taking someone's race into account as the determinative factor. At the margin, the "plus" factor becomes the determinative factor—two candidates otherwise equally qualified will be distinguished for admission purposes on the basis of their race.

Indeed, in the *Bakke* case itself, only one of the nine justices embraced this distinction between using race a little bit and using race as the deciding factor. Four justices thought it was perfectly permissible to use race as the deciding factor, if the state's intent was to do good. Four justices thought it was impermissible to use race because the 1964 Civil Rights Act compelled the federal government and the states that received federal assistance to be color-blind. Only one, Justice Lewis Powell, held that race could be used a little bit. All the other justices dismissed such a distinction.

ENDS AND MEANS

Justice Douglas said it best in his dissent from dismissal as moot in *DeFunis v. Odegaard*: Whatever benign purpose a state may have in taking a person's race into account, it is not benign to the person left out because he or she lacked the favored

race characteristic. It is the fact that the state distinguished by race at all that violated the Fourteenth Amendment, in Justice Douglas's view—whether by "plus factor" or by "determinative factor."

"There is no constitutional right for any race to be preferred," Justice Douglas wrote. "There is no superior person by constitutional standards. A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability no matter what his race or color. Whatever his race, he had a constitutional right

Racial preferences, no matter how well intentioned, teach the wrong lesson

to have his application considered on its individual merits in a racially neutral manner."

The defender of affirmative action, therefore, must own up to what affirmative action is, and argue that the good it accomplishes is somehow worth it. Under affirmative action, as practiced in California's universities, some applicants who would be admitted if their race were different are kept out of college and law school.

As a unit of state government, UC acts under the scrutiny of the Fourteenth Amendment. For an institution like Stanford, it is Title VI of the Civil Rights Act, rather than the Fourteenth Amendment, that governs permissible behavior. Four of the justices in *Bakke* held that that standard was the same; but we don't have to deal with that question here for the simple reason that, I suspect, no defender of affirmative action at Stanford would, if convinced that Stanford's action violated the Fourteenth Amendment, take refuge in the fact that Stanford was a private actor.

The Court of Appeals in the *Hopwood* case got it right: for all the benefits of diversity—and I do not denigrate those benefits in the least—it's simply not good enough to justify a state's denying a citizen a benefit that that citizen would have had were her or his race different.

ALTERNATIVE REMEDIES

Those of us who hold this view have good company. But we also have a serious burden.

The good company is found in Justice Douglas, whose dissent from the dismissal in *DeFunis* was noted above; Justice Stewart, Justice Stevens, then Justice Rehnquist and Chief Justice Burger, all of whom dissented in *Bakke*; Justice Stanley Mosk of the California Supreme Court, who wrote the opinion for that court striking down affirmative action in California in the case the U.S. Supreme Court took in *Bakke*; Senator Hubert Humphrey, Senator Clifford Case, and Congressman Morris Udall, all of whom spoke passionately about the need for color-blindness in government action when the 1964 Civil Rights Act was passed; and, of course, the first Justice Harlan, magnificent dissenter in *Plessy v. Ferguson*.

The heavy burden comes from this: the defenders of affirmative action (at least around Stanford) are sincerely attempting to remedy a problem that is deep and persistent and present still in our society—distinctions in outcomes based on race. Taking affirmative action out of the arsenal of weapons used to deal with that fact does not mean the fact does not exist. Indeed, it compels us to use the other weapons at hand more effectively.

The U.S. Supreme Court's unfortunate 4-1-4 opinion in *Bakke* postponed the day when those alternative remedies would be meaningfully pursued. Once it became legal to use race in admissions, promotions, etc., that was the easy course for a school (or an employer) to follow to "get their numbers right." Far preferable alternatives, which would have focused not on race but on barriers to opportunity, were not tried. Now it's time to try them.

Continued on page 30



GREEN DIPLOMACY

*Warren Christopher's foreign policy legacy includes
an enlarged role for the environment*

by Warren Christopher '49
U.S. Secretary of State

Secretary Christopher chose Stanford as the venue for his landmark policy address: "American Diplomacy and the Global Environmental Challenges of the 21st Century." A crowd of students and faculty, science and public policy experts, and reporters filled Memorial Auditorium for the April 9, 1996, event. Here, slightly abridged, is what the Secretary said.

OUR ADMINISTRATION has recognized from the beginning that our ability to advance our global interests is inextricably linked to how we manage the Earth's natural resources. That is why we are determined to put environmental issues where they belong: in the mainstream of American foreign policy. I appreciate and value this opportunity to outline our far-reaching agenda to integrate fully environmental objectives into our diplomacy, and to set forth our priorities for the future.

The environment has a profound impact on our national interests in two ways. First, environmental forces transcend borders and oceans to threaten directly the health, prosperity, and jobs of American citizens. Second, addressing natural resource issues is frequently critical to achieving political and economic stability, and to



Secretary Christopher

pursuing our strategic goals around the world.

The United States is providing the leadership to promote global peace and prosperity. We must also lead in safeguarding the global environment on which that prosperity and peace ultimately depend.

In 1946, when I came to Stanford as a law student, the connection between the environment and foreign policy was not so readily apparent. At home, Americans were entering a period of unprecedented prosperity fueled by seemingly infinite resources. Abroad, we were beginning to focus on the struggle between the United States and the Soviet Union. And I was trying to master the intricacies of contracts, torts, and something called reme-

dies, taught by Stanford's version of John Houseman. I was also trying to measure up to the high standards set by a new young dean, Carl Spaeth, who had just come to Stanford from a very promising career at the State Department, and who first stimulated my interest in the work in which I am now engaged full time.

But since 1946, population growth, economic progress, and technological breakthroughs have combined to fundamentally reshape our world. It took more than 10,000 generations to reach a world population of just over two billion. In just my lifetime, the world's population has nearly tripled to more than five-and-a-half billion.

These changes are putting staggering pressures on global resources. From 1960 to 1990, the world's forests shrank by an amount equivalent to one-half the land area of the United States. Countless species of animals and plants are being wiped out, including many with potential value for agriculture and medicine. Pollution of our air and water endangers our health and our future.

In carrying out America's foreign policy, we will of course use diplomacy backed by strong military forces to meet traditional and continuing threats to our security, as well as to meet new threats such as terrorism, weapons proliferation, drug trafficking, and international crime. But we must also contend with the vast new danger posed to our national interests by damage to

the environment and resulting global and regional instability.

As the flagship institution of American foreign policy, the State Department must spearhead a government-wide effort to meet these environmental challenges. Together with other government agencies, we are pursuing our environmental priorities—globally, regionally, bilaterally, and in partnership with business and nongovernmental organizations. Each of these four dimensions is essential to the success of our overall strategy.

GLOBAL AGENDA

First, our approach to these problems must be global because pollution respects no boundaries, and the growing demand for finite resources in any part of the world inevitably puts pressure on the resources in all others.

Across the United States, Americans suffer the consequences of damage to the environment far beyond our borders. Greenhouse gases released around the globe by power plants, automobiles, and burning forests affect our health and our climate, potentially causing many billions of dollars in damage from rising sea levels and changing storm patterns. Dangerous chemicals that are banned here but still used elsewhere travel long distances through the air and water. Overfishing of the world's oceans has put thousands of Americans out of work. A foreign policy that fails to address such problems would be ignoring the needs of the American people.

Each nation must take steps on its own to combat these environmental threats, but we will not succeed until we can effectively fight them together. That realization inspired the pathbreaking efforts of the United Nations at the Stockholm Conference on the Human Environment 25 years ago, and at the historic Rio Summit on Environment and Development four years ago. There, the international community forged a new global

commitment to "preserve, protect and restore . . . the Earth's ecosystem" and to promote economic development in ways that also preserve our natural resources.

Since Rio, the United States has intensified our global efforts. We led the way to an agreement to phase out the remaining substances that damage the ozone layer, to ban

"PITTING ECONOMIC GROWTH AGAINST ENVIRONMENTAL PROTECTION IS... A FALSE CHOICE"

the ocean dumping of low-level radioactive waste, and to achieve a new consensus in Cairo on stabilizing global population growth.

We are working to reform and strengthen the UN's key environmental and sustainable-development programs. We have joined forces with the World Bank to incorporate sound environmental policies in lending programs, and to fund projects through the Global Environment Facility that directly benefit our health and prosperity. And we are striving through the new World Trade Organization to reconcile the complex tensions between promoting trade and protecting the environment—and to ensure that neither comes at the expense of the other.

This year, we will begin negotiating agreements with the potential to make 1997 the most important year for the global environment since the Rio Summit. We will seek agreement on further cuts in greenhouse gases to minimize the effects of climate change. We will help lead an international process to address the problems caused by toxic chemicals that can seep into our land and water, poisoning them for generations. We will develop a strategy for the sustainable management of the world's forests—a resource that every great civilization has discovered is "indispensable for carrying on life," as the Roman historian Pliny once wrote. We will work with Congress to ratify the Biodiversity Convention, which holds benefits for American agriculture and business. We will also seek ratification of the Law of the Sea Treaty, which safeguards our access to ocean resources. We will provide the leadership needed to ensure that this June's UN Summit in Istanbul effectively confronts the pressing problems associated with the explosive growth of cities in the developing world.

Finally, by the end of 1997, the State Department will host a conference on strategies to improve our compliance with international environmental agreements—to ensure that those agreements yield lasting results, not just promises.

This is a daunting global agenda. Achieving these goals will take time and perseverance. But I often remember [former Stanford president] Don Kennedy's advice to graduates to set a "standard higher than you can comfortably reach."

REGIONAL STRATEGIES

The second element of our strategy—the regional element—is to confront pollution and the scarcity of resources in key areas where they dramatically increase tensions within and among nations. Nowhere is this more evident than in the parched valleys of the Middle East, where the struggle for water has a



While at Stanford, Secretary Christopher (third from right) met with a multidisciplinary panel including Law School professors Thomas Heller (left front) and Barton H. (Buzz) Thompson Jr. (second from left).

direct impact on security and stability. In my many trips to the region, I have seen how rapid population growth and pollution can raise the stakes in water disputes as ancient as the Old Testament. As Shimon Peres once remarked to me, "The Jordan River has more history in it than water." We are helping the parties in the Middle East peace process to manage the region's water resources—to turn a source of conflict into a force for peace.

There can be no doubt that building stable market democracies in what was formerly the Soviet Union and in Central Europe will reinforce our own security. However, for these new nations to succeed, we must help them overcome the poisonous factories, soot-filled skies, and ruined rivers that are one of the bitter legacies of communism. The experience of this region demonstrates that governments that abuse their citizens too often have a similar contempt for the environment.

Three weeks ago in Kiev, I walked through the wards of a children's hospital that treats the victims of Chernobyl. I saw first-hand the terrible damage that this 10-year-old catastrophe still inflicts on the region's people. We are helping

Ukraine to ensure that there will be no more Chernobyls. In Central Asia, we are helping nations recover from Soviet irrigation practices that turned much of the Aral Sea into an ocean of sand. Our Regional Environment Center in Budapest supports the civic groups in Central Europe that are essential to a healthy democracy and to a healthy environment.

The United States also has an enormous stake in consolidating democratic institutions and open markets in our own hemisphere. To deepen the remarkable transformation that is taking place across Latin America and the Caribbean, we are advancing the agenda for sustainable development that our 34 democracies adopted at the Miami Summit of the Americas. To help democracy succeed, for example, we must ease the pressures of deforestation and rapid population growth that I have seen at work in the bare hills and crowded city streets of Haiti. To sustain our prosperity, we must work to preserve the rich diversity of life that I saw in the Amazon rainforest. To help heal the wounds of old conflicts, we must reverse the environmental damage that has narrowed economic opportunities and

fueled illegal immigration from El Salvador. And to help combat drug trafficking and crime, we are encouraging sustainable agriculture as an alternative to the slash-and-burn cultivation of opium poppies and coca from Guatemala to Colombia. These goals will be high on our agenda at the Sustainable Development Summit this December in Bolivia.

In Africa, we are pursuing environmental efforts designed to save tens of thousands of lives, prevent armed conflict, and avert the need for costly international intervention. Our Greater Horn of Africa Initiative, for example, addresses the root causes of environmental problems that can turn droughts into famines, and famines into civil wars. We must not forget the hard lessons of Rwanda, where depleted resources and swollen populations exacerbated the political and economic pressures that exploded into one of this decade's greatest tragedies. . . .

To intensify our regional environmental efforts, we will establish Environmental Hubs in our embassies in key countries. These will address pressing regional natural

Continued on page 30



Beyond Price

An Interview with Margaret Jane Radin

Why we need to think twice about trade in sex, children, body parts, and other very personal things

ARE MARKET FORCES—the powerful engine of modern economies—appropriate for property of every kind? Or are there some forms of property so personal, so close to the essential identity of an individual, that they simply should not be bought and sold?

Put another way, Does everything have a price? Or are there non-economic values that should be considered?

These questions are the focus of Professor Margaret Jane Radin's latest book, *Contested Commodities* (Harvard University Press, 1996). An essay on this topic also appears in her earlier book, *Reinterpreting Property* (University of Chicago Press, 1993). Radin is a leading thinker on evolving concepts of property, including issues surrounding intellectual property on the Internet.

Radin was named this June to the School's William Benjamin Scott and Luna M. Scott Professorship (see page 22). She is also co-founder and co-director of Stanford's new Cyberspace Law Institute.

The following interview took place in Professor Radin's office on June 21, 1996, with the editor, Constance Hellyer, as interlocutor.

How did you become interested in human property issues?

When I began USC law school in 1973, the law and economics movement was just taking off and there were a number of people on the faculty who eventually became famous in the field. But from the beginning, I felt there was something wrong in thinking of everything as a salable commodity—to imagine that because markets are great for most things, markets for

anything and everything would be great. There was a slippery slope there, but I didn't yet know what kind.

It struck me as strange to think of tort law and injuring people just in terms of what sum of money a person might pay to have his child not be run over by a truck, or of fraud and integrity as just things that have economic prices, or of breach of contract as just something that you would do if it happened to be more profitable for you than not. I used to joke that if my Property teacher stumbled over a starving person on the street, he'd call it a transaction cost!

The bright side is that markets have been very good for many things—I've never denied that. But

I've always worried about whether there's a dark side to the economic, market-based approach.

What makes "personal" property different?

In an article I published in 1982 called "Property and Personhood," I distinguished between personal property and fungible property. By fungible property, I meant anything that is completely interchangeable, like money or land held only for investment.

For example, if I were a jeweler, I wouldn't care whether I had this wedding ring or that wedding ring for sale. On the other hand, if I were the person wearing a ring that symbolized my marital relationship, I would care a lot about that particular ring, so my ring would not be interchangeable. I called the kind of property that was not interchangeable with money or with other property, and that meant a lot to someone, "personal."

And then, the issue escalated—

Yes. As I was writing my first article about "market inalienability," the Baby M case was being heard, and there was a lot of dispute about surrogate parenthood and who in effect owns the baby.

The article—which was published in the *Harvard Law Review* in 1987—began as a theoretical

Clockwise from top: Sweatshop, USA; former indentured servant Iqbal Masih of Pakistan; "Hollywood Madam" Heidi Fleiss; child prostitutes in Cambodia; "Baby M" mother Mary Beth Whitehead.

analysis of some difficulties in political theory, historically and today. It was about how to avoid thinking of everything as salable just because we've realized that markets are important to human freedom. We have already recognized some things as inalienable: you can no longer sell someone into slavery or pay someone to take your place in the draft, for example.

I wanted to run my theories through something important in society today, so I wrote an additional section using the example of reproductive capacity and sexuality. It was about prostitution, baby selling, and surrogacy, which is a special case of baby selling—or at least of baby transfer of some kind. This topic provided a concrete focus for my concerns about the commodification of things that are close to people's personhood—the things that are fundamental to us as human beings. It becomes troubling when they become commodified, and my investigation is why that is so and what, if anything, we should do about it.

Explain what you mean by “commodified.”

The word “commodity,” as I use it, is a conception embedded in modern market society. Commodities are things that have market value and can be bought and sold, from real property to securities, pork futures to patent rights, labor to legal advice.

I use the term “commodification” for the social process by which we come to consider certain things as being commodities and then respond to that once it has happened. So commodification is about meaning—a shared understanding of something's meaning—and about value.

Some things are partly commodified—say, rent-controlled apartments and minimum-wage labor—or commodified in some cultures but not others. The custom of buying and selling brides, for example, is still alive in some societies.



Romanian orphans, a precious commodity

What interests and concerns me is the development of markets in very personal things that perhaps should not be bought and sold. These I call “contested commodities.” Examples include infants and children, human reproduction—sperm, eggs, embryos, and the use of a stranger's womb—blood, human organs, and human sexuality.

I think a lot of people were shocked that Baby M was considered the father's, even though she was also the genetic child of the woman who bore her.

Yes. The trial judge seemed to give contract law precedence over family law traditions. He was reversed by the New Jersey Supreme Court.

In family law, we normally understood that, even if a woman agreed to give a baby up for adoption while she was pregnant, there would be a period of time after the baby was born when she could change her mind. Becoming a mother is a galvanizing experience. You may not be the same person who signed that agreement or agreed to do that.

But what was remarkable about the Baby M case and surrogate motherhood generally is that our understanding of the biological mother's position collapsed in the face of fathers with infertile wives

who wanted to buy a way to have a child. As a feminist, I was quite troubled. My concerns were borne out when the trial judge in the Baby M case said that the baby was not actually being sold, because the father “cannot purchase what is already his.” That's what the opinion said. I thought, “Wow!”

Perhaps we're just naturally squeamish about transferring body parts and substances from one person to another.

I don't think so—it only seems natural because it's deeply culturally entrenched. But what is acceptable can change in different times and circumstances. Blood transfusions are now accepted by most people, while wet nurses are a thing of the past. Cannibalism is definitely out. But organ transplants are in the medical mainstream.

Our attitudes toward personal self-determination have changed, too. Once we thought child labor and indentured servitude were okay. And until recently, there was no such legal offense as rape within marriage.

I hear there's a market of some sort in kidneys—some of it from poor countries to rich countries.

There is disturbing evidence of organ selling, and the logic of capitalism says that there will be brokers or middlemen wherever profit can be had.

There's an international trade in kids too. And most of the money does not go to the mothers—it goes for bribing judges and paying the brokers.

This is a hard issue, because in some cases, it's better for the babies. They escape a life of deprivation, and get well taken care of and well nourished by middle-class couples who desperately want children. However, the mothers might not be better off. And you have to ask whether humanity as a whole isn't diminished when children become, in effect, commodities.

Are you concerned by the way some of these markets depend on there being an economic gap between sellers and buyers?

Very much. If we see a market that wouldn't exist except for the fact that people are in desperate poverty, there's something wrong.

Libertarians might argue that it's a choice issue: If you'd rather sell a kidney, than, say, sell your child into slavery making rugs, then sell your kidney.

Well, they would, and it's a rather powerful argument. They carry it all the way, too. Many libertarians would maintain that if someone says, "Your money or your life," and you choose to give up the money, that's a perfectly rational decision. You and I tend to think that's coercion, and therefore we shouldn't let it happen. But the issue of what's coercive is very, very complicated, because it depends on what we think people ought to have as a matter of right; then if they are put in a position where they have to give that up, we say it's coercive.

Libertarians think that coercion is a lot narrower category than some other people think it is. But everybody believes there's some

such thing as coercion. It has to do with a current buzzword in legal scholarly circles: "baseline"—what you start out with that others shouldn't be able to force you to give up.

If you think there's a pretty big baseline—like people shouldn't have to give up a kidney even if they're starving—then the whole economic system could be considered coercive, because it's getting people to choose to give up their kidneys. But if we see the baseline as much narrower, so coercion has to involve the threat of physical violence, then the focus is more conservative.

That's a complicated issue and one reason I had to write a lot of philosophy in this book.

I worry about the people who are selling, in effect, themselves.

Yes—but the implications go way beyond those individuals. Markets touching on people's personhood affect not just the sellers, but also everyone in their general situation—and, in some sense, all of us.

If you decide that something inside the body, or something that was formerly thought to be inseparable from a person, is a commodity belonging to a person, it could

end up being bad for that person.

Take baby selling: What if we decided that a woman's capacity to bring forth babies is a commodity that she owns? At first it looks good for her, because now she has more wealth. But if that wealth is taken into account when they decide whether to give her welfare, then it's bad for her.

Why do you say it affects all of us?

There's potentially a domino effect. Suppose we say that people are unique and not marketable objects, but at the same time we permit the selling of children. A child who has been acquired that way would have a confused self-conception: "If I was a market object, how did I change over into being a unique person?" The concepts are contradictory.

And suppose a kid who was purchased says to my kids, "I was worth \$50,000. How much are you worth?" That would be pretty confusing to my kids.

Beyond that, it's not much of a stretch to speculate that, depending on the culture, light-skinned babies might command higher prices than dark ones, and boy babies more than girls. If parentage is considered, babies from high-IQ or tall stock might also go for a premium. Price differences like these might even be advertised.

This would change what all kids think of themselves, whether or not they personally have been sold. And since each of us begins as a kid, it perhaps changes what everybody thinks about being a human.

What can we do about it?

I don't have an easy answer. One solution is politically impossible: redistribute the wealth, so that we don't have people so desperately poor that they're doing things that

Sit-in protest by children in servitude, New Delhi, India

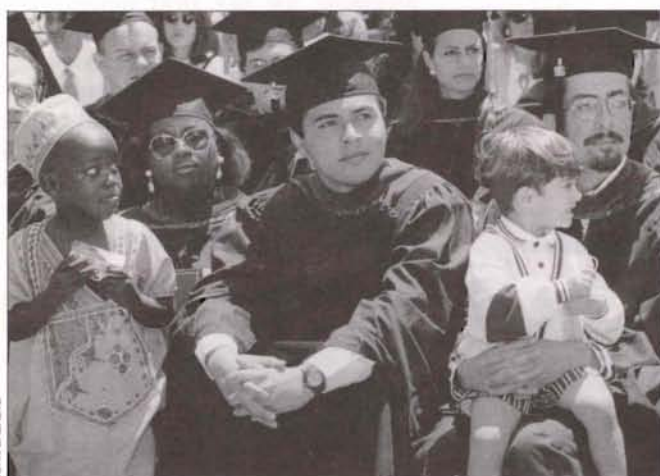


REUTERS/CORBIS BETTMANN

Continued on page 32

School NEWS

New Programs Broaden School's International Scope



Graduating SPILS Fellows: The first class of 13 came from around the world.

STANFORD LAW SCHOOL passed an important milestone in becoming a global law school on June 12: the graduation of the first Fellows—13 from as many countries—in the School's year-old Stanford Program in International Legal Studies (SPILS).

The Law School is also working with the University to develop a new Stanford dual JD-master's degree in International Policy Studies. Details on this interdisciplinary program will be announced shortly.

"The present and future generations of law students will practice in a

world where business, economic, technological, and environmental issues overflow regional and national boundaries," observes Dean Paul Brest. "We are moving international and comparative law concerns from the periphery into the mainstream of Stanford legal education."

CURRENT ASSETS

Stanford Law School's prime asset in the endeavor to globalize the curriculum is the permanent faculty, which has become notably international in outlook (see page 16). Other elements include:

- **Law review.** *Stanford International Law Journal*, a scholarly, student-edited biannual with 32 volumes to date.

- **Joint-degree program.** JD/MA with the prestigious Johns Hopkins School of Advanced International Studies.

- **Doctoral degree studies.** A JSD (doctor of the science of law) program that attracts mainly students from other countries.

- **Endowed chair.** Lewis Talbot and Nadine Hearn Shelton Professorship in International Legal Studies.

- **Student groups.** Include Stanford International Law Society, which sponsors speakers and sends a team annually to the Jessup International Moot Court Competition; Stanford Global Challenges Network, which holds an annual forum; Stanford Law and Technology Association; and Chinese Legal Studies Group.

- **Endowed lectureship.** Jackson H. Ralston Prize and Lectureship, which has brought to campus such international luminaries as Oscar Arias Sanchez of

Costa Rica, Pierre Elliott Trudeau of Canada, Vaclav Havel of the Czech Republic, and Helen Suzman of South Africa (see page 17).

The School hopes to expand these resources further through the current Campaign for Stanford Law School. Needs include endowed and expendable funds for faculty support, visiting scholars, research, case studies, and graduate fellowships.

ACADEMIC DIRECTION

Faculty leadership for both SPILS and the new joint-degree initiative is provided by professors Thomas Heller and Lawrence Friedman.

Heller is an expert in international law and (among other credits) a former Jean Monet Visiting Professor at the European University Institute in Florence, Italy (1992-93). He directed Stanford's Overseas Studies Program for seven years (1985-92) and served for two years (1989-92) as deputy director of the Institute for International Studies, a link he maintains as an affiliated professor.

Friedman, the School's Marion Rice Kirkwood Professor of Law, is an in-



Prof. Thomas Heller

ternationally known legal historian and expert on legal culture and law and society issues. His writings, which are widely translated, include the winners of the 1976 Triennial Book Award of the Order of the Coif, the 1982 Willard Hurst Prize of the Law and Society Association, and the 1994 ABA Silver Gavel Award.

Joining Heller and Friedman on the bridge is Sophie Pirie '87, co-director of SPILS. Pirie, a consulting associate professor, earned an LLM in international legal studies in Germany and practiced in London before returning to Stanford in 1993 to teach human rights law. Pirie also teaches the year-long SPILS Research Seminar, while Friedman teaches the one-term SPILS Core Seminar on Law and Society.

TWO-WAY LEARNING

The Stanford Program in International Legal Studies brings lawyers, government officials, academics, and other professionals from outside the United States to Stanford for a period of study and research designed to generate law



Prof. Lawrence Friedman

reform and policy proposals that SPILS Fellows will pursue after leaving Stanford.

Another benefit of the program has been the participation of SPILS Fellows in regular Law School classes, where their diverse outlooks and experiences enrich the discourse for JD students and faculty alike.

The first class of 13 Fellows came from around the world. Mostly lawyers by training, they received Stanford JSM (Juridical Sciences Master) degrees for their SPILS work. Some plan to continue their studies at Stanford in pursuit of a doctorate (JSD) before putting their new knowledge to practical use in their native lands. A brief look at their backgrounds and research projects follows.

From the Americas. Arthur Cockfield, a Canadian lawyer and former member of the tax department at Goodman & Goodman in Toronto, analyzed the desirability of harmonizing the tax laws of NAFTA's member states. Jose Rosendo Rodriguez, a lawyer from Mexico, analyzed the history of and prospects for commodities futures markets in Mexico. And Fernando Toledo, former scientific attaché at the

Chilean Consulate in San Francisco, studied market-based proposals for controlling greenhouse gases.

From Europe. Rodrigo Bustos Sierra, a lawyer from Spain, examined Spanish and U.S. constitutional law concerning privacy and free speech. Philippe Cullet of Switzerland wrote his thesis on differential treatment in international environmental law. Matteo Marzi of Italy examined the development of industrial districts in northern Italy. Henri Tjong of the Netherlands analyzed regulatory competition theory. Kurt Wagner, a parliament staff member from Austria, wrote on integrating environmental concerns into GATT. And Cuneyt Yuksel, a professor at the University of Istanbul Law School in Turkey, focused on alternatives to neoliberal approaches to economic restructuring.

From Africa. Annie Patricia Kameri-Mbote, a lecturer at the Kenya School of Law and the University of Nairobi, focused on the capacity of existing intellectual property rights regimes to protect biological diversity and biotech innovations in her nation. And Gloria Onwukwe Otosi, a lawyer and former lecturer at Ogun State University Law School in Nigeria, studied the Nigerian legal education system.

From Asia. Yi-Hong Hsieh, an international banking division auditor at the General Counsel's Office of the Taiwan Securities & Exchange Commission and columnist for the *Min-Sheng Daily* in Taiwan, studied bank regulatory regimes being considered for adoption in

Taiwan. Won-Soo Kim, counselor with the Korean Mission to the U.N. and former fellow at the Stanford Center for International Security and Arms Control, analyzed APEC's distinctive integration dynamics.

The fourteen SPILS Fellows who arrived this fall plan to focus on topics in international cooperation and dispute resolution, law and society, regulatory reform and corporate governance, and law, development, and finance.

FACULTY FROM ABROAD

Further enrichment comes in the form of visiting professors. SPILS faculty in 1995-96 included Deirdre Curtin, professor of the law of international organizations and director of the Europa Institute of the University of Utrecht in the Netherlands; Vincenzo Ferrari, a sociology of law expert from the University of Milan in Italy; Lawrence Liu, a Taiwan-based attorney doing cross-border transactions with mainland China, who is also a professor at Taiwan's Soochow University; and Rogelio Perez Perdomo, a professor at the Instituto de Estudios Superiores de Administracion in Caracas, Venezuela.

For information about SPILS, contact Kate DeBoer, Program Administrator, Stanford Program in International Legal Studies, Stanford Law School, Stanford, CA 94305-8610, ☎ 415/723-2978, fax 415/725-0253, e-mail: spils@forsythe.stanford.edu. ■

International Interests of Stanford Law Professors

John H. Barton, *George E. Osborne Professor*. International business transactions; international environmental law; international development law; international technology law; international antitrust and regulated industries; medical research for developing nations.

William F. Baxter, *William Benjamin Scott and Luna M. Scott Professor (Emeritus)*. Transnational application of intellectual property law and competition law.

Thomas J. Campbell, *Professor (on leave)*. Transnational law; public international law.

Gerhard Casper, *President of the University and Professor of Law (not teaching)*. Comparative constitutional law; coordination of regulation; the European Community.

Richard Thompson Ford, *Assistant Professor*. Global cities; citizenship; sovereignty; international development issues.

Lawrence M. Friedman, *Marion Rice Kirkwood Professor*. Law and society; comparative legal culture.

Ronald J. Gilson, *Charles J. Meyers Professor of Law and Business*. Comparative corporate law.

Paul Goldstein, *Stella W. and Ira S. Lillick Professor*. International intellectual property law.

William Benjamin Gould IV, *Charles A. Beardsley Professor (on leave)*. Comparative labor law; labor issues in Japan, South Africa, and Eastern Europe.

Henry T. Greely, *Professor*. Human Genome Diversity Project; global resources law and policy.

Joseph A. Grundfest, *Professor and Helen L. Crocker Faculty Scholar*. International securities regulation; transnational frauds; jurisdictional issues in Internet and other securities transactions; accounting standards.

Gerald Gunther, *William Nelson Cromwell Professor (Emeritus)*. Constitutional law in Israel and Eastern Europe.

Janet E. Halley, *Professor*. Ethnic, racial, and national identities in liberal states; "cultural rights";

cultural conflicts over sovereignty.

Thomas C. Heller, *Professor*. International law and economy; comparative law; comparative capitalism; international environmental agreements; regionalism; national identity.

Linda A. Mabry, *Associate Professor*. International business transactions; international trade; international law and economic development.

John Henry Merryman, *Nelson Bowman Sweitzer and Marie B. Sweitzer Professor (Emeritus)*. International art law; comparative law; law in radically different cultures.

Margaret Jane Radin, *William Benjamin Scott and Luna M. Scott Professor*. Legal issues in cyberspace; intellectual property on the World Wide Web.

Deborah L. Rhode, *Professor and Bernard D. Bergreen Faculty Scholar*. Comparative perspectives on legal ethics and legal professions; comparative issues in gender, law, and policy.

Kenneth E. Scott, *Ralph M. Parsons Professor of Law and Business (Emeritus)*. Comparative corporate governance.

William H. Simon, *Kenneth and Harle Montgomery Professor of Public Interest Law*. The rule of law and civil liberties in China; experiments in economic democracy.

Barton H. Thompson, Jr., *Robert E. Paradise Professor of Natural Resources Law*. International environmental law.

Visiting faculty. In 1995-96, the permanent faculty was augmented by more than a dozen visitors teaching courses with international dimensions. These included former dean Thomas Ehrlich (international law and the use of force), former University president Donald Kennedy (legal aspects of biodiversity), and a range of experts on international business operations and transactions, international conflict and negotiation, international security and arms control, international environmental law, local economic development, high-tech crime, international human rights, refugee affairs, and Chinese law. ■

Suzman Recalls South Africa's Struggle for Democracy



Helen Suzman

Helen Suzman—long the sole opponent of apartheid in the South African legislature—received the School's Jackson H. Ralston Prize and presented the 1996 Ralston Lecture on March 20 in Kresge Auditorium.

"Her persistence and optimism kept alive the possibility of a just society in South Africa," said Dean Paul Brest in presenting the prize, "and she remains a voice of conscience for the entire world." Here are excerpts from Mrs. Suzman's Ralston Lecture:

Her gadfly role. "On one occasion, a National Party member got very irritated with my questions, and said, 'You only ask these questions to embarrass South Africa abroad.' So I said, 'It's not my questions that embarrass South Africa—it's your answers.'"

Getting the truth out. "My value as a member of parliament was much enhanced when the government declared states of emergency. According to the law for such times, the press was forbidden to re-

port any unrest-related activities. The country was not to know what was going on in the townships—particularly police action, which was pretty violent.

"But the government was very odd: totalitarian in many respects, but with a genuine respect for the institution of parliament. As a duly elected MP, I was given the privileges of all MPs, one of which was to raise matters in parliament. And once these matters were raised in parliament, the press was free to report them. It was very useful to have me there, and I used the press to great effect."

The trouble with sanctions. "I must tell you that I was against economic sanctions. I knew that if we lost our export markets in labor-intensive occupations like coal and other minerals, sugar, wine, and fruit, thousands of black people would lose their jobs with no compensation whatever.

"Boycotts expedited the end of apartheid, but at dire cost. I describe it as curing the disease and killing the patient—which it very nearly did."

The recent election. "The first democratic election ever held in South Africa under the proportional representation system took place in April 1994. . . . There was an enormously high percentage of voters—86 percent.

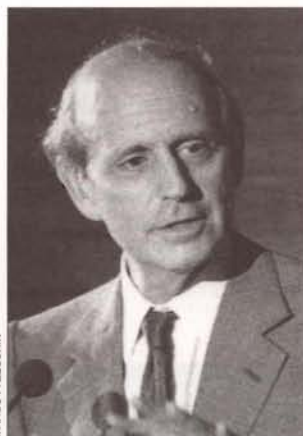
"Another interesting result was the number of women elected to parliament—101 out of a total of 400 MPs, which is probably one of the highest proportions in the world."

The future. "I am hopeful, though not necessarily a starry-eyed optimist, about future prospects. . . . The government faces enormous problems, and it is quite possible that the African National Congress is discovering, as some wag once put it, that it is easier to struggle than to govern."

The text of Mrs. Suzman's prepared address appears, along with Dean Brest's introduction, in the current Stanford Journal of International Law: 32 Stan. J. Int'l L. 149 (1996). ☎ 415/723-1375, fax 723-0501, Web site: <http://www-leland.stanford.edu/group/SJIL> ■

First-Year Dinner

Justice Breyer Urges Broad View of Lawyer's "Job"



Stephen Breyer

Associate Justice Stephen Breyer (AB '59) of the U.S. Supreme Court was the featured speaker at the 1L dinner on May 2. Hosted by the Board of Visitors, the annual event welcomes students into the extended community of Stanford lawyers and affirms the service ethic shared by the School and its graduates. Here are some excerpts from Justice Breyer's talk.

On the Supreme Court. "The inside story is that there is no inside story.

While no institution is 100 percent flawless, the twelfth-grade civics text account is in fact a rough description of how it does work, which is a rough idea of what the people in 1789 had in mind as the way it ought to work."

On public opinion. "The numbers on trust in public institutions, private institutions, business—everything—are down. This is a puzzle. I don't think our institutions work perfectly, but they don't seem noticeably worse than in the past. The decline in trust seems to be contrary to the evidence of history."

Foreign perspectives. "I've been lucky enough to meet my counterparts in Eastern European courts, Russian courts, and around the world. One of the matters that interests them is how to create institutions that will protect human liberty as well as ours do. They seem to see our particular system as

Continued on next page

Visiting Luminaries Shed Light on Current Issues

A succession of movers and shakers came to the School during the spring term—Justice Breyer and Mrs. Suzman among them (see page 17). Here are some others who contributed to the discourse:



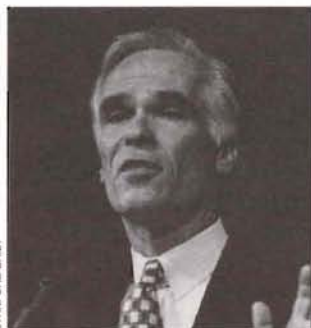
Anna Eshoo

Anna Eshoo
U.S. Representative to Congress (14th Calif.)
When: April 12, 1996
Topic: Environmental Issues and Legislation
Sponsor: SLS Environmental and Natural Resources Law Program

"There are times when the damage done to the environment can indeed be permanent. We don't own this planet; we are its trustees."

Gil Garcetti
District Attorney, Los Angeles County
When: April 12, 1996
Topic: Prosecution as Public Service
Faculty host: Prof. Robert Weisberg
Sponsor: Latino Law Students Association

"My job involves more than just reacting to yesterday's crime. It also involves trying to get the



Gil Garcetti

community focused on our tomorrows. . . .

"I'll try anything to get gang members to straighten out. The goal is to help them lead productive lives."

Craig Johnson '74
Founding partner, Venture Law Group, Palo Alto
When: April 12, 1996
Topic: Practicing Technology Law in Silicon Valley
Sponsor: Venture Law Group and Stanford Law School

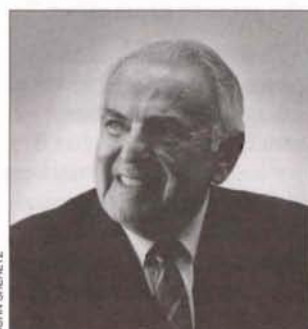


Craig Johnson '74

"I think the most challenging legal work—the most difficult, total judgment work—is involved in getting a company started. You're painting on a blank canvas. That, of course, is just what makes venture law so fascinating."

Hon. Abner J. Mikva
Former U.S. Congressman, Chicago federal district judge, and White House counsel
When: April 8–11, 1996
Sponsor: Stanford Law School faculty
Faculty host: Dean Paul Brest

Judge Mikva met informally with faculty and students in several sessions over his four-day visit. One highlight: a discussion of "Judaism and the Constitution" sponsored by the campus Hillel organization.



Hon. Abner J. Mikva



Newton Minow

Newton Minow
Former FTC chair and co-author of *Abandoned in the Wasteland* (1995)
When: May 1, 1996
Topic: Children, TV, and the First Amendment
Host: Prof. Marc Franklin
Sponsor: Stanford Law Association

"In 1961 when I spoke of a 'vast wasteland,' I was thinking of an emptiness, a fallow field waiting to be cultivated. I never dreamed we'd fill it with toxic waste. . . . Let us do for our children now what we should have done long ago." ■

Breyer *Continued from previous page*

not perfect—but as something valuable and worth learning from."

Advice to lawyers. "Doing your job properly means more than just sitting at a desk. It means getting together in meetings; it means bar associations and community activities. The point of those meetings is to improve areas of the law through discussion and consensus. . . .

Four or five years from now, when they have you in an office and tell you that you're supposed to be there

10 hours a day, 7 days a week, I hope you'll remember to say, 'Wait a minute. That's not the whole job. I have other professional responsibilities, too.'

"Another part of the job may be to get out and talk to people in the community to see how they approach law and how they approach their lives. . . . As lawyers we have a responsibility to make certain that the law works well for the people it's meant to serve." ■

School Invites Practitioner Input

Some 80 alumni and friends converged on the School in May for the annual Board of Visitors meeting. Their mission, in the words of Chairman Pamela Ann Rymer '64: "To shed light on issues of real concern, where our input can be valuable."

New members of the Board received a special welcome from Judge Rymer, who was completing her third year at the helm. Incoming chair James Koshland '78 and Professor Robert Weisberg '79 also attended the new-member orientation session. Speaking for the Dean and faculty, Weisberg said: "Visitors are people who are very good at giving advice to their clients, and we are your client."

The focus of this year's Board of Visitors meeting was new realities in the working world and how Stanford Law School can best prepare students for this world. Three sessions

were devoted to the subject, including one on the path from associate to partner. Participants in the day-long meeting included not only senior law firm partners and mid-career attorneys, but also recent graduates with fresh experience of the transition from schooling to practice.

The strong representation of younger alumni is part of a conscious effort by the Board's executive committee and the School to increase the range of advice and perspectives the Board is able to provide. Linked to this are increased opportunities for Board members to interact with current students.

Other features of the annual meeting included Supreme Court Justice Stephen Breyer's talk at the 1L Dinner (see page 17); the Dean's State of the School report and discussion; informal talks by recently arrived professors John Donohue and George



Robert Keller '58, Elaine Chiew (then 3L), and J. Sanford (Sandy) Miller '75 at one of several Visitor-student events.

Fisher; a report on the recent telephone survey of Stanford Law alumni (see *STANFORD LAWYER*, Spring 1996, pp. 18-19); and a music-filled Cinco de Mayo celebration.

FRUITFUL DISCUSSION

The working sessions were introduced and moderated by Dean Brest. Noting that there is much talk about "the decline of satisfaction in being a lawyer," he invited the Visitors to give their views on trends in the legal profession. The Dean specifically mentioned the increased emphasis on bill-

able hours; recruitment and retention of minorities; and barriers to the advancement of women. Can the profession and legal educators do anything to improve present conditions? he asked. Or is it "just the way the market is?"—a conclusion that we should be reluctant to reach."

Here is a sampling of comments from the Visitors:

"We never heard the term 'quality of life' five or six years ago. We worked 2500 hours. 'I had to do it; Why shouldn't you?'—It's an emotional reaction. We had a young guy who said he was burned out after six months with the firm. Give me a break!"

—LeRoy Bobbitt '69

"The '60s and '80s are over. The economy is changing due to globalization and computerization. Work is going to be different. We're not going to see the collegiality of the '60s and '70s or the income of the '80s again. There's nothing the School can do about it except to make sure students understand it."

—Robert Keller '58

Judge Pamela Ann Rymer '64 (then Board chair) with Judge Susan Illston '73, James Koshland '78 (incoming Board chair), Carlos Watson '95, and G. Bradford (Brad) Jones '81 in a breakout discussion.



"The people who are really working hard nowadays are the senior partners. They're saying, 'What happened? We thought we'd be leading normal lives by now.'"

"We have to reinvent the legal profession. We're trying in our firm to let the nonworkaholics who are good but don't work as hard as the workaholics get paid commensurately."
—John Huhs, JD/MBA '70

"Competition may not make the profession as nice, but it is a good thing for society. Clients should have the right to require that lawyers provide first-rate service."

—John Larson '62



Robert Taylor '86

IDEAS AND SUGGESTIONS

"Paying by the hour is a ridiculous business principle. If you wanted to hire a surgeon and he said the cost of surgery would depend on how many hours it took to do the operation, you'd look for another surgeon!"

—Paul Ginsburg '68

"My firm in Minneapolis is mellow, and as long as I bill the hours at a steady, reasonable rate, I'm fine and on partner track."

—Deborah Swenson '95

"It's often presented as if there were two choices—work in public interest and have a life, or work for a firm and make a lot of money. There are other choices. We have to make sure our students are aware those choices exist."

—Judge Susan Illston '73

"It's difficult for minorities and women—going into a world where, on first blush, they don't fit in—to find mentors and role models. Maybe a role for the Law School is in organizing a mentoring program."

—Fred Alvarez '75

ONGOING DIALOGUE

Dean Brest called the resulting discussion "most helpful and productive. I look forward to working with you further on these very serious problems," he said.

Stanford is particularly able to address them, the Dean noted, because "we have perhaps the biggest cluster of scholars doing research on the legal profes-



PHOTOS BY MARCO P. ZECCHIN

Visitors Isaac Stein '72, Lance Wickman '72, and a happy host of Visitors and students.

sion outside the American Bar Foundation."

Dean Brest followed up the May meeting with an announcement that Board member Robert Taylor, JD/MBA '86, has agreed to chair an advisory group on the legal profession. This group of experienced practitioners, said Brest, will meet periodically with the Dean and faculty to "help us better understand and focus on the issues."

Readers interested in participating are welcome to contact Paul Brest at the Office of the Dean, Stanford Law School, Stanford, CA 94305-8610, ☎ 415/723-4455, or e-mail: pbrest@leland.stanford.edu. ■

Harle Montgomery, Bryant Garth '75, and Brooksley Born '64 at a plenary session.



Teaching and Research

Professors Named to First Two Campaign Chairs and Four Standing Professorships

The first two professorships to be endowed during the ongoing Campaign for Stanford Law School now have their inaugural holders. Both eminent members of the Law School faculty, the professors were confirmed in their new positions on October 8 by the Stanford University Board of Trustees.

Earlier in the year, the University approved the succession of four other notable faculty members to previously established chairs.

"Each of these six professors exemplifies the Law School's ongoing commitment to outstanding teaching and scholarship," observes Dean Paul Brest. "We are grateful to the donors whose generosity created these permanent professorships, which do so much to foster innovation and excellence at Stanford Law School."

Professors named to an endowed professorship are receiving the highest honor an educational institution can bestow. The title attached to the professorship may be used by the faculty member all his or her life.

Endowed professorships—often called chairs—are created by major gifts and named for the donor or for a person or persons the donor wishes to honor. As endowments, the principal of the gift is preserved and the professorship funded out of in-

come, making the chair and the name or names attached to it permanent for the life of the institution.



Kathleen Sullivan

NEW PROFESSORSHIPS

Kathleen M. Sullivan
Stanley Morrison
Professor of Law

Kathleen M. Sullivan is one of the most influential legal scholars of her generation and an authority on constitutional law, particularly with respect to issues involving the First Amendment. She has argued cases before the U.S. Supreme Court and frequently provides expert commentary on such television news broadcasts as *NewsHour* and *Nightline*.

A member of the Stanford Law faculty since 1993, Sullivan previously taught at Harvard Law School, where in 1992 she was the inaugural winner of its annual teaching award. The Stanford Law School Class of 1996 presented her with the John

Bingham Hurlbut Award for excellence in teaching at Commencement in June (see pages 24-25).

The Stanley Morrison Professorship is named in honor of a 30-year member of the faculty (1924-55) by former student Henry Wheeler '50 and his wife, Joan. Mr. Wheeler became a partner, now of counsel, with Hutchins, Wheeler & Dittmar of Boston. He has also been a director of Fieldcrest Cannon Inc., an ABA officer, and editor of *The Business Lawyer*. Joan T. Wheeler is a community leader who served for many years on the board of Parents and Children Services, Inc. and co-founded the Massachusetts Parental Stress Line. Also supportive of the arts, she has been a director of the renowned New England Conservatory.

An extended article on the Morrison chair, as well as the lead trust approach to its funding, will appear in the forthcoming *Campaign Brief* (#3, Spring 1997).

Robert Weisberg
Edwin E. Huddleson, Jr.
Professor of Law

Robert Weisberg is a Stanford law alumnus (Class of 1979) as well as a member of the faculty since 1981. He has served as the Law School's Associate Dean for Academic Affairs and is currently the University Vice-Provost for



Robert Weisberg '79

Faculty Recruitment and Development. A gifted teacher, he received the Law School's Hurlbut Award in 1985 and the Associated Students of Stanford University Award for Excellence in Teaching in 1991.

Weisberg's research focuses on criminal and commercial law, and he recently co-edited the third edition of *Criminal Law: Cases & Materials*, the text that he conceived with Professor John Kaplan.

The Edwin E. Huddleson, Jr. Professorship is the first ever created by a law firm at Stanford and is believed to be the first of its magnitude for a law school chair in the western United States. Approved by the Stanford Trustees on April 9, it is endowed by the Cooley Godward Castro Huddleson & Tatum law firm, together with friends and family of the late Mr. Huddleson. An account of the establishment of the Huddleson chair appeared in the first *Campaign Brief* (February 1996).



Mark Kelman

STANDING PROFESSORSHIPS

Mark G. Kelman
*William Nelson Cromwell
Professor of Law*

A member of the faculty since 1977, Kelman is known for his searching analysis of assumptions underlying law and the legal system, as seen in his book, *A Guide to Critical Legal Studies* (Harvard University Press, 1987).

Kelman served from 1994 to 1996 as academic coordinator for Stanford Law School.

The Cromwell professorship was established in 1948 through a bequest by its namesake, William Nelson Cromwell, a founding partner of Sullivan & Cromwell of New York City.

Miguel A. Méndez
*Adelbert H. Sweet
Professor of Law*

Before joining the Stanford faculty in 1977, Méndez amassed broad experience as a legislative assistant, legal aid director, and public defender.

He is now a leading expert on criminal law and procedure, the author of definitive books on evidence—notably *Evidence: The California Evidence Code & the Federal Rules of Evidence* (West Publish-



Miguel Méndez

ing Co., 1995)—and an innovative teacher.

The Sweet professorship was established in 1987 with a bequest from Elaine Sweet, a 1919 Stanford graduate in history. Her father, Adelbert H. Sweet, after whom the chair is named, was among the founders of the prominent San Diego law firm now known as Luce, Forward, Hamilton & Scripps.



Margaret Jane Radin

Margaret Jane Radin
*William Benjamin Scott
and Luna M. Scott
Professor of Law*

One of the nation's foremost scholars on property theory and on law and social philosophy, Radin was named to an endowed chair at the University of Southern California before moving to Stanford in 1989.

She is currently examining legal and ethical issues raised by contract pregnancy and other transac-

tions involving the selling or renting of things close to persons, like bodies or body parts, as explored in her latest book, *Contested Commodities* (Harvard University Press, 1996). An interview with her on this subject appears on pages 10–13ff.

Also interested in legal and social issues raised by the flow of information and entertainment via computer networks, Radin teaches a course in cyberspace legal issues. She is co-founder and co-director of the Cyberspace Law Institute sponsored by Stanford and Georgetown.

The Scott professorship was endowed in 1970 by Josephine Scott Crocker in honor of her late parents. A 1923 graduate of Stanford, Mrs. Crocker saw three children earn Stanford bachelor's degrees and two also earn law degrees: Donald W. Crocker, JD '58 and Benjamin Scott Crocker, JD '58. The names of the late Mrs. Crocker and of Benjamin, who died in 1973, are memorialized in two other Law School professorships established by the Crocker family, whose many donations to Stanford Law School also include a faculty scholar fund.

Barton H. (Buzz) Thompson, Jr.
*Robert E. Paradise
Professor of Natural
Resources Law*

The architect of Stanford Law School's environmental and natural resources law program, Thompson takes a pragmatic, problem-solving approach to the issues surrounding the environment and property rights. His principal writings focus on constitutional protections of economic in-



Buzz Thompson '76

terests and on water policy—the subject of a book he co-authored, *Legal Control of Water Resources* (West Publishing Co., 1991).

Before joining the Stanford faculty in 1986, Thompson earned a double degree (JD/MBA '76) from Stanford, clerked for Chief Justice William H. Rehnquist of the U.S. Supreme Court, and earned partnership with the Los Angeles law firm of O'Melveny & Myers.

He received Stanford's Hurlbut Award for Excellence in Teaching in 1993 and the inaugural Robert E. Paradise Fellowship for Excellence in Teaching and Research in 1995.

The Paradise professorship was endowed in 1982 with a gift from Robert E. and Ione Paradise of Arcadia, California. Mr. Paradise, who has since died, earned two degrees (AB '27, JD '29) with great distinction from Stanford, practiced law in Los Angeles for many years, served as general counsel to major oil companies, and ultimately became an oil producer himself. Mrs. Paradise, a UCLA graduate, is a former president of the California division of the American Association of University Women. ■

Something Old, Something New, Something Global, The Long View

There's a comforting predictability about commencement ceremonies: the banners, the academic gowns, the sonorous roll of diploma recipients, and exhortations to go out and do good. All very familiar and satisfying.

Against this background, any differences—from school to school or year to year—become all the more interesting and significant. On June 16 at Stanford Law School, there were these differences:

- A new international contingent of degree recipients: the 13 inaugural graduates of the Stanford Program in International Legal Studies (see pages 14–15). Other graduates from abroad included two additional MSL recipients and two JSD recipients.



Hurlbut winner Kathleen Sullivan joined Dean Brest at the head of the procession. Jeehye Park was the standard bearer.



Above: David Sloss shared his moment of glory with offspring.

Left: Some of the 227 degree recipients.

Hurlbut Teaching Award
**Sullivan Speaks of
the Long Haul**

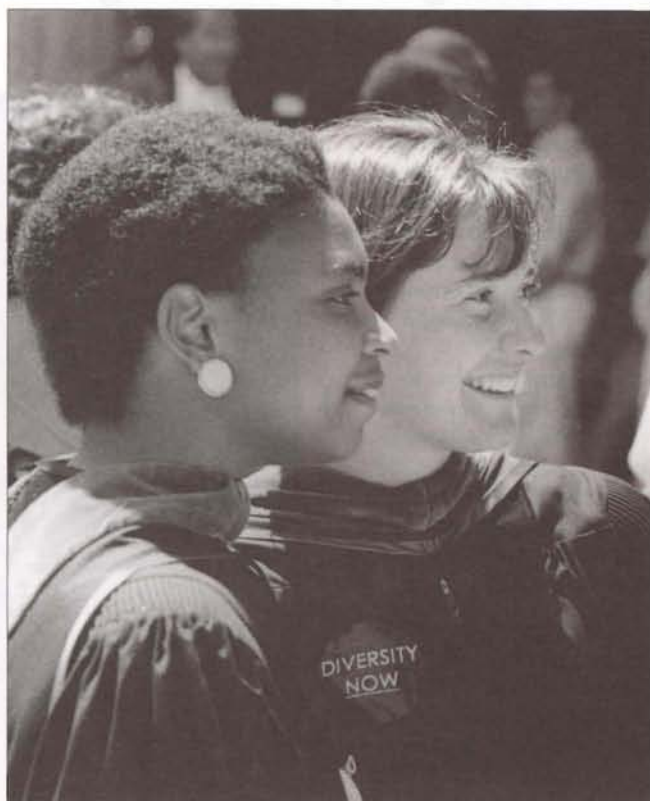
Kathleen M. Sullivan, the 1996 Hurlbut Award winner and Commencement speaker, had this to say to the graduating class:

The tasks ahead. "You will be among the first lawyers of the 21st century. To you will fall the work of organizing the Internet, controlling world climate change, saving the Medicare trust fund, running newly global businesses, checking the centrifugal forces of ancient tribalisms in international affairs, and reconciling the respective roles of government and markets at home."

The lawyer's role. "I urge you to remember that the degree you pick up today represents a code of conduct as well as a technical license. It represents a commitment to professionalism and to process—sometimes long and frustrating process, during which you think your patience will explode. But remember that you're in it for the long haul."

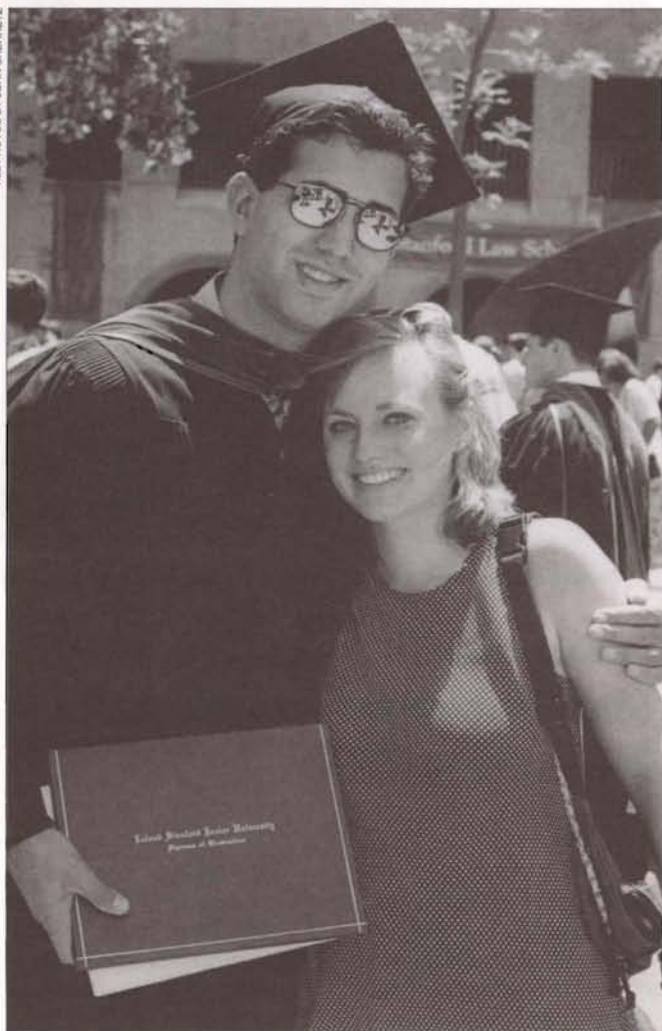
The ultimate reward. "Your accomplishments in the future will be those of a lifetime measured as a whole. When you look back at your life from the other end, you will ask not just how many glittering ornaments adorn your résumé, or how clever your arguments have been.

"You will ask if you were brave and bold and true and just. You will ask whether you sold your great skills and greater talents to the highest bidder, or shared them with some of those in greater need. You will ask whether you took responsibility for your actions, or blamed them on someone else's snafu. You will ask whether you took a higher road than your enemies, and whether you treated those less powerful than you as you would be treated yourself. Only then will you know that good conscience is the only sure reward. Please try to remember that in the meantime." ■



Above: Class President Andrea Picciotti (right) with fellow grad Michelle Bonner following the ceremony.

Below: Amy Spence and well-wisher.



Left: Drew Katz, having a very good day.

Above: Nalini Philipose and co-celebrants.



HONORS AND AWARDS

The top scholar in the graduating class was John B. Owens of Cupertino via UC-Berkeley. In addition to his new title of 1996 Nathan Abbott Scholar, he holds the 1995 Second-Year Honor. Owens also received the Steven M. Block Civil Liberties Award for distinguished written work on issues relating to personal freedom.

Lisa R. Eskow received the Urban A. Sontheimer Third-Year Honor for having the second-highest cumulative grade point average in the graduating class. A New Yorker and Harvard grad, she received a Hilmer Oehlman, Jr. Prize in 1994 for outstanding work in the first-year Research and Legal Writing Program.

Also announced at the June 16 ceremony were the 21 electees to the Order of

the Coif. In addition to Owens and Eskow, they are Alexis D. Bircoll, Sarah S. Gannett, Karma M. Giulianelli, Jonathan E. Gross, Craig D. Jacoby, Diane Kelleher, Lisa C. Kern, Scott A. Kupor, Sandra M. Lee, Andrew Y. C. Luh, Rebecca L. Pennell, Michael T. Risher, Alan C. Smith, Carl L. Spataro, Jr., Kevin P. Steinberg, Cynthia V. Stewart, Michael B. Taylor, Friedrich von Lohmann, and Andrew E. Weis.

A host of other awards to members of the Class of 1996 appear in the Commencement program. For a copy, contact the Special Events Office, Stanford Law School, Stanford, CA 94305-8610, ☎ (415) 725-8985, fax 725-0253, e-mail: Law.Alumni.Relations@forsythe.stanford.edu. ■

- An uncommonly eloquent address by Professor Kathleen Sullivan, chosen by the graduating class to receive the 1996 John Bingham Hurlbut Award for Excellence in Teaching (see box on opposite page).

- A large number of local alumni, responding to the now open invitation to the Stanford Law School Commencement.

- A quiet demonstration by about 20 graduating students wishing to show support for faculty diversity—a goal shared by the faculty and Dean.

- A frank talk by the Dean on a current political controversy of concern to Stanford and educational institutions generally: affirmative action in the admissions process (see "From the Dean," pages 2-3ff).

This year 227 individuals received Stanford Law degrees. Of those graduates, 204 earned the professional JD degree, 19 the above-mentioned JSM, and 4 the doctoral-level JSD.

Moot Court

Justice Breyer Heads Kirkwood Bench



Hons. Norris '54, Breyer, and Werdegarr at Stanford

Justice Stephen Breyer (AB '59) of the United States Supreme Court presided over the School's 1996 moot court finals, the Marion Rice Kirkwood Competition, on May 3 in Kresge Auditorium.

While at Stanford, the High Court justice also gave a talk to students attending the Law School's annual Board of Visitors-sponsored 1L Dinner (see page 17).

Justice Breyer was joined for the moot court competition by Judge William A. Norris '54 of the U.S. Ninth Circuit Court of Appeals and Justice Kathryn Mickle Werdegarr of the California Supreme Court.

This year's finals pitted a 2L team against a 3L team. Ultimately, second-years Ara Lovitt and Colin Moran were adjudged the

best team of advocates; Lovitt also won the Walter J. Cummings Award for Best Oral Advocate.

Third-years Alan Smith and Diane Kelleher were awarded the Walter J. Cummings Award for Best Brief.

As finalists in the year-long moot court program, both teams also received Mr. and Mrs. Duncan L. Matteson, Sr. Awards. Members of the Moot Court Board receive recognition in the form of Law-rason Driscoll Moot Court Awards. ■



Judges Archer, Rich, and Newman with 2Ls Giddings and Kuo

Intellectual Property

Stanford Shines in National Moot Competition

Two Stanford law students—Bart Giddings and Erica Kuo—bested nearly 50 other teams nationwide to place second in the national Giles Sutherland Rich Moot Court Competition last April in Washington, D.C. Sponsored by the American Intellectual Property Law Association, the annual competition is school-blind, so that teams are judged without regard to the reputation of their respective institutions.

Before proceeding to the national finals, Giddings and Kuo competed in the western regionals, where the Stanford 2Ls topped seven teams to win best brief, best team, and best oralist (Giddings).

Their second-place win in the finals earned them the Association's Irving Marcus Award for 1996.

The judges for the final round included the influential Judge Rich for whom the competition was named, plus two other members of the First Circuit Court of Appeals: Glenn Archer, Jr., and Pauline Newman.

Giddings and Kuo both came to law school with strong science backgrounds. Giddings has a PhD in biology from MIT, while Kuo followed undergraduate work at MIT with an MS from UC-Berkeley in physical chemistry.

At Stanford, they have been studying with intellectual property experts Paul Goldstein, William Baxter, and John Barton. "Bart and Erica showed great initiative in entering this competition," says Prof. Goldstein. "We're very proud of their achievement." ■

Faculty Notes

Janet Alexander is publishing an article, "Rethinking Damages in Securities Class Actions," in the forthcoming volume (48) of *Stanford Law Review*. Professor Alexander previously explored the topic at the University of Chicago's Law and Economics Seminar in February.

John Donohue was invited to present his paper "Is the United States at the Optimal Rate of Crime?" in three venues this spring: Cornell Law School, where he was named Distinguished Visiting Fellow in Law and Economics; Toynbee University School of Law in Yokohama, Japan, where he spent a month as a visiting professor; and Tokyo University. Professor Donohue was also the keynote speaker at a conference on Crime in America in Tulsa, Oklahoma.

Thomas Ehrlich draws on his long experience in higher education—including service as dean of Stanford Law School and president of Indiana University—in a book for policymakers and the general public titled *The Courage to Inquire: Ideals and Realities in Higher Education*. With Juliet Frey, he analyzes such issues as the relationship of research to teaching. Professor Ehrlich is now the first Distinguished University Scholar of California State University and a visiting professor at Stanford, where he teaches a seminar on international human rights.

Richard Thompson Ford participated in a Harvard Law School graduate pro-

gram workshop in December on critical race theory, postcolonial studies, law and development, and comparative law. "The Lay of the Land and the Letter of the Law" was his topic in an April talk to UC-Berkeley's Geography Department. And in June he spoke on "New Approaches to International Law" at a conference in Madison sponsored by the Harvard and University of Wisconsin law schools.

Marc A. Franklin, Frederick I. Richman Professor of Law, has been preparing new editions of three widely used textbooks. All now co-authored, they are the 6th edition of *Cases and Materials on Tort Law and Alternatives* (with Stanford Professor Robert Rabin); the 4th edition of *The First Amendment and the Fifth Estate*, including coverage of the Telecommunications Act of 1996; and the 5th edition of *Cases and Materials on Mass Media Law*, along with a 1996 update to the latter.



Fried: Johnson honoree

Barbara Fried is the first recipient of the Deane Johnson Award for Excellence in Teaching and Research. An

expert in taxation and property theory, Professor Fried has practiced tax law in New York City. Her recent publications include "Wilt Chamberlain Revisited: Nozick's 'Justice in Transfer' and the Problem of Market-Based Distribution" in the Summer 1995 issue of *Philosophy and Public Affairs* and "Why Not a Flat Tax?" in the Summer 1996 *Boston Review*. She also just completed a book on the legal realist and economist Robert Hale, forthcoming (1997) from Harvard University Press.

Ronald J. Gilson, Charles J. Meyers Professor of Law and Business, saw his "Corporate Governance and Economic Efficiency: When do Institutions Matter?" published as the lead article in the recent *Washington University Law Quarterly* symposium on path dependency. He delivered a paper, "Venture Capital and the Structure of Capital Markets," at Harvard's Law and Economics Workshop and at the American Law and Economics Association's annual meeting. And he presented "A Dialogue Addressing Political and Economic Factors Affecting Mid-size Businesses" at a Finova/University of Arizona Business School Symposium.

William B. Gould IV, on leave from his position as Charles A. Beardsley Professor of Law to chair the National Labor Relations Board, has been speaking at home and abroad on a number of subjects. They include "Employee Parti-

cipation and Labor Policy: Why the Team Act Should be Defeated and the National Labor Relations Act Amended," "In the Wake of the Blizzard of '96 and the Government Shutdowns: Part II of the Clinton Board's Decisions," and "Current Directions of Labor in the United States" (this last in Tokyo, honoring the 50th anniversary of the Japan Labor Relations Commission).

In a different vein, he kicked off the University of Maryland's first Annual Hughie Jennings Memorial Lecture Series with "My Fifty Years in Baseball: Ways in Which the Game Has Changed and Stayed the Same."

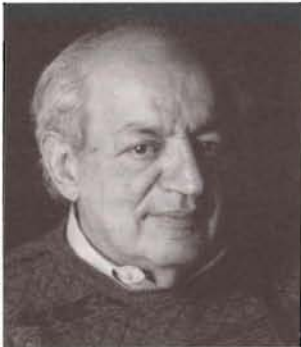
Henry T. Greely is the chair of the steering committee of Stanford University's newly formed Program in Genomics, Ethics, and Society and the principal author of the Human Genome Diversity Project's Draft Model Ethical Protocol for Collection of DNA Samples. He is bridging C. P. Snow's "two cultures" with articles explaining the Human Genome and Human Genome Diversity Projects in the March *Utne Reader* and the summer *Cultural Survival Quarterly* and with presentations to scholarly and general audiences, including New Zealand's Legal and Philosophical Society. Also concerned with health care delivery issues, Professor Greely speaks frequently at medical gatherings.

Joseph A. Grundfest is supervising the construction of the first on-line motions



Grundfest: Crocker Scholar

practice facility on the Internet, as well as the most comprehensive securities fraud class action database. He is also engaged in research on the application of state-of-the-art options theory to business litigation. These and other achievements on the leading edge of law and business have earned him the Stanford title of Helen L. Crocker Faculty Scholar.



Gunther: LL.D. (hon.)

Gerald Gunther, William Nelson Cromwell Professor of Law, Emeritus, has received an honorary LL.D. (his fifth) from Valparaiso University in Indiana. He has joined Stanford President and Law Professor Gerhard Casper as co-editor of the annual multivolume publication *Landmark Briefs and Arguments of the Supreme Court of the U.S.: Constitutional Law*. Professor Gunther's award-winning biographical study, *Learned Hand: The*

Man and the Judge, is now available in a paperback edition from Harvard University Press.

Bill Ong Hing has left Stanford and joined the San Francisco/Palo Alto office of Baker & McKenzie, where he is focusing on expanding and strengthening the immigration practice of the multinational law firm.

Mark G. Kelman has been named to the William Nelson Cromwell Professorship in Law (see page 22). He and Gillian Lester (JSM '93) of UCLA continue to write on ethical and legal dilemmas relating to the disabled. Their latest collaboration, "State Disparities in the Diagnosis and Placement of Pupils with Learning Disabilities," is slated for publication in the *Journal of Learning Disabilities*. Kelman has also recently served as consultant for Canada's Center for Equality Rights in Accommodation on a suit surrounding Ontario landlords' use of rent-to-income ratios.

William C. Lazier, Nancy and Charles Munger Professor of Business, continues to lend his management skills to the Stanford community. He is currently chair of the oversight committee for the Stanford Golf Course and a member of the committee to review the University's extensive dining and housing operations.

Linda A. Mabry wrote a guest column about the late Secretary of Commerce, Ron Brown, which appeared in the April 18, 1996, *San Jose Mercury News*. Mabry met Brown in January of 1993 to discuss the possibility of her becoming an Assistant Secretary of Commerce. She

decided instead to join the Stanford law faculty.

J. Keith Mann, Professor of Law, Emeritus, in his role as the U.S. Supreme Court's Special Master in *United States of America v. State of Alaska*, has concluded the 12-year undertaking by presenting his findings and recommendations to the Court. His 565-page report, which was accepted and filed for review in May, provides a definitive study of the legal ownership of the coastal submerged lands bordering Alaska's resource-rich North Slope. More than \$1.4 billion in revenues from the disputed lands awaits distribution.

Miguel A. Méndez has been named to the Adelbert H. Sweet Professorship in Law (see page 22). At the American Association of Law Schools' annual meeting last month, he played a leading role in an Evidence Section panel discussing the impact of new social science insights on the admissibility of character evidence—the subject of an article he recently published in the *Emory Law Journal* (Vol. 39). While at the 1996 AALS gathering, Professor Méndez also participated in a panel discussion on teaching approaches to the use of scientific evidence and expert testimony.

John Henry Merryman, Nelson Bowman Sweitzer and Marie B. Sweitzer Professor of Law, Emeritus, recently addressed the conflict between archaeologists and antiquities collectors over the market in undocumented antiquities. His commentary, titled "The Antiquities Problem," appeared in the December 1995 *Public Archaeology Review*.

A. Mitchell Polinsky, Josephine Scott Crocker Professor of Law and Economics, gave two lectures at George Mason University Law School in April, one on the economics of punitive damages and the other on the economic theory of public enforcement of law. Other talks included a paper on repeat offenders at a conference on law and economics sponsored by the National Bureau of Economic Research in July in Cambridge, Massachusetts. Professor Polinsky and a UC-Berkeley colleague, Daniel L. Rubinfeld, are co-authors of "Optimal Awards and Penalties When the Probability of Prevailing Varies Among Plaintiffs," appearing in the summer 1996 *RAND Journal of Economics*.

Robert L. Rabin, A. Calder Mackay Professor of Law, discusses theories of justice underlying the tort system in the June *Yale Law Journal*. Professor Rabin has made two recent trips to Washington, D.C. He lec-



Rhode: Bergreen Scholar

tured on the teaching of damages and compensation systems at an AALS Conference on Teaching Tort Law. And he organized and moderated the panel presentations for the

*Continued on page 29
(following the Annual Report)*

Faculty Notes

Continued from page 28

two-day annual meeting of the tobacco policy and evaluation program that he directs for the Robert Wood Johnson Foundation. Rabin also provides expert commentary on tobacco liability and litigation issues in the press and on radio news shows like KQED's *Morning Edition*.

Margaret Jane Radin has been named to the William Benjamin Scott and Luna M. Scott Professorship in Law (see page 22). Her other major news is the publication of her book *Contested Commodities* by Harvard University Press in May. The book challenges the dominant economic style of public policy thought and explores why we should not conceive of everything as a commodity. For more on this subject, see the interview with Professor Radin beginning on page 10.

Deborah L. Rhode is the School's new Bernard D. Bergreen Faculty Scholar, an honor that encourages and supports research by outstanding younger members

of the faculty. In addition to her scholarly writings, Professor Rhode contributes a bi-monthly column to the *National Law Journal*. Topics this spring included the disparity between the workplace realities of male and female lawyers and problems that arise when no-fault divorce laws are blamed for high rates of marital dissolution.

Kenneth E. Scott, Ralph M. Parsons Professor of Law and Business, Emeritus, was at George Mason University School of Law in May to talk about Columbia professor Mark Roe's book on corporate governance, *Strong Managers, Weak Owners*, which contends that the U.S. system of fragmented stockholdings and dominant managers is the product of political forces and restrictions, not of the economic imperatives of large-scale enterprises. Professor Scott offered a critique of the book's positive thesis and normative implications.

William Simon, Kenneth and Harle Montgomery Professor of Public Interest Law, delivered lectures at Harvard, William & Mary, and the University of Denver on lawyers'

ethics—the subject also of his forthcoming book from Harvard University Press, *The Practice of Justice*. He recently had an article, "Legal Structure of the Chinese 'Socialist Market' Enterprise," published in *The Journal of Corporation Law*. Also active in public service, Simon has joined the board of the East Palo Alto Community Law Project.

Kathleen Sullivan has been named to the new Stanley Morrison Professorship in Law (see page 21). Also this spring, Professor Sullivan was chosen by the graduating class to receive the John Bingham Hurlbut Award for Excellence in Teaching and to deliver the Commencement keynote address (see pages 23–25). In July she helped wrap up the Supreme Court term on National Public Radio and the *NewsHour* with Jim Lehrer. And in August, her essay "In Defense of Federal Power" appeared in the *New York Times Magazine*.

Kim Taylor-Thompson has an article, "Individual Actor vs. Institutional Player: Alternating Visions of the Public Defender," slated for publication in the forthcoming *Georgetown Law Review*. After teach-

ing at Stanford this fall, Professor Taylor-Thompson will move to New York, where both she and her husband, Tony Thompson, will assume tenure-line clinical appointments at New York University Law School.

Barton H. "Buzz" Thompson, Jr. has been named to the Robert E. Paradise Professorship in Natural Resources Law (see page 22). Professor Thompson previously held the Paradise Fellowship for Excellence in Teaching and Research.

Robert Weisberg is the School's inaugural holder of the Edwin E. Huddleson, Jr. Professorship in Law (of which more on page 21). Professor Weisberg's previous honors include serving as the inaugural Bernard E. Bergreen Faculty Scholar. This spring he participated in a SUNY-Buffalo Law School symposium on the recently enacted New York death penalty law. And in August, Weisberg and James Liebman '77, now a Columbia professor, presented an analysis of the new habeas corpus reform law at the annual summer Ninth Circuit Judicial Conference. ■

From the Dean

Continued from page 3

of tomorrow's society. In an ideal world, one could achieve this end without affirmative action, and that should be our ultimate aspiration. But we just are not there yet.

SOCIOECONOMIC FACTORS WILL NOT SUFFICE

It has been suggested that admissions based solely on socioeconomic disadvantage might maintain racial diversity as well. Socioeconomic diversity is valuable in its own right, and it is *already* an important factor in Stanford's admissions process. But neither our experience to date, nor a preliminary study of the demography of our applicant pool, suggests that socioeconomic diversity alone can produce a racially diverse student body.

Much of the explanation for this lies in the word "minority." For example, while many African Americans come from disadvantaged backgrounds, many whites do as well; and the U.S. population has six times more whites than African Americans. Unless Stanford were to make socioeconomic disadvantage virtually the *sole* criterion for admission, to the exclusion of all other factors, the diversity of our student body would decline precipitously if we could not give some consideration to race along the lines approved by the Supreme Court in *Bakke*.

THE IMPORTANCE OF FREE DISCOURSE

Institutions of higher education should be hesitant to take positions on public issues, because our central missions of teaching and scholarship depend on freedom of inquiry—and this freedom can be inhibited by official

institutional views. But universities have no choice but to determine their own practices with respect to curriculum, hiring, and admissions. And as President Gerhard Casper recently noted, a diverse student body is essential to Stanford University's mission. Observing that it is our task "to find and educate those who can become the leaders of the future in a multiethnic and multiracial society," President Casper explained that "this cannot be done unless the country's demographic diversity finds a presence on campus. We do not admit minorities to do them a favor," he said. Rather, "we want students from a variety of backgrounds to help fulfill our educational responsibilities."

Based on public debates and private discussions about affirmative action while you have been at Stan-

Continued on next page

From the Dean

Continued from previous page

ford—including a heated debate on the Internet earlier this year—I know that this view is not shared by all members of your class. We would indeed be an intellectually impoverished institution if there were unanimity on a question that is so controversial in our society.

As students, you have not hesitated to voice disagreement with Stanford's policies and practices. And I invite you to continue to let the faculty and administration know your opinions about issues that concern you as alumni. For the same reasons that we hope you, as the nation's future leaders, will maintain an open mind on issues of public policy, none of us here at the School regard our judgments as infallible or immune from revision in the light of sound arguments and evidence.

Though it should go without saying, let me conclude by reiterating that diversity and excellence at Stanford Law School are not in tension with each other. Rather, diversity is a prerequisite of excellence. Part and parcel of the enviable reputation enjoyed by Stanford Law School and by you, its graduates, has been an admissions process based on merit—where "merit" has never been defined by raw numbers alone, but by the many factors that conduce to an outstanding student body and to superb members of the legal profession.

There simply is no better group of new lawyers anywhere in the world than Stanford's Class of 1996.

And with that uncontroversial comment, I bid you farewell and godspeed. ■

This graduation talk was based partly on Paul Brest and Miranda Oshige, "Affirmative Action for Whom," in 47 Stan. L. Rev. 855 (1995), which considers the issues more comprehensively.

In Response

Continued from page 5

Dean Brest notes that, given the six-to-one plurality of whites to blacks in America, taking into account disadvantaged socioeconomic status will not produce the number of blacks in Stanford admissions that the present system does. I will return in a moment to whether that is the right issue. For now, let me simply

question whether "socioeconomic status" is indeed the sole alternative to racial criteria.

How about taking into account individual instances of discrimination? Certainly, those are relevant in assessing the cold record an applicant presents, both in terms of the stresses under which a student has lived and in terms of the experiences with observing violations of law that a student could bring to the classroom.

Why does Stanford persist in using only a cold record? There are alumni willing to help with a personal interview process who could at least attempt to find out an applicant's personal history, including actual prejudice suffered (not just on the basis of race, either). How many of those who have done interviews or been interviewed can recount significant facts that turned up only because of the interview?

Here's another alternative I proposed in the University of California context: Let the principal of each of the 10-percent lowest-performing high schools in California be given a "silver bullet" (or a number of them, based on the high school's enrollment) to use to admit a student to UC, even if that student might not otherwise have been admitted. (If necessary, community college courses could be required first, but the student would know an admission to UC was awaiting him or her.) Such a preference would not be on the basis of race, nor race by subterfuge. It would stem, rather, from the obvious point that a resource owned by all the people of the state should have representation from all parts of the state.

Lastly, suppose after trying all these alternatives, that the number of minority students at Berkeley, UCLA, or Stanford still were not as high as under the present rules of affirmative action. The vigorous use of these alternatives would still produce diversity and its values, though perhaps not of the same racial kind. By what right is racial diversity given an absolute veto over all other dimensions of diversity that might be beneficial in a student body? If it isn't—and I suspect Dean Brest would agree it shouldn't be—then we cannot judge *a priori* whether the ultimate result of a student body made diverse through selection criteria other than racial affirmative action is better or worse than a student body made diverse through racially based affirmative action. We don't know the alternative because we haven't tried it.

I've heard it said that Alan Bakke wasn't treated unfairly because he probably could have gone to another medical school. Maybe he could have. But the harm done to Alan Bakke was not a complete denial of the right to become a doc-

tor—the harm was done to him the moment his state looked at the color of his skin. California is the less for having done so. And I would think less of Stanford for doing the same thing. ■

Professor Campbell is currently on leave from the Law School to serve as U.S. Congressman. He formerly served in the U.S. House of Representatives from 1988 to 1992 and in the California State Senate from 1993 to 1995. In 1977-78, the year the U.S. Supreme Court decided the Bakke case, he clerked for Justice Byron White.

Green Diplomacy

Continued from page 9

resource issues, advance sustainable development goals, and help U.S. businesses to sell their leading-edge environmental technology.

BILATERAL EFFORTS

The third element of our strategy is to work bilaterally with key partners around the world—beginning with our neighbors. Whether it is fishing on the Georges Bank or in the Gulf of Mexico, or clean drinking water from the Great Lakes or the Rio Grande, we cannot separate our environmental interests from those of Canada or Mexico.

We are extending our century-old cooperation with Canada on behalf of clean water and flood control in the Great Lakes region. We are improving conservation in our adjoining national park lands. Through the U.S.-Canada Joint Commission, we are protecting human health and natural habitats. And with all our Arctic neighbors, we are establishing a partnership to protect that fragile region.

Our joint efforts with Mexico have grown in importance since NAFTA took effect just over two years ago. Under side agreements on the environment, we have set up new institutions to help communities on both sides of the border safeguard the natural resources they share. Later this year, we will launch an innovative program that will enable business and government leaders from Texas, New Mexico, and Ciudad Juarez to reduce some of the region's worst air pollution. . . .

Through our Common Agenda with Japan, the world's two largest economies are pooling their resources and expertise to stabilize population

growth, to eradicate polio, to fight AIDS, and to develop new "green" technology.

Our New Transatlantic Agenda with the European Union will spur global efforts on such issues as climate change and toxic chemicals. Together, we are already advancing our environmental goals in Central Europe and the New Independent States.

Russia and China are both confronting major environmental problems that will have a profound effect on their future—and on ours.

In Russia, the fate of democracy may depend on its ability to offer the Russian people better living standards and to reverse a shocking decline in life expectancy. From Murmansk to Vladivostok, poorly stored nuclear waste poses a threat to human life for centuries to come. Economic reforms will not meet their potential if one-sixth of the Russian landmass remains so polluted that it is unfit even for industrial use, and if Russian children are handicapped by the poisons they breathe and drink.

We are cooperating with Russia to meet these challenges. In ten days, President Clinton will join President Yeltsin and other leaders at a Nuclear Safety Summit in Moscow which will promote the safe operation of nuclear reactors and the appropriate storage of nuclear materials. Vice President Gore and Prime Minister Chernomyrdin are spearheading joint initiatives to preserve the Arctic environment, reduce greenhouse gases, and promote the management of key natural resources. We are even taking satellite imagery once used to spot missiles and tanks and using it to help clean up military bases and track ocean pollution.

The environmental challenges that China faces are truly sobering. With 22 percent of the world's population, China has only 7 percent of its fresh water and cropland, 3 percent of its forests, and 2 percent of its oil. The combination of China's rapid economic growth and surging population is compounding the enormous environmental pressures it already faces. That is one of the many reasons why our policy of engagement with China encompasses the environment. Later this month, Vice President Gore will launch an initiative that will expand U.S.-China cooperation on sustainable development, including elements such as energy policy and agriculture.

In other bilateral relationships, we have created partnerships that strengthen our ties while moving beyond the outdated thinking that predicted an inevitable struggle between North and

South. Under the Common Agenda for the Environment we signed last year with India, for example, we are cooperating on a range of shared interests from investing in environmental technologies to controlling pesticides and toxic chemicals. During my trip to Brazil last month, we strengthened a similar Common Agenda with agreements on cooperation in space that will widen our knowledge about climate change and improve management of forest resources.

PRIVATE-SECTOR PARTNERS

The fourth and final element of our strategy reinforces these diplomatic approaches by building partnerships with private businesses and nongovernmental organizations.

American businesses know that a healthy global environment is essential to our prosperity. Increasingly, they recognize that pitting economic growth against environmental protection is what President Clinton has called "a false choice." Both are necessary, and both are closely linked.

Protecting the environment also opens new business opportunities. We are committed to helping U.S. companies expand their already commanding share of a \$400-billion market for environmental technologies. This effort was one of many championed by my late colleague and friend, Commerce Secretary Ron Brown. His last mission to Africa helped an American firm win a contract that will protect fisheries and freshwater supplies for 30-million people in Uganda, Tanzania, and Kenya. On my recent visit to El Salvador, I met with U.S. firms, nongovernmental organizations, and their Central American partners who are pioneering the use of solar and wind power stations.

Nongovernmental organizations working with the U.S. Agency for International Development have played a crucial role in advancing our environmental objectives overseas. For many years, for example, the Sierra Club has been deeply engaged in international population efforts, and it made an important contribution to the Cairo Conference. As part of these joint efforts, the World Wildlife Fund is helping to conserve biodiversity in more than 40 countries, the World Resources Institute is confronting deforestation in Africa, and the Nature Conservancy is protecting wildlife preserves across Latin America. Through the State Department's new "Partnership for Environment and Foreign Policy," we will bring together environmental organizations, business leaders, and foreign

policy specialists to enhance our cooperation in meeting environmental challenges.

HEIGHTENED CONCERN

It is the responsibility of the State Department to lead in ensuring the success of each one of the four elements of the strategy that I have discussed today—global, regional, bilateral, and partnerships with business and NGOs. Working closely with the President and the Vice President, I have instructed our bureaus and embassies to improve the way we use diplomacy to advance our environmental objectives.

We will raise these issues on every occasion where our influence may be useful. We will bolster our ability to blend diplomacy and science, and to negotiate global agreements that protect our health and well-being. We will reinforce the role of the Under Secretary for Global Affairs, which was created at the beginning of our Administration to address transnational issues. We will strengthen our efforts with USAID to promote sustainable development through effective environmental and family-planning assistance. And we will reinforce the environmental partnerships that we have formed with the Environmental Protection Agency and the Departments of Defense, Energy, Commerce, Interior, and Agriculture.

In addition, I am announcing today that starting on Earth Day 1997, the State Department will issue an annual report on Global Environmental Challenges. This report will be an essential tool of our environmental diplomacy, bringing together an assessment of global environmental trends, international policy developments, and U.S. priorities for the coming year.

I will continue to work with the Congress to ensure the success of our environmental efforts. The current Congress has slashed critical funding for needed environmental programs at home and abroad. We will press Congress to provide the necessary resources to get the job done.

Our strength as a nation has always been to harness our democracy to meet new threats to our security and prosperity. Our creed as a people has always been to make tomorrow better for ourselves and for our children.

Drawing on the same ideals and interests that have led Americans from Teddy Roosevelt to Ed Muskie to put a priority on preserving our land, our skies, and our waters at home, we must

Continued on next page

Green Diplomacy

Continued from previous page

meet the challenge of making global environmental issues a vital part of our foreign policy.

For the sake of future generations, we must succeed. ■

Hon. Warren Christopher has been the U.S. Secretary of State since the inauguration of the Clinton administration in 1993. An eminent attorney as well as public servant, he spent thirty years—several as managing partner and then chairman—with O'Melveny & Myers of Los Angeles. He has been called to service by three presidents and was awarded the Medal of Freedom in 1981 for resolving the Iran hostage crisis while Deputy Secretary of State in the Carter administration. At Stanford, he was a founding member of Stanford Law Review and later chairman of the Stanford University Board of Trustees.

The full text of Secretary Christopher's April 9 speech is available (along with a transcript of the question-and-answer period that followed) at the U.S. State Department web site, <http://www.state.gov>.

Beyond Price

Continued from page 13

middle-class people wouldn't consider doing. That won't work politically, and as a pragmatist, I like to think about what will work.

Prohibitions may not be a good idea, either. We don't want to say that it's degrading to sell your kidneys, and therefore if you're so poor that you want to, we're going to make it illegal. That's like blaming the victim. It's like saying, "You got in a situation where you chose to do this thing we regard as degrading, so now we're going to make your situation worse." I call these issues and some related ones the "double bind." It's bad for those people if they do sell, and it's bad if they're not allowed to.

There may even be a certain class interest in keeping this kind of trade in the black market. The dominant class doesn't have to consider overall social misery as much if they're able to say to themselves, "Well, there are a certain

few people who, for reasons of their own, want to engage in forbidden transactions." It's a delusion, of course, to think that perfectly well off, comfortable people who don't have to worry about food, health care, and shelter just choose to enter into these transactions. If it happens a lot, it's not because people are choosing this the way they choose to buy Nintendo games.

Would legislation help?

We shouldn't be too quick to try to legislate until we know what the facts are. We really have to find out what markets there are and if they're coming about through desperation.

I also think that lawyers should understand that solutions can be nuanced rather than black-and-white. Suppose we think there should be a law about prostitution. The choices don't have to be between a total free market and a terrible crime. We could say, "We want prostitution to be legalized and regulated, so that we can control the health problems, the violence problems, and the drug problems. At the same time, we don't want this advertised—we don't want kids coming in on their eighteenth birthday."

There are lots of ways—and this is what lawyers are good at—to think things through in detail and come up with nuanced solutions.

What are you hoping the impact of this book will be?

I would like social philosophers, lawyers, economists, policy analysts, and sociologists to think about these issues. There may be more questions than answers in the book, but I'd like people to recognize that property—what we regard as commodities that can be bought and sold—is a complex concept.

Why do you call commodification a "complex" concept?

What I'm saying is not just that some things should never be priced. I'm also saying that there are other things that, though they are priced, also have a different dimension of value—that they are part of the person or relationship, or they're something that's important to humanity in a way other than price. I call this incomplete commodification.

We should never forget that market transactions have a non-market aspect. If we remembered that, we could avoid reducing everything to its market value. We could say, "Things are traded, but

there's also another dimension of value, and it's not reducible to a monetary figure."

What are you working on now?

I'm working on how commodification is playing out in the new world of the electronic networked environment. Some people want to keep the Internet as it was, where people cooperate and share things, while other people think it's the best thing that there's ever been for advertising and selling things. I'm sure that advertising and selling will win to a large extent, but the question is, What's going to be left when it all shakes down? Where will political free speech be in the cyberspace world? Will intellectual private property wipe out the public domain—the non-commodified part of ideas?

I'm getting the message that economic man is incomplete—that there's something missing, which we need to look at.

Yes. Now, on one level, there's nothing wrong with this. The economists say, "He's supposed to be incomplete, because he's just a model, like the physicist's frictionless model. We know people are more complex in real life, but so what?"

My answer to that is (a) they forget it a lot of the time, and (b) this kind of market rhetoric cuts to the quick of the way we conceive ourselves, and so we should be more self-aware when using it. So, yes—economic man is quite incomplete. Human flourishing cannot always be measured in dollars. ■

Alum GATHERINGS

Opportunities for Networking Grow

by Shelly Wharton
Director, Alumni Programs

I want to tell you about a number of exciting alumni activities that have been taking place across the country.

Several new Law Societies have been created (Denver, Silicon Valley, and Minnesota), while others—building on strong foundations laid by many alumni volunteers—have acquired new and enthusiastic leadership (New York, San Francisco, Seattle, and Washington, D.C.). I would like especially to thank outgoing chairs Don Querio '72 (San Francisco), Terry Adlhock '70 (Washington, D.C.), and Geoff Bryan '80 (Los Angeles) for their tireless efforts over many years on the School's behalf.

I'm also happy to report that the School's Native American alumni have joined together to form the Stanford Law Society of Native American Alumni. The mission of this new affinity group is to support and advise students and the Law School on issues related to Native Americans and the law.

Finally many areas with small populations of alumni now have Regional Representatives who will field questions from students and alumni about their region's job opportunities, alumni connections, schools, and other matters of interest.

I hope you, too, will get involved in activities in your area. If you would like to participate in or start a local Law Society or become a Regional Representative, please let me know. And if you have ideas for new activi-



Silicon Valley: Justice Anthony Kennedy helped launch this new law society.

ties, don't hesitate to get in touch with my office or contact your local Law Society chair or a committee member. A current list of these societies and members follows.

I look forward to seeing you at a Stanford Law School event in the near future.

Here are some recent events held around the country:

Admissions Receptions

April 1 in Boston

Hosted by Henry Wheeler '50 at Hutchins, Wheeler & Dittmar.

April 2 in New York

Hosted by Carolyn Paris '78 at Davis, Polk & Wardwell.

These were the first such recep-

tions held in New York and Boston. The events brought together alumni and newly admitted students, allowing prospective students to ask their final questions prior to selecting a school.

GSB Women:

"Working Toward Solutions"

April 13 on campus. Many SLS graduates attended the Law School alumnae luncheon during this Graduate School of Business conference.

"The Internet and the Law"

April 22 in the Seattle area at Microsoft Corporation headquarters. The program was created and managed by a group of alumni led by Event Committee chair Jake Jacob-

son '77. Alex Alben '84 served as program moderator.

Pres. Casper—Town Hall Meeting
April 24 in Pasadena. Jointly sponsored with the Stanford Alumni Association.

Stanford Law Society of Minnesota
May 15 in Minneapolis. The inaugural meeting of this grassroots group, which Bruce Machmeier '80 and Deborah Swenson '95 instigated.

Lunch with Prof. Friedman
May 16 in Chicago. Professor Lawrence Friedman visited with alumni at a luncheon hosted by Duane Quaini '70, John Sabl '76, and Bruce Toth '80.

Lunch with Dean Brest
May 28 in Washington, D.C. Hosted by Cliff Hendler '78 at Crowell & Moring.

Summer Associates Receptions
June 27 in Washington, D.C. Hosted by Jim Atwood '69 and Ivan Fong '87 at Covington & Burling.

July 16 in San Francisco. Hosted by Julie McMillan '84 at O'Melveny & Myers.



Minnesota: Founding members of this new Stanford group include (l-r) Andrea Fike '87, Darwin Lookingbill '80, Robert Majteles '89, and Bruce Machmeier '80.

July 23 in Los Angeles. Hosted by Holly Sutton '93 at Sidley & Austin.

Student Orientation Reception
September 4 on campus. All alums were invited to meet and greet the incoming Class of '99.

Silicon Valley Law Society
September 9 on campus. The inaugural event of this group was a reception featuring Hon. Anthony M. Kennedy (AB '58), Associate Justice of the United States Supreme Court. Robin Feldman '89 chairs the new Law Society.

Farewell to Senator Hatfield
September 10 in Washington, D.C. The capital's Stanford Law Society, along with other Stanford alumni organizations, hosted a reception for Senator Mark Hatfield (AM '48), at the conclusion of his 30 years of outstanding public service.

Lunch with Prof. Kelman
September 25 in New York. Professor Mark Kelman met with alumni at a luncheon hosted by Steve Reiss '76.

Prof. Weisberg in Minnesota
October 4 in Minneapolis. The Minnesota Law Society hosted a lunch reception for Vice Provost and Professor Robert Weisberg '79.

Meet the 1Ls
October, November, and December at the home of Dean Paul and Iris Brest. Local alumni are enjoying opportunities to meet first-year students at a series of small receptions.

California's Chief Justice
October 29 in San Francisco. The Stanford Law Society of San Francisco hosted a reception for newly appointed California Supreme Court Chief Justice Ronald George '64. ■

For further information about Stanford law societies and activities, call the Alumni Office at ☎ (415) 723-2730, E-mail: Law.Alumni.Relations@forsythe.stanford.edu.



Seattle: William Neukom '67 (center) hosted a meeting at Microsoft's Redmond headquarters. George Frasier '68 (left) and George Willoughby '58 (right) were among the many interested participants.

Stanford Law Societies and Regional Representatives

Stanford Law Society of Chicago

Committee

Eileen Kelly '86
Gerard Kelly '86
William Landreth
Duane Quaini '70
Bruce Toth '80
John Sabl '76
Garrett Shumway '86

Stanford Law Society of Denver

Chair

Bruce Sattler '69
1-800/525-2086

Stanford Law Society of Los Angeles

(in formation)

Stanford Law Society of Minnesota

Co-Chairs

Bruce Machmeier '80
612/344-9300
Deborah Swenson '95
612/344-9300

Stanford Law Society of Native

American Alumni

Contact:

Colin Cloud Hampson '94
202/682-0240

Committee

Hon. Robert Ames '54
Kip Bobroff '94
Carrie Garrow '94
Julie Hansen '90
Tracy Labin '94
Chris McNeil '78
Mary McNeil '78
Wilson Pipestem '95
W. Richard West, Jr. '71

Stanford Law Society of New York

Chair

Cheryl Krause Zemelman '93
212/450-4700

Stanford Law Society of San Francisco

Chair

Sara Peterson '87
415/393-2122

Committee

Steve Abbott '94
Fred Alvarez '75
Lawrence Calof '69
Robert Cathcart '34
P. Y. Nicole Chang '95
Mary Cranston '75
Michael Duncheon '75
Frederick Fields '64
Paul Ginsburg '68
Melvin Goldman '63
Darryl Hamm '88
Mary Teresa Hernandez '88
Mortimer Herzstein '50

Hon. Susan Illston '73

Tony Justman '91
Michael Kahn '73
Stephanie Lamarre '92
John Larson '62
Michelle Lee '92
Julie McMillan '84
J. Sanford Miller '75
Patricia Montero '86
Thomas Pulliam, Jr. '69
Don Querio '72
Randy Short '70
James Sutton '88
Anne Thornton '73
Kent Walker '87
Christopher Westover '68

Stanford Law Society of Seattle

Chair

Alex Alben '84
206/957-2000
Jake Jacobson '77
206/689-5650

Stanford Law Society of Silicon Valley

Chair

Robin Feldman '89
415/322-4422

Committee

Alan K. Austin '74
Helen Baumann '71
Lee Bendekgey '82
Debra Lynn Cauble '78
Nancy Mahoney Cohen '75
Virginia Coles '85
Daniel Cooperman '76
James Danaher III '58
Craig E. Dauchy '74
Thomas C. DeFilipps '81
Mary Ann Dillahunt '94
Lynn Dubois '94
Ira Ehrenpreis '96
Michelle Greer Galloway '89
Anne L. Gardner '58
Mark T. Gates, Jr. '62
Paul Goldstein '86
Daniel S. Gonzales '84
Matthew Greenberg '86
Scott L. Harrington '51
Leelane Ellis Hines '59
John Farrell Hopkins '57
Joseph Huber '67
Robin Kennedy '78
Sallie Kim '89
James M. Koshland '78
Cynthia Ladd '84
Edward M. Leonard '71
Stephen C. Neal '73
Sarah Anne O'Dowd '77
Luther K. Orton '72
Carlton Xavier Osborne '95
Daryl Pearson '49
Keith Petty '48
George R. Roberts

Marilyn Rosenberg '86

Ignacio Salceda '92
John Schlicher '73
Isaac Stein '72
Geraldine F. Steinberg '63
Marcia Kemp Sterling '82
J. Richard Thesing '66
Hon. Miriam Wolff '40

Stanford Law Society of Washington, D.C.

Chair

David Hayes '78
202/637-2288
Mathew Nosanchuk '90
202/293-6400

Committee

Terry Adlhock '70
William Allen '56
Robert Bell '80
Steven Benz '90
Eric Berson '75
Hon. Anne Bingaman '68
Brooksley Born '64
Eva Marie Carney '83
Steven Dunne '90
Robert Edwards, Jr. '90
Cornelius Golden, Jr. '73
Clifford Hendler '78
Hon. Roderick Hills '55
Linden Joesting '88
William Kroener III '70
William Randolph Smith '75
Gary Wilson '68
Jonathan Wroblewski '86

REGIONAL REPRESENTATIVES

Atlanta

Tad Lipsky '76
404/676-2121

Dallas

Tyler A. Baker III '75
214/855-3070

New Mexico

Teresa Leger de Fernandez '87
505/982-3622
Kendyl Monroe '60
505/451-7454

Ohio

Don Casto '69
614/228-5331

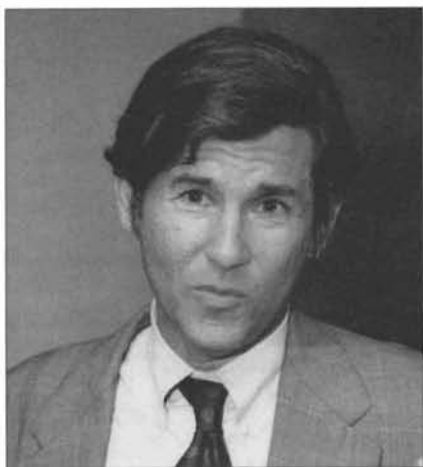
Phoenix

Richard Mallery '63
602/382-6232

San Diego

Theodore Cranston '64
619/677-1410

LETTERS



Michael Wald

INSPIRED

Thanks for the great interview with Michael Wald ["Frontline," Stanford Lawyer, Spring 1996]. He's had such a positive influence on both our lives, not to mention those of so many other Stanford students.

Fortunately, Michael's vision extends far beyond the Stanford campus. By agreeing to participate in policymaking on local, state and national levels, he has allowed his wisdom and experience to benefit children and families nationwide. Michael's commitment and activism for children have been a great inspiration, and his government service is an example to all that to effect meaningful change in life, you have to put your money where your mouth is.

Here's to many more advocates like Michael Wald coming out of Stanford to make the world a better place for kids.

Jim Steyer '83
Liz Butler Steyer '91
Oakland, California

APPALLED

Michael Wald says, "It's worth noting, however, that the largest single Washington bureaucracy that deals with individuals is, I think, the most efficient and effective bureaucracy—the Social Security Administration. It gets out 80 million checks a month and provides services in thousands of offices around the country with very few complaints. There is nothing inherently contradictory about a large federal bureaucracy being able to perform adequately."

So?! I am appalled by this statement. If the Social Security Administration is "the most efficient and effective bureaucracy," our country is doomed to fall on its face in a very short time.

Handling claims for Social Security claimants has been a major part of my practice for the past year. The Administration is so bogged down that you cannot get a claim determined in less than six months to save your life! If you earn a fee, you must spend hours collecting it, and in one case, it was necessary to file complete medical files three times before they were finally received by the Administrative Law Judge handling the case.

No civilian corporation could continue to operate six months if it handled matters like the Social Security Administration is presently handling them. And if it is a good example of federal bureaucracy, then the employees of the executive branch should all be fired and a new group recruited.

Carlos J. Badger '31
Modesto, California

Readers are welcome to comment on and critique the contents of this magazine. Letters selected for publication may be edited for length. Published or not, all communications will be read with interest. Please direct your comments to: Editor, Stanford Lawyer, Stanford Law School, Stanford, CA 94305-8610; fax 415/725-0253; E-mail c.hellyer@forsythe.stanford.edu.

The People's Choice

CONGRATULATIONS!

Election Victors
November 5, 1996

MAX BAUCUS '67

Reelected to his fourth consecutive term as U.S. Senator for Montana

XAVIER BECERRA '84

Reelected to his third consecutive term as U.S. Congressman for California's 30th District (Los Angeles)

TOM CAMPBELL

Professor (on leave)

Elected to a third term in the U.S. House of Representatives and first full term as U.S. Congressman for California's 15th District (Santa Clara-Saratoga)

BYRON SHER

Professor Emeritus

Reelected to his first full term as California State Senator for the 11th District (Mid-Peninsula)

TED LEMPert '86

Elected to a third term in the California Assembly, this time representing the redrawn 21st District (Palo Alto-Los Altos)

plus any other electoral candidates affiliated with Stanford Law School whom we may have failed to mention.

To report this and other news of interest, please contact

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Coming EVENTS

1997

January 6

Association of American Law Schools
Stanford breakfast
In Washington, D.C.

June 15

Commencement
At Stanford

September 14-16

Class of '52 Reunion
At Asilomar, Pacific Grove, California

September 26-28

Alumni Weekend 1997
With reunions for the Classes of 1957, 1962, 1967, 1972,
1977, 1982, 1987, and 1992
At Stanford

Alumni of Stanford Law School are welcome to attend any
of the events listed. For information and reservations contact
the Alumni Relations Office, ☎ 415/723-2730
E-mail: Law.Alumni.Relations@forsythe.stanford.edu

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