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Stanford *Lawyer*



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Even before September 11,
Interpol chief Ronald Noble '82
was trying to rebuild the agency.
Now his mission is in overdrive.

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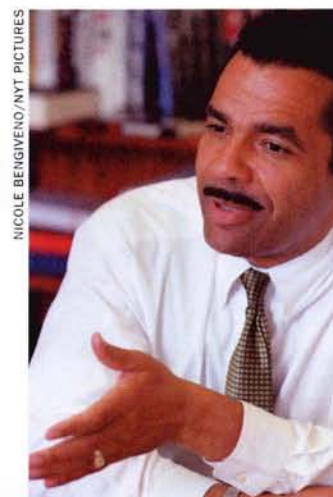
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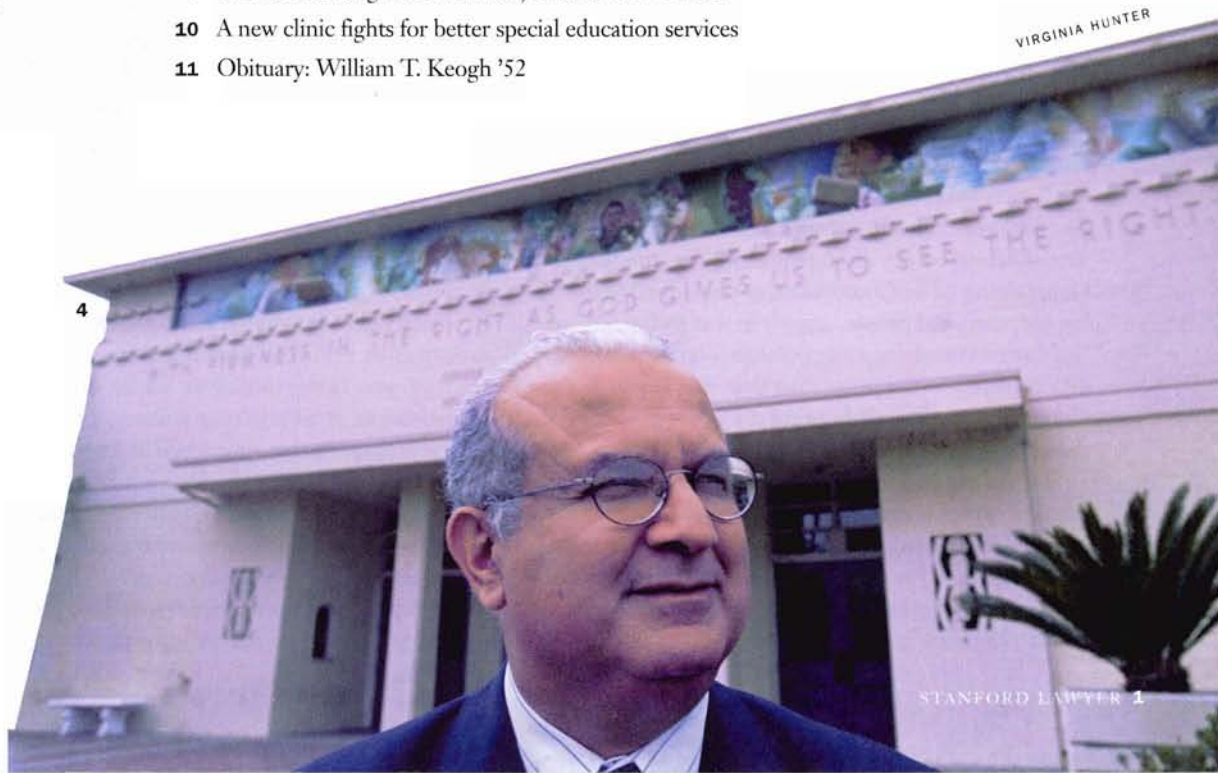
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A Constitution for All Seasons

BY KATHLEEN M. SULLIVAN

Dean and Richard E. Lang Professor of Law and
Stanley Morrison Professor of Law

CONSTITUTIONS, LIKE DIETS, are supposed to guard us against temptation. We commit to basic principles, and tell the political branches they may not depart from those principles no matter how attractive the departure might be in the short run. Law students in recent years have witnessed so many nation-gripping political controversies in which the Constitution played a decisive role that some might wish to hang up a shingle announcing a specialty in constitutional law.

For today's law students, a presidential impeachment is no longer a historical oddity harking back to Reconstruction, since the impeachment and acquittal of President Clinton brought the question of what constitutes a high crime or misdemeanor back to life. And the contested 2000 presidential election in Florida resurrected questions of whether the Electoral College is an anachronism, and how far judges should venture into the political thicket.

Most recently, the September 11 terrorist attacks on the World Trade Center and the Pentagon have led future lawyers to ask whether ordinary constitutional principles—of separation of powers and privacy, of equal protection and due process—still apply in times of public emergency.

Do we have one Constitution for all seasons, requiring government action to be judged by constitutional standards even in times of national security crisis? In an 1866 decision invalidating President Lincoln's suspension of the writ of habeas corpus during the Civil War, the Supreme Court stated, "The Constitution of the United States is a law for rulers and people, equally in war and peace," and "no doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government."

Or do national security crises tear black holes in the fabric of constitutional law, because the government must preserve its own existence whether its means are constitutional or not? Justice Robert Jackson, FDR's Attorney General and a leading prosecutor at the Nuremberg trials, said as much in his dissent from the infamous 1944

Korematsu decision upholding the Japanese internment during World War II. He wrote that the military must do what it has to, but that courts should not approve "all that the military may deem expedient" lest their precedents lie around "like a loaded weapon" in times of peace.

As a superbly articulate and pointed debate at the Law School in January vividly highlighted [*see story, p. 6*], it is vital to ask whether the government's indefinite and undisclosed detention of deportable aliens, or broadened use of electronic and Internet surveillance, is worth the price to liberty if it enhances even slightly the likelihood that terrorists might be stopped.

And as the feature in this issue on Interpol head Ronald Noble '82 illustrates [*see story, p. 18*], it is similarly important to decide whether investigative techniques using religion or race as grounds for suspicion offer any law enforcement gains to offset the insult to individual freedom and dignity they entail.

Unlike the laws of many other nations, whose comparative study is necessary more than ever in our increasingly globalized world [*see story, p. 17*], our Constitution contains no general "state of emergency" exception or other explicit provision for its own suspension. Those nations whose constitutions do contain explicit emergency provisions impose strict time limits and safeguards for judicial review, and require derogations from protected rights to be strictly required by the emergency.

With such comparative examples in mind, we ought to remember before succumbing to an emergency mindset that governing ourselves under one continuous Constitution, and requiring government to justify its means as fitted and proportional to its ends even when fear and passion run high, does not leave government powerless to protect us. Civil liberties, which guarantee against the risk of government error, are best protected not when government is weak, but when it is smart. Smart government needs smart lawyers, and that is what Stanford Law School aims to provide.



LORI EANES

Editor
JONATHAN RABINOVITZ
jrabin@stanford.edu

Communications Director
ANN DETHLEFSEN
annd@stanford.edu

Art Director/Designer
AMPARO DEL RIO
www.amparodesign.com

Consulting Editor
MARK ROBINSON

Alumni News Coordinator
LINDA WILSON

Copy Editor
DEBORAH FIFE

Contributing Editors
LINLY HARRIS
ERIKA WAYNE

Class Correspondents
59 ESTIMABLE ALUMNI

Editorial Interns
ADAM BANKS (AB '03)
MELANIE EGUSA (AB '03)

Production Associates
JOANNA MCCLEAN
MARY ANN RUNDELL

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information should be sent to
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e-mail law.alumni.pubs@
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The 1L Index

A quick look at the most recent class to enter Stanford Law School.

Number of applicants for the Class of 2004: **4,273**
Number 25 years ago for the Class of 1979: **3,193**
Number of 1Ls enrolled at Stanford in September 2001: **178**
Number of 1Ls enrolled at Stanford in September 1976: **175**

★★★★★★

Supreme Court justice whom 1Ls cited most often when asked to name their favorite member of the court: **RUTH BADER GINSBURG**

Justices with the second and third most votes:
SANDRA DAY O'CONNOR '52 (AB '50) AND ANTONIN SCALIA

Percent of women in the Class of 2004: **53**

Number of Stanford Law School classes with more women than the Class of 2004: **NONE**

Number of Stanford Law School classes in which women comprised at least half of enrollment: **THREE**

Number of African American, Hispanic, and Native American 1Ls this year: **43**

Number of African American, Hispanic, and Native American 1Ls 25 years ago: **15**

Number of 1Ls of Asian ancestry in the Class of 2004: **18**

Number of 1Ls of Asian ancestry in the Class of 1983*: **4**

★★★★★★

Percent of students who said that they voted for Al Gore for president: **57**

For Bush: **14**

For Nader: **12**

Percent who did not vote: **17**

Number of students who listed politics as a hobby: **7**

Number of students who listed hiking, backpacking, or camping: **32**

Movie listed as best in 2001 by the most 1Ls: **MEMENTO**

The runner-up: **HARRY POTTER AND THE SORCERER'S STONE**

Television program cited by 1Ls as most regularly watched: **THE WEST WING**

The runner-up: **THE SIMPSONS**

Percent of class who were 23 years or younger in September 2001: **53**

Age of the oldest student enrolling in September 2001: **36**

Age of the oldest first-year in any entering class over the last three decades: **AT LEAST 54**

Percent of the Class of 2004 who described their classmates as likeable: **97**

Percent who described their classmates as noncompetitive: **64**

Typical amount of studying per day: **AT LEAST 4 HOURS**

★★★★★★

The Class of 2004 includes: **AN ASSISTANT CONDUCTOR OF THE PARIS NATIONAL OPERA; A LABOR ORGANIZER; SEVERAL DOZEN CONSULTANTS, TEACHERS, AND LEGAL ASSISTANTS; AND AN ARMY VETERAN WHO COMMANDED A 30-SOLDIER UNIT IN KUWAIT.**

Number of advanced degrees in the Class of 2004: **38**

Number of PhDs: **5**

Number of MDs: **2**

Number of MBAs: **1**

College with the most members in the entering class: **HARVARD (16)**

The runner-up: **STANFORD (15)**

The third and the most-ever at Stanford from this school: **CORNELL (11)**

Percent of those surveyed who picked being a successful public interest lawyer when asked where they would like to be in two decades: **22**

Percent opting to be a partner at a major law firm: **14**

Percent opting to be a tenured law professor: **14**

Percent opting to be a federal judge: **20**

Percent who picked being retired and living on their own island in the South Pacific: **26**

Percent who did not pick being retired on their own island in the South Pacific: **74**

* The Class of 1983 was the first class for which the Admissions Office has statistics on students who identified themselves as being of Asian ancestry.

Sources: Based on information from the Admissions Office, the class book compiled by the Office of Student Affairs, and an e-mail survey conducted by *Stanford Lawyer* that received responses from 88 students.

From the Barrio to the Bench

Part of the first generation of Chicanos to graduate from Stanford Law School, Carlos R. Moreno '75 never imagined being named to California's highest court.

JUSTICE CARLOS MORENO was ready to swear members of the Class of 2001 into the California bar, but first he needed to tell them something important: "Never step into the well when you're approaching a judge—it will drive the bailiffs crazy! Always approach on the side."

Such nuts-and-bolts advice was not quite what the state's newest lawyers were expecting to hear that evening last December at the Law School from the most recent addition to the state's Supreme Court. But Moreno, 53 years old, has made a career out of defying expectations. He had been approved for his new post two months earlier, making him the first Chicano on the Court in 12 years, the third in its entire history. He is also today its only registered Democrat—though he is quick to point out that California's Republican governors appointed him to his first two judgeships before Gov. Gray Davis (AB '64) selected him.

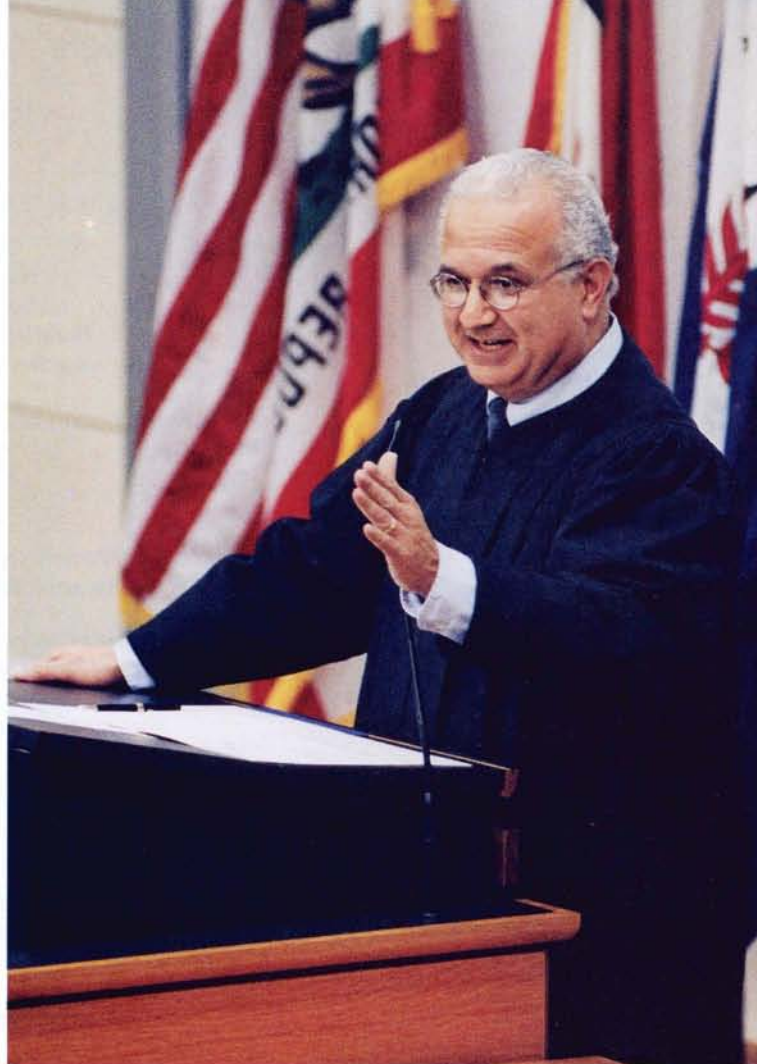
Moreno's rise is a classic American success story: a hard-working kid from the barrio in Los Angeles works his way up to the highest reaches of the legal profession. It is also, however, a tale of Stanford Law School's efforts starting in the 1960s to increase the enrollment of minority students. Moreno is perhaps too self-deprecating, but he credits an aggressive outreach program, then headed by Assistant Dean of Students Thelton E. Henderson who later became a U.S. District Court judge in San Francisco, for providing the opportunity to get into Stanford. "Even though they didn't call it affirmative action back then, I think I am a direct beneficiary of it," Moreno says. "Stanford and other schools worked to diversify the makeup of their classes without lowering their standards."

Thirty years later Moreno's appointment to the Court is a case study of how inclusion and high standards can go hand-in-hand. Moreno, a former U.S. District Court and California Superior Court judge, was the sole candidate on Gov. Davis's short list whom the State Bar's judicial screening committee unanimously declared "exceptionally well qualified," its highest ranking. He also was the only one of the Governor's finalists who was recommended by La Raza Lawyers of California, the Mexican-American attorneys' group. And it was Stanford's outreach program that helped pave the way for the success of Moreno—and a generation of Chicano lawyers—who just needed to be given the chance to enter the game.

When Moreno began classes on the Farm in September 1972, Stanford was in turmoil over the lack of diversity on campus.

During the first week of classes, a student newspaper suggested that minority students at Stanford were not as qualified as whites. "It made you feel that if you were Chicano, you didn't de-

"Even though they didn't call it affirmative action back then, I think I am a direct beneficiary of it," says Moreno, who went to Yale before the Law School. "Stanford and other schools worked to diversify the makeup of their classes without lowering their standards."



California Supreme Court Justice CARLOS R. MORENO '75, whom Gov. Gray Davis (AB '64) appointed last fall, wanted to become a "Latino Ralph Nader" when he was a student at Stanford. His goal: to improve access to the legal system.

serve to be there," says Jorge Carrillo '75, a friend of Moreno's. In turn, the Chicano Law Students Association's head, Rafael Arreola '74, was aggressively pressuring the school to admit more Chicanos. It was not the most receptive place for new minority students, recalls former Assistant Dean Henderson, but he notes that the Class of 1975 marked an important transition time. There were 13 Chicanos enrolled that year, a remarkable figure for a law school that had graduated perhaps four Chicanos in the previous 80 years (the records are sketchy). "It was the first bumper crop," remarks another student from that class, Fred W. Alvarez '75.

Judge Henderson, who began working on the outreach effort in 1968, says that it took a number of years to increase the number of black and Chicano students applying to the Law School. Part of the problem was that until the early 1970s, there were few minority students graduating from elite colleges; but Stanford

also did not have a strong history of recruiting the minority students who were out there. "My mission was to find people who could compete and get them in," he says. "It got better each year."

Moreno could be a poster child for the change that the outreach program had wrought. "He was a very easy admit," says Henderson. Moreno would likely have been accepted without the minority outreach program, but it certainly ensured that he would not be overlooked. The son of a cheese and produce store owner, he grew up with four siblings in a two-bedroom bungalow in a neighborhood that now includes Dodger Stadium. The first member of his family to go to college, he attended Yale, where he waited tables in the student dining hall and was one of three Chicano students in a class of 1,000. At Stanford, he was "a serious goal-oriented student," who was "very, very focused," says Henderson. While Moreno was an active supporter of the Chicano Law Students Association's efforts, his classmates remember him as very measured. He was not a flag-waving firebrand, explains Henderson. "I viewed him as the guy in the smoke-filled room who would make the policy."

Moreno says he has only pleasant memories of Stanford, where he lived for three years in Crothers Hall. He was a bit of a celebrity for his role in a Mexican music band with Alvarez, Carrillo, and two other classmates. As the lead singer, he had the uncanny ability to make himself sound like a trumpet. He studied hard and says he hoped to some day become a "Latino Ralph Nader." (These were the days before Nader ran for president, when he was viewed strictly as an advocate for the little guy.) "My primary motivation," he says, "was to help people who might not otherwise have access to the legal system."

At the December swearing-in ceremony, Dean Kathleen M. Sullivan introduced Moreno, saying "how deeply proud we are to have him as Stanford's other representative on the state Supreme Court," joining Chief Justice Ronald M. George '64. The soft-spoken bespectacled Moreno then gave the crowd some down-to-earth advice: Do not worry about where your careers may take you, but concentrate on enjoying the job at hand. That approach—plus a serving of luck—brought him to his current post, he said. Had he ever thought he would be on the state's top court? "Never in my wildest dreams."

Moreno, who worked in the L.A. City Attorney's Office and for major L.A. law firms before joining the bench, says he does not want to be considered a "Latino judge," but he also says diversity on the bench is important. Latinos, while one-third of the state's population, comprise five percent of the state's trial judges, and Moreno hopes his appointment inspires more Latino lawyers to pursue careers in the judiciary.

Moreno is not alone in working to bring about such a change. Among his classmates, Alvarez, a former assistant secretary in the Labor Department, is now a partner at Wilson Sonsini Goodrich & Rosati; Arreola is a California Superior Court judge; and Carrillo is an administrative law judge on the California Unemployment Insurance Appeals Board. Together they and their other classmates are changing the legal landscape with their success. And they are doing it one step at a time, pushing within the system and knowing that a lawyer should always approach the judge's bench from the side.

Supreme in Arizona

THE NEXT FEW YEARS will not be leisurely ones for Charles E. Jones '62. As the new Chief Justice of the Arizona Supreme Court, he is responsible for improving the administration of the state's courts, and that puts him in the middle of some serious political debates.

First, Jones, who is 66, is looking to overhaul an Arizona institution that has not been changed since 1912: he wants to enact education requirements for justices of the peace, who preside over small claims and misdemeanor cases, as well as raise the age requirement for the job above the current 18 years. A second goal is to cut the number of Superior Court judges who are rotated into new assignments every three years, thus allowing them more time to use the expertise they develop in specific areas. Finally, he is aiming to expand the use of drug courts that focus on providing rehabilitation rather than just meting out punishment.

"Some folks will recoil at these ideas," says Jones, who assumed the new post in January. Indeed, he admits that persuading the legislature to support such measures is going to be tough. Still, he has strong support in court circles. He was the unanimous choice in June of his fellow justices on the Arizona Supreme Court, on which he had been Vice Chief Justice since 1997. Jones, a registered Republican, was appointed to the Court in 1996 and has lived in Arizona since 1963.

A self-described westerner raised in Alberta, Canada, Jones and his wife, Ann, chose Stanford Law School over Columbia. They were among the first students to live in Escondido Village, which he still considers an ideal place to start a family. (He has seven grown children.) "New York had a certain interest," he explains, "but we loved Palo Alto."



CHARLES E. JONES '62 became Arizona's Chief Justice in January.

Less Liberty After Sept. 11?

The government says the crackdown on terrorism has not infringed on basic freedoms. Some disagree.

"MY NAME IS MOHAMMED," Dean Kathleen M. Sullivan announced to an audience of several hundred. No, she wasn't undergoing an identity crisis, but was launching the hypothetical case of a Stanford engineering student who becomes entangled with the post-September 11 law enforcement efforts.

That provided the framework for the Law School's January 31 panel, "Searching for Balance: National Security's Threat to Civil Liberties," which raised some of the thorny questions now facing the nation. Should Mohammed agree to be interviewed by federal investigators? And is it right for him to be detained indefinitely?

John P. Elwood, a panelist and Justice Department lawyer, assured Mohammed that he was not being unfairly singled out for questioning. "You're free to say 'No,'" noted Elwood, who bristled at the suggestion that the government's interest in Mohammed represented a change in its approach to civil liberties. "Everything we've done was constitutional on September 10, and everything we're doing today is constitutional now."

But another panelist, Anthony Romero '90, executive director of the American Civil Liberties Union, was less sanguine. He criticized the Justice Department for refusing to provide information about 1,200 immigrants who have been detained and kept largely incommunicado in the weeks since the September 11 attacks. "They are entitled to due process, entitled to be in contact with



On the panel: The ACLU's ANTHONY ROMERO '90 and DOJ's CHRISTOPHER PAINTER '84

counsel, and entitled to be in contact with their families," he said.

Elwood responded that the government was not obliged to provide information about the detainees, as it was difficult to compile and would infringe on their privacy. "If the law is being violated, they can sue us," he said. Romero quickly agreed, "You bet!"

The panel also included Christopher M. E. Painter '84 of the DOJ's computer crimes unit; Marc Rotenberg '87 of the Electronic Privacy Information Center; and Kent Walker '87, general counsel at Liberate Technologies. The event was organized by the Stanford chapter of the American Constitution Society and the Stanford Law Society of Silicon Valley. To view the panel, go to <http://www.law.stanford.edu/features/civilliberties.shtml>

It's Back: The Return of Asbestos

Forgotten litigation leads to new wave of bankruptcies.

ASBESTOS LITIGATION receded into the background in the 1990s, outshone by tobacco lawsuits, fen-phen, and other mass torts. Now suddenly, it's big news again. Policy makers and legal experts are worrying whether a besieged court system can properly handle the claims—and whether there will be enough money to pay the thousands of seriously ill people who will appear on the courts' doorsteps over the next few decades.

For almost 20 years, Deborah R. Hensler, Judge John W. Ford Professor of Dispute Resolution, has been one of the lone voices warning of this impending crisis. A recent briefing paper, which she cowrote with scholars at the Rand Institute of Civil Justice, reveals that the nation may not have slogged even halfway through the

quagmire of asbestos litigation. (The preliminary findings were released in August, with a final version to be published this spring.) "This problem should have been dealt with years ago," she says. "Because we didn't, it has become even bigger."

Part of the dilemma is that the number of claims filed annually keeps growing. According to her latest research, more people with asbestos-caused mesothelioma, a fatal cancer, filed lawsuits in 2000 than in 1990. Over the same period, yearly filings by people with nonmalignant diseases more than doubled. The surge in cases has set off an ugly fight between the seriously ill and the mildly ill over how to divvy the money.

Plaintiff law firms are driving the litigation. Hensler notes that the attorneys pressing asbestos cases in the 1980s were little guys in white hats, taking on big as-

bestos companies with deep pockets. Now the little guys, enriched from previous asbestos and tobacco victories, are using their resources to find new defendants to replace the companies that have already gone under, and many more plaintiff firms are entering the fray. At least nine companies have been forced to file for bankruptcy protection since January 2000; Hensler predicts that more will do so unless a better way is found to manage the litigation.

For Hensler, returning to the study of asbestos litigation has been sobering—and frustrating. The first report she coauthored on the subject, published in 1985, called for a national commission to recommend a system for compensating asbestos victims fairly and cost effectively, ensuring funds for the most seriously injured. That never happened. "Congress has established a government fund to compensate victims of the September 11 attacks," she remarks. "When is Congress going to stop hiding from the asbestos litigation mess?"

Battling Sprawl

Noah and the Ark offers a lesson to planners, says Bruce Babbitt.

SOUTHERN CALIFORNIA is viewed as a nightmare in land-use planning, but Bruce Babbitt, the former Secretary of the Interior, believes it now also provides some hope.

While delivering the third annual Robert Minge Brown Lecture at the Law School in November, Babbitt called past methods of regulating growth "an abject failure." Los Angeles is the "epitome of where everything went wrong," he said. Yet as development spreads north into Ventura County and south into Orange and San Diego counties, planning is being done differently, he noted.

Ventura County passed a moratorium on future developments of open space unless approved by a popular vote. In the two southern counties, landowners agreed to preserve some land for the gnatcatcher bird—after it was classified as a threatened species—in return for not being barred from building elsewhere in the region.

Babbitt said that planning has been focused "on how we expand our presence on the landscape," rather than maintaining "space on this planet for God's creations." Remember Noah and the Ark, he said. Then, sounding more like a preacher than a policy wonk, he added: "The command was not, 'Take in a few species that might be good for hunting with a 12-gauge shotgun. It was, 'All species, two by two and seven by seven.'"



BRUCE BABBITT said land-use planning has failed.

Saying No to Despair

An experienced death row lawyer reveals the worst encounter he ever had with the law.

BRYAN STEVENSON has lost clients to the electric chair, dealt with sheriffs who have bullied witnesses into making up testimony, and seen children locked in prisons for adults. Yet the most disappointing moment in his 17 years as a lawyer came when he read the 1987 U.S. Supreme Court decision in *McCleskey v. Kemp*.

In the keynote speech at Shaking the Foundations:

The West Coast Conference on Progressive Lawyering, Stevenson described how the Court in *McCleskey* accepted evidence proving that the death penalty was racially biased, but then ruled that such discrimination was inevitable. "It broke my heart," said Stevenson, executive director of the anti-death penalty group, Equal Justice Initiative, in Montgomery, Alabama. "I cannot reconcile this doctrine of inevitability with 'equal justice under the law,'" the words he walks under every time he enters the local courthouse.

Stevenson's November 3 address at the Law School did not end, however, on a despairing note. The conference, the third annual one organized by Law School students, covered a range of subjects, from housing advocacy to electoral reform, but Stevenson reminded the crowd of more than 100 that ideas are not enough. Lawyers have to commit themselves to a vision of justice, he said, pointing, for an example, to the work of many death-row lawyers.

"One day a history will be written about the struggle over the death penalty—there will be stories told, lots of analyses," he said. "But ultimately that history will be reduced to one essential sentence: There were people who were willing to say, 'I'm here,' when the state was executing others unfairly, unjustly, immorally."



BRYAN STEVENSON

The Special Prosecutor Blues

It was Kenneth Starr's duty, but he would have preferred another job.



KENNETH W. STARR

KENNETH W. STARR wished that he never had to be the special prosecutor who dogged President Bill Clinton. The best advice he received before taking the job were these three words from a friend: "Don't do it," he recalled in a November 12 talk at the Law School.

But Starr, a former federal judge and former solicitor general, told the crowd of more than 200 people that duty called. Yes, he considered the concept of the independent counsel to be unconstitutional, but it was the law. "Anybody who is healthy enough to do so should serve their country when asked," he added, urging law students to include stints in public service as part of their careers.

The Law School's chapter of the Federalist Society, the conservative legal group that espouses judicial restraint, sponsored the event. Rather than deliver a speech, Starr, now a partner with Kirkland & Ellis, took questions from the audience on subjects ranging from a state's right to allow assisted suicide to his thoughts on the Second Amendment.

Starr wound up devoting much of the time to his role in the investigation of President Clinton. He regretted that he had had to expand his investigation beyond Whitewater into the controversies surrounding the White House travel office and the President's relationship with intern Monica Lewinsky. He would much rather be remembered for his other legal achievements than for his part in the sexual scandal. Still, he insisted that he had little choice: Attorney General Janet Reno was not going to appoint another independent counsel to look into matters that cried for investigation, he said.

Future Shock

The new classrooms look cool, but there's more to come.

IF YOU BUILD IT, WILL THEY USE IT? That question hovered over the Law School's September 4 christening of its 16 newly remodeled classrooms. Sure, the lecture halls now looked sharper than the bridge of the *Starship Enterprise*. Not only did the rooms have super-comfortable, ultra-hip Aeron chairs, they also offered wireless Net access, videoconferencing, and digital recording services. But who was going to use all this stuff?

In fact, after six months, changes can be seen. Stanford is now the sole major law school where students use wireless connectivity during classes to access information from the Net. Lectures are digitally recorded and available for downloads. And the videoconferencing capability let law firms conduct job interviews when they could not visit the campus following the September 11 attacks.

Professor George Fisher notes that the rooms' new screens and audio systems provide a better showing for the film clips he uses in his evidence course. And the new chairs made it easier for students to sit through the class, which he increased to 2 hours and 45 minutes last fall. "They are simply more comfortable," Fisher said.

It's all part of Dean Kathleen M. Sullivan's master plan. "We wanted to make Stanford Law School, which is the greatest law school in Silicon Valley, the greatest law school of Silicon Valley," she says. In the future, look for increased webcasting of events, greater use of handheld computers in class, and more storage of and access to the notes that professors scribble on the rooms' new digital whiteboards.



RUSS CURTIS (2)



At the christening of the classrooms, DEAN KATHLEEN M. SULLIVAN thanked ASSOCIATE DEAN FRANK BRUCATO for overseeing the remodeling. Top: The twin screens improve the visibility of video and visual displays.

NEW JOBS, FAMILIAR FACES

CATHERINE "RINNIE" NARDONE has been named assistant dean for alumni relations and development. Previously director of executive education and external programs, she came to the Law School in 1993 and was development director from 1997 to 1999. Along with that promotion, CELIA HARMS has been appointed director of alumni relations and annual giving, assuming responsibility for the Stanford Law Fund. JULIA ERWIN-WEINER has been named director of external relations, overseeing executive education and corporate and foundation relations, in addition to special events.

SEND COMPLAINTS TO:

JONATHAN RABINOVITZ, a former reporter for *The New York Times*, is the new editor of *Stanford Lawyer*. He worked on the newspaper's metropolitan desk for eight years, serving as bureau chief in Hartford from 1994 to 1998. He was a senior editor at the *Industry Standard* before coming to the Law School. He welcomes all comments at [jrabin@stanford.edu](mailto:jrabrin@stanford.edu).

Shaping Tech Policy

Professor Margaret Jane Radin takes over the Program in Law, Science & Technology.

THE LAW SCHOOL COULD become home for a string of high-tech policy think tanks if Professor Margaret Jane Radin gets her way. Radin, Wm. Benjamin Scott and Luna M. Scott Professor of Law, was last fall named director of the Program in Law, Science & Technology, and one of her top priorities is to create several centers within the program on such subjects as biotech, e-commerce, and intellectual property. Modeled on the school's successful Center for Internet and Society, these new centers would be interdisciplinary and international in focus, and would be led by other faculty members.

Dean Kathleen M. Sullivan says Radin is perfect for the job. She is well known for her bioethics work, studying the commodification of DNA and living tissue. She is well versed in cyber law with a specialty in e-commerce. And she was Stanford's first law professor to launch a website. Adds Sullivan: "She has great practical as well as academic know-how."

The Program in Law, Science & Technology is the umbrella under which the Law School's different initiatives in high tech and biotech are coordinated. Radin wants it to have more of an impact outside the school. "Our program will of course benefit Silicon Valley, but not just Silicon Valley," she says. "We want to contribute to the worldwide policy debate."



FREEDING MICKEY MOUSE

THE SUPREME COURT agreed in February to hear arguments on whether Congress violated the Constitution by extending copyrights for songs, films, literary works, and fictional characters, most notably Mickey Mouse. Professor Lawrence Lessig wrote the brief successfully asking the Court to consider the case, *Eldred v. Ashcroft*, though many dismissed his efforts as a shot in the dark. While lower courts have ruled that copyrights are immune to First Amendment challenges, Lessig maintains that Congress has overstepped its authority by repeatedly granting extensions. The outcome could determine whether thousands of works are available to be posted on the Internet, for all to download.

DECSS DOWN, NOT OUT

FREEDOM OF SPEECH does not extend to software code that can unlock an encrypted DVD, a panel of three judges on the Second Circuit U.S. Court of Appeals ruled in November. It was a setback for Dean Kathleen M. Sullivan, who had argued the case on behalf of the online magazine *2600* and the Electronic Frontier Foundation (EFF), contending that the First Amendment protects posting the DeCSS program, which can bypass the encryption on DVDs. Still, Sullivan is persevering: in January she became the case's lead lawyer and asked for a hearing before the full court. Professor Lawrence Lessig, an EFF board member and director of Stanford's Center for Internet and Society, recruited Sullivan for the pro bono job.

A BLOW TO ONLINE PRIVACY

COUNTLESS SLURS are posted anonymously online every hour, but how offensive must the comments be to merit a judge's order for the release of information leading to the poster's identity?

That is the crux of a legal battle between Ampex Inc., a California technology company, and an unnamed defendant being represented by Stanford's Center for Internet and Society. A Contra Costa County Superior Court Commissioner in January granted Ampex's request for a subpoena that would force Yahoo to turn over information about postings on one of its bulletin boards that Ampex officials say slandered its chairman. The order reversed a December ruling in which the same commissioner had said that Ampex needed to show slander before a subpoena could be issued.

The defendant's case is being handled by Stanford Law School students, supervised by the center's clinic director, Jennifer Granick. They are still hoping to keep their client's identity secret, and are looking to file a new motion for dismissal.

Stanford's Cyberlaw Pioneer

John Place '85, former Yahoo general counsel, takes a top job at the Center for Internet and Society.

“EPIPHANY” is the word John Place uses to describe his first 15 minutes on the Internet almost seven years ago. As a senior counsel at Adobe Systems, he had spent months overseeing the legal issues surrounding the firm's fledgling website, but he had yet to get access to the Net. On a Thursday morning in July 1995, his nagging of the IT department finally paid off: he entered cyberspace. “All this mind-blowing information was at my fingertips,” Place recalls. “In seconds I was bowled over by its potential.” That night he confided to his wife, Colleen, that his life had changed. “I knew right then and there that I had to be part of growing the Internet.”

Place, who became Yahoo's first general counsel, still remains jazzed about cyberspace, but he now is taking a different tack to influence its evolution. In November, he was named executive director of Stanford's Center for Internet and Society, nine months after his resignation from Yahoo was announced. The center, which falls under the Law School's Program in Law, Science & Technology (LS&T), was founded by Stanford Law Professor Lawrence Lessig, who continues to be its director. “Our work will only have meaning if it can connect to the world of real lawyers, businesspeople, and policymakers,” Lessig says. “Place is an ideal person to make that connection.” Adds Dean Kathleen M. Sullivan: “John was literally there at the creation of Internet law, figuring out the law of cyberspace on the fly as Yahoo's general counsel.”

From 1997 to 2001 Place took the legal department at Yahoo from a staff of one—himself—to more than 50 lawyers, ranking it 153rd on *Corporate Legal Times*'s 2001 list of the nation's largest departments. Not only did he guide some of the Internet industry's biggest corporate acquisitions, he also was one of the first attorneys to grapple with government subpoenas for users' names, international restrictions on speech in cyberspace, and the Web's impact on copyright. After four hectic years he was ready to depart: the work he most enjoyed—building the department—was complete. After some time off, he welcomed Dean Sullivan's offer.

The Farm is as close as Place, 47, can get to home. A self-described “townie” raised in Palo Alto, he spent his youth mooching food from campus dining halls, hawking sodas at Cardinal football games, and playing at the Coffee House in his bands—Yomamas Chin, Sneakers, and other jazz combos. He came to the Law School after graduating from San Jose State.

At the center, Place will be working with Lessig and other LS&T faculty members. “We hope to build a think-tank policy center that will make a difference,” he says. There certainly is no shortage of challenges, as control of the Internet falls into an ever-smaller circle of hands [see story, p. 28]. While Place is not surprised by the consolidation, he does not like it. The center has joined a tough battle, but with Place it has a veteran who has been in the trenches since the first shots were fired.

STEVE GLADFELTER



JOHN PLACE '85 was the first lawyer at Yahoo.

A Special Education

The Law School's newest clinic teaches real-world skills to aspiring lawyers. But it also helps children with special needs.



WILLIAM KOSKI

FREDDIE PIERCE was being bounced from school to school.

Last September, only a few weeks into the fall semester, officials at the Ravenswood City School District, which includes East Palo Alto and East Menlo Park, were looking to move Freddie for the third time since the first day of class. A skinny 12-year-old with a big toothy grin, he has his share of challenges—Tourette's syndrome, mild retardation, and ADHD, among others. Administrators were saying he was too much for the teacher. But Freddie was happy to have finally landed in a mainstream classroom in his neighborhood school. He had friends there, with whom he shot baskets, played Nintendo, and collected bugs. A meeting known as an Individual Education Plan, or IEP, was set for September 20.

Since Freddie was a toddler, his mother, Trina, has spent countless hours dealing with the school district, which is under a federal consent decree because of its mismanagement of special education. At a meeting earlier in September, she had for the first time ever—after attending more than a dozen IEPs—broken into tears in front of the school officials. They had moved Freddie to a new school to start the year, but at that meeting they changed their minds, moving him to yet another. “They were breaking me down,” she says. “I couldn’t go to another alone.”

Pierce found an advocate pro bono: Stanford Associate Professor of Law William Koski. At the next IEP the officials argued that Freddie's classroom was too crowded and that a disabled child like him was too much for an overworked teacher. Koski did not budge. It was in Freddie's best interest to remain in that class, Pierce recalls Koski saying, and

he told them it was the school's legal responsibility to make it work. More than six months later, Freddie is still there, receiving more special services than ever before.

The case is no legal milestone for Koski, who has attended many IEPs in his career. He is one of the lawyers who sued Ravenswood, winning the consent decree. Still, Koski's work with the Pierce family marks the start of a new era at Stanford Law School. He was using the case as a test run for a clinical program he launched this spring: the Youth and Education Law Project, operating out of the Law School's office building.

Stanford has offered clinical courses before. Criminal, environmental, and Internet law clinics currently give students

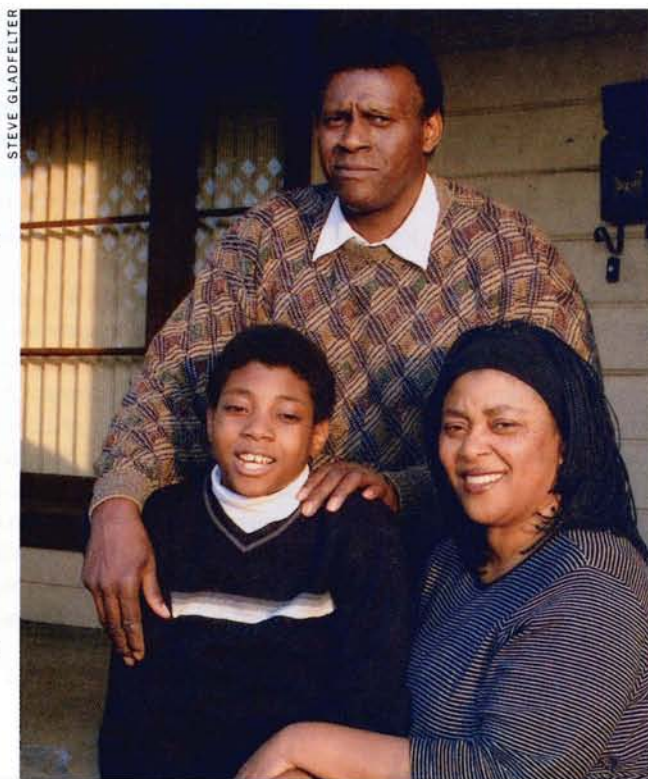
real-world lawyering experiences. Over the years the school has regularly offered opportunities for students to handle poverty law cases. And Koski himself taught a clinical education advocacy class at Stanford in previous semesters. But this latest offering is different. For the first time ever the school has created a teaching professor's position devoted strictly to clinical education, notes Vice Dean Barton H. Thompson, Jr., JD/MBA '76 (AB '72), and last fall it tapped Koski, then a lecturer, to fill the job. Several more of these teaching positions may be created in the next few years. Adds Koski, “This is like starting a new law firm within the Law School.”

Freddie's case will now be handed over to a student. Trina and Freddie's father, Fredrick, say they welcome the continued assistance, adding that they are pleased to help future lawyers learn more about special education issues. Unfortunately, their son's plight is likely to offer plenty of opportunity. This and other cases, some of which involve expulsion hearings before a county administrative law judge, will hone skills in negotiating, client interviewing and counseling, fact gathering, and oral advocacy. “The clinic has a social justice mission,” says Koski, “but we now also have an intensive focus on teaching.”

Koski ultimately oversees students' cases, which will come from throughout the Peninsula, and attends all hearings and meetings. Clients' lives, he notes, will not fit neatly into daily class schedules and end with the semester. Students should prepare to hear from clients when an emergency strikes at some odd hour, and as a full-time professor Koski can be there. As the syllabus for Koski's clinic states, “Please do not hesitate to call or e-mail during days, nights, or weekends.” Indeed, students have been given his home number—the same one the Pierces got.

TRINA and FREDRICK PIERCE say that FREDDIE (center) likes his school.

The officials were moving Freddie Pierce from school to school. His parents were tiring of the fight to get their son the special services they felt he needed. Associate Professor William Koski took the case. It's one step in a long haul.



Making the Grade

Hispanic Business ranks Stanford Law School as the third best law school for Hispanic students in 2001, up from fifth place the previous year.

The CPR Institute for Dispute Resolution honored Professor Ronald J. Gilson and Vice Dean Barton H. "Buzz" Thompson Jr., JD/MBA '76 (AB '72) for their respective courses, "Deals" and "Environmental Law and Policy."

Professor Deborah R. Hensler was elected a Fellow of the American Academy of Political and Social Science in October.

ACLU Executive Director Anthony Romero '90 is listed as one of *Newsweek's* 10 "important people to watch" in the Jan. 7 issue.

December's *Ebony's* "30 Leaders of the Future" includes Lia Epperson '98, assistant counsel at the NAACP Legal Defense & Educational Fund.

Warren Christopher '49 and California Supreme Court Chief Justice Ronald George '64 are among the 10 most influential lawyers in California, as selected by readers of *California Law Business*. Other Stanford lawyers in the top 100 are: Donald Chisum '68, Mary Cranston '75, Professor Joseph Grundfest '78, Ellis Horvitz '51, Beth Jay '72, Michael Kahn '73, Richard Pachulski '79, and Dean Kathleen M. Sullivan.

Among the "Top General Counsel of 2001" identified by *California Lawyer* in its October issue are Dhruv Khanna '86, Louis Lupin '85, and William H. Neukom '67.

In Memoriam

William T. Keogh '52
1916-2001

A RETIRED lieutenant colonel, Bill Keogh loved the Army. But when students were prosecuted in the late 1960s for closing down a draft board, Keogh, then a lawyer in private practice, did not blink: he took their case. "Bill was a model of what an incredibly good lawyer is," says Professor Michael S. Wald.

Keogh, a former Stanford Law School associate dean and professor who helped to diversify the student body and to impart a deeper understanding of the profession, died of natural causes October 23 at his home on campus. He had lived 85 years, with 20 at the Law School.

Born to Irish immigrant parents on September 18, 1916, Keogh traveled an unusual road to Stanford. His father was a dockworker, his mother a housewife, and Bill was one of five children raised in the rough-and-tumble Hell's Kitchen neighborhood in Manhattan. He fled the city's poverty, graduating from Kansas State University with a degree in chemical engineering and a commission in the U.S. Army. Under a special G.I. program, he enrolled at the Law School in 1949 at the age of 33. Classmates recall that visiting him,



WILLIAM T. KEOGH '52

his wife, Elizabeth, and their six kids at their campus apartment was like an outing to a playground. He is survived by them all plus one child born after he graduated.

In 1961 Keogh retired from his post as an Army judge to become the Law School's associate dean for admissions and financial aid, a position he held until 1967 and again from 1969 to 1978. He was particularly proud of the work he did to attract minority students during his first term. "I had started minority recruitment, from no identifiable minority applicants to 29, which was quite a job," he said in an interview in 1971.

Keogh taught full time at the Law School from 1978 until 1981, in addition to tending to a law firm he had established earlier. Wald, who cotaught a juvenile law class with him, recalls that Keogh did most of the one-on-one supervision. "For all those students it was their first exposure in a deep way to being a lawyer," Wald says. "Bill was their mentor."

Taking Seats of Honor

FACULTY MEMBERS Richard Craswell and John J. Donohue III have been appointed to fill two newly created endowed professorships.

Craswell assumes the William F. Baxter-Visa International Professorship in Law, which is intended to further research and teaching of such subjects as antitrust law, banking regulation, and electronic commerce. The chair was established by Visa in honor of the late Professor William Baxter '56 (AB '51).

Donohue becomes the inaugural holder of the William H. Neukom Professorship in Law. Neukom '67 is the former general counsel and executive vice president of Microsoft Corp.

Two other professors, Janet Cooper Alexander and Henry T. Greely (AB '74), were named to previously established endowed professorships, succeeding colleagues who have retired. Alexander follows



RICHARD CRASWELL, JOHN J. DONOHUE III, JANET COOPER ALEXANDER, and HENRY T. GREELY (AB '74) have been appointed to endowed chairs.

Marc A. Franklin in the Frederick I. Richman Professorship in Law. Greely was named to the C. Wendell & Edith M. Carlsmith Professorship in Law, which was previously held by William Cohen.

Making a Mockery of THE COURT

Michael Kahn's collection of political cartoons isn't just about laughs. His new book highlights more than a century of tart commentary on the Supreme Court. **BY MARK ROBINSON**

Don't be fooled by Michael A. Kahn '73. Sure, he is a political power broker, respected for his discretion and diplomatic ways. He is the top litigator at Folger Levin & Kahn in San Francisco. A confidante to Gov. Gray Davis (AB '64), he was the governor's choice to steer the California Electricity Oversight Board during the worst days of the energy crisis. And he is a former chair of the Stanford Law Fund, known for his scholarly bent and his wide circle of friends in influential places. He is not the sort of attorney who publicly lambastes his peers, let alone his rivals.

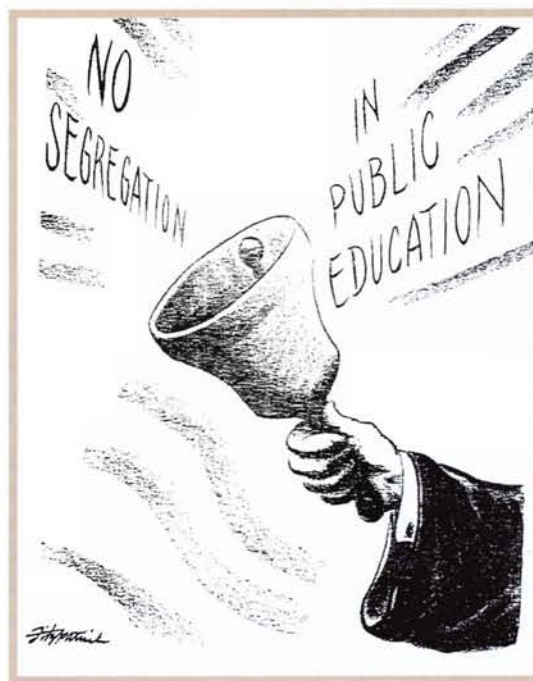
But Kahn has had a passion for almost 30 years that is not mentioned in his official bio. He is one of the nation's foremost private collectors of political cartoons, and dozens of his favorites are about to be reprinted

in a new anthology, *May It Amuse the Court: Editorial Cartoons of the Constitution and the Supreme Court*. Yes, Kahn may have a place among the powerful, but he also loves to see them lampooned.

Kahn's obsession with cartoons goes beyond humor. He insists that they provide a vital service to democracy, contributing to public debate like no other medium. "A good cartoon has an edge that can cut through the toughest skin," he writes in the new book, which he coedited with Dickinson College Political Science Professor H. L. Pohlman. While there are already cartoon anthologies about presidents, Congress, war, and the economy, Kahn says that this is the first devoted to the Supreme Court.

It Will Stand Stretching That Much.

—By CARLISLE



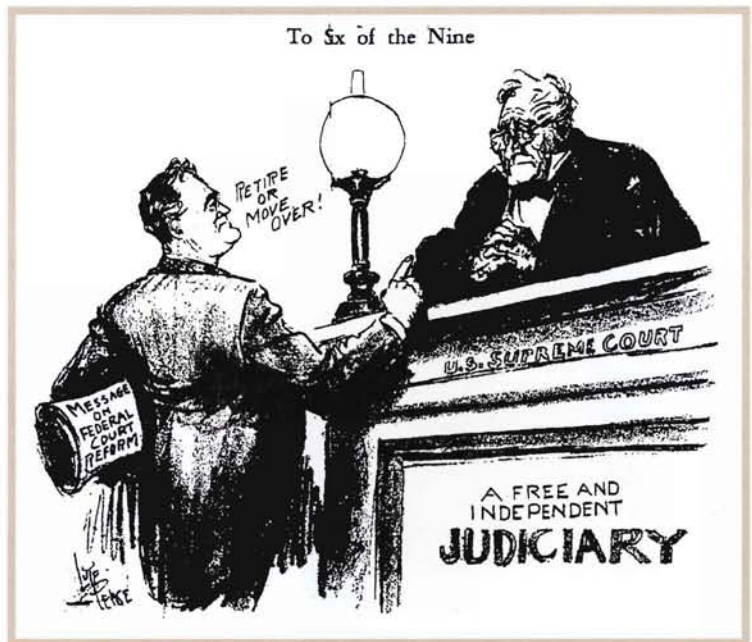
Scheduled to be released later this year by Hill Street Press, the book chronicles 140 years of Court-related cartoons, from scathing images about the *Dred Scott v. Sandford* decision in 1857 to the send-ups of the Supreme Court's ruling in *Bush v. Gore*. In the book's foreword, Stanford Law School Dean Kathleen M. Sullivan calls it a welcome addition. "Just as no man is above the law," she notes, "no institution is above the pen—not even the one institution, the Supreme Court, that protects all the others."

Kahn's interest in political cartoons can be traced to his childhood in Los Angeles in the 1960s. Everyone in his family was a fan of *Los Angeles Times* cartoonist Paul Conrad, who excelled at ridiculing the city's flamboyant mayor, Sam Yorty. "The first person who got the paper would cut out the cartoon and put it on the fridge," recalls Kahn, now 53 years old. In college at UCLA and in law school, he began haunting used bookstores, library sales, and flea markets, tracking down and buying cartoons. His collection now stands at about 4,000 works, he says, not counting the "couple thousand" cartoon books in his library.

Kahn decided ten years ago that he wanted to publish a book of cartoons about the Supreme Court. In 1996 he was moving forward slowly when Lucy Shelton Caswell, curator of the Cartoon Research Library at Ohio State, told him about Harry Pohlman, a political scientist who was on a judicial fellowship at the Supreme Court and was working on publishing his own set of Court-related cartoons. "We merged our collections," Kahn says. "We decided there only needed to be one book." The two collaborated on the writing.

"A good cartoon has an edge that can cut through the toughest skin."

Out of the thousands of cartoons that focus on the Court and the legal system, Kahn and Pohlman went for the quick reads. "What makes a great cartoon is that you look at it, and it immediately strikes a chord," Kahn says. "The best cartoons are the ones where you want to run to your spouse and say, 'Look at this!'" He is especially fond of the cartoons that puncture pomposity. "I look at the cartoons that caricature people who are very full of themselves, and I appreciate that," he says. "We have the ability to have great concentrations of power and money, and it puts all that in perspective." ■



Classmates came together post-September 11 with a deeper appreciation for their time on the Farm.

Alumni



IN MOST WAYS, it was another Stanford Law School alumni weekend: glorious autumn weather, engaging seminars, and a chance to reconnect with classmates. There were rekindled memories, like seeing Memorial Church lit up at night. And there were some surprises—Where did these spanking new Law School classrooms come from?

But as soon as the activities began on October 11, it was clear that these reunion-goers were feeling a distinctive camaraderie. Americans across the country had reacted to the terrorist attacks by drawing nearer to those they cherished, and many of the 900 alumni who returned to the Law School admitted to not just wanting but needing to see old friends. "People were a little more eager to get in touch with their past," says Peter Staple '81, senior vice president and general counsel at Alza Corp. and the reunion gift chair for his class. "They wanted to catch up—partly because of what was happening in the country."

So for the better part of four days, this year's crop of reunion classmates did a lot of catching up. The festivities opened Thursday night with a talk from Stanford Law Professor Lawrence Lessig at the Dean's Circle Dinner honoring annual donors of \$10,000 or more. Dean Kathleen M. Sullivan welcomed the guests to the Bechtel Center, telling the crowd that the Law School's mission—legal scholarship, teaching, and legal training—was suddenly in the spotlight. The nation was grappling with tough public policy and civil liberties questions. "Now, more than ever, we need to produce better lawyers," she said.

The search for ways to rise to the new challenges was a theme that echoed through the weekend—in one panel on peace and justice and another on globalization [*See story, p. 17*]. It was a discussion that continued as well in the small gatherings, like the receptions, tailgates, and gala dinners throughout the weekend.

The talk, however, was not just about world events: it was of grandchildren's first steps, sons and daughters who had just started at the Farm, travels with spouses around the world, and, of course, the fortunes of Stanford football (the Cardinal team lost that Saturday to Washington State). It all happened with fanfare and pizzazz. There were rainbows of balloons floating above pavilion tents, clowns painting kids' faces, and a hardy few doing the run, known as the Turkey Trot, from the campus to Portola Valley's Alpine Inn (a.k.a. Zott's).

"The gathering was an invigorating experience," says Pete Bewley '71, senior vice president and general counsel of Clorox Co., who served as the reunion chair for his class. "I had time to talk to a lot of people, some of whom I hadn't spent much time with in law school or since. It

was fascinating to hear the different paths they were taking. A lot of people had had two and three careers. I found that inspiring. I looked at that and thought, 'There are a lot of things you can still do.'"

By Sunday at noon, the reunion was winding to a close. It had been a busy four days for many, but Bewley said he and his classmates were leaving richer for the experience. He did, however, request one change for future reunions: "Next time, could you arrange for the football team to win the game?" Dean Sullivan says she has forwarded the request to the proper authorities.



SERIOUS SOCIALIZING: Annie Gutierrez '71, Greg Rael '76, Prof. Miguel A. Méndez, and Fred W. Alvarez '75 chat about the Law School. They were part of a mix of students, faculty, and alumni at Friday's Reception for Alumni and Students of Color, sponsored by the Asian & Pacific Islander Law Students Association, the Black Law Students Association, the Native American Law Students Association, the Stanford Latino Law Students Association, the Office of Student Affairs, and the Office of Alumni Relations.

Weekend 2001



RUN FOR THE HILLS: Twenty-five years have passed since the Class of '76 graduated, but they're still going strong. Their reunion organizers hosted a five-mile run, the Turkey Trot, from the Law School to Portola Valley's Alpine Inn, formerly Zott's. Some alumni chose not to hoof it, but still made it to the finish line for lunch.



ANOTHER SUNNY DAY: Perfect weather graced the reunion, letting alumni leisurely catch up while catching some rays. It was a time to meet babies and see family. *Below:* George Stephens '62 saw son Thad '96 (right) and daughter-in-law Lilliemae '96, cochairs of their fifth reunion. Curtis Kin '96 (left) also helped out.





A FULL HOUSE: Alumni turned out in droves to hear two distinguished panels at the Law School: "Peace and Justice in the 21st Century: Terrorism, Human Rights, and the Rule of Law" and "Business without Borders in a Time of Crisis." Both examined the impact of the September 11 attacks but approached the tragedies from very different angles. The former discussed whether international law can help to deter and to punish terrorism in the future. The latter examined how the attacks may hamper those who are conducting international business, but it concluded that globalism cannot be stopped.



INTERNATIONAL LAW PANEL: University of Michigan Prof. Catharine MacKinnon (right), with State Department Lawyer Allen Weiner '89, and Vanderbilt Prof. Allison Marston Danner '97.



IS WAR LEGAL? Prof. Tom Campbell (left) moderated the panel, "Peace and Justice in the 21st Century" with Hoover Institution Senior Fellow Abraham D. Sofaer (right) and three other panelists (photo above right). Sofaer had some strong opinions: "It's a charade to substitute courts where force is needed," he said. Others, however, worried that military force could backfire. Regardless of whether international law can justify a war, Vanderbilt Prof. Allison Marston Danner '97 noted that it can still play a role, citing the Nuremberg prosecutions as an example. "Law has been used to deal with tragedies of great importance," she said.



A WORLD INTERCONNECTED: Dean Kathleen M. Sullivan led the panel on global business including (from left) W. A. "Bill" Franke '61, Prof. Thomas Heller, and Prof. Lawrence Lessig. "There's going to be an accelerating pace of globalization," said Franke, "and there's nothing that any of us can do about it."

Three panels shed light on the steps that must be taken to respond to the challenges posed by terrorism.

BY THE TIME THE REUNIONS rolled around there was a palpable hunger to make sense of the terrorist attacks that had occurred a month earlier. Two marquee panels were held at the Law School—the first focusing on international business; the second on terrorism, human rights, and the rule of law. A third, organized by the Stanford Alumni Association for the entire university, covered biological warfare, psychosocial responses, and other topics. It was a lot to download, but as panelist and Hoover Institution Senior Fellow Abraham D. Sofaer quipped, “No Stanford reunion should lack a mad dash through the most intractable issue of the day.”

On Friday afternoon, Dean Kathleen M. Sullivan convened “Business without Borders in a Time of Crisis” with a distinguished trio: W. A. “Bill” Franke ’61, managing partner of private equity firm Newbridge Latin America; Thomas Heller, the Lewis Talbot and Nadine Hearn Shelton Professor of International Legal Studies; and Law School Professor Lawrence Lessig.

While all agreed that the attacks would temporarily slow international business dealings, Franke insisted that the pace of globalization would only increase. “We all need to get prepared for that,” said Franke, the former CEO and chairman of America West Airlines. “Regulatory systems and legal systems have trailed badly the changes taking place in the business world and in the capital markets.” That challenge is complicated by the Internet. Added Lessig: “International transactions aren’t just company to company anymore. They are happening person to person.”

The events of September 11 certainly make it more difficult to address complex international regulatory issues, granted Heller, but he also saw a silver lining. “The way to think of this is the way we thought about what happened after World War II,” he said. “We had these new phenomena—the Soviet expansion, the changes in Eastern Europe, the Chinese revolution—in front of us. The thing was to put in place policies that were going to serve [us] in the long run under such uncertainties. That’s true today. And it could, God willing, create a better situation than the one we have right now.” (To download a video of the panel, go to <http://www.law.stanford.edu/alumni/alumni-weekend/>)

On Saturday morning, Professor Tom Campbell moderated “Peace and Justice in the 21st Century: Terrorism, Human Rights, and the Rule of Law.” He was joined by four international law experts: Allison Marston Danner ’97, an assistant professor of law at Vanderbilt University; Catharine A. MacKinnon, the Elizabeth A. Long Professor

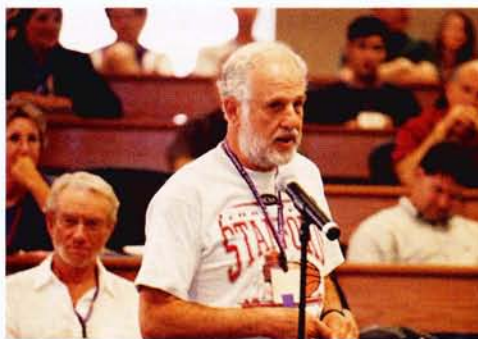
of Law at the University of Michigan; Sofaer, the George P. Shultz Distinguished Scholar at the Hoover Institution; and Allen S. Weiner ’89, a U.S. State Department attorney and former counselor at the American Embassy in The Hague.

The panel split on the question of whether force was wise and legally justified in response to the September 11 attacks, with Danner and MacKinnon preferring that the attacks be treated as a criminal matter instead of a military one. Not Sofaer. “It’s a charade to substitute courts where force is needed,” he said. While acknowledging that “no recognized right exists” to use force against a state that is not trying to halt terrorism, he added, “That shows the irrelevance of current law.”

Regardless of whether international law can be used to justify an attack, panelists said that it certainly could be the basis for prosecuting international criminals, as occurred with the Nuremberg trials. “Law has been used to deal with tragedies of great importance,” noted Danner, who contended that tribunals should be established to prosecute terrorists. Indeed, Weiner, who observed the tribunal in The Hague, maintained that the threat of international prosecution could even have a deterrent effect, if the Court has enough international backing.

Of course, then there’s the challenge of figuring out the charge, as terrorism lends itself to many legal interpretations. MacKinnon said such a problem could be easily avoided: “You don’t need a definition of terrorism. View it as a crime against humanity—widespread systematic attacks against civilians.”

The Stanford Alumni Association hosted a panel Friday morning at Memorial Auditorium featuring Stanford professors Coit Blacker, Christopher Chyba, Jack Rakove, Debra Satz, and David Spiegel.



Stephen Bauman '59 questioned a Law School panel. Right: A big crowd flocked to hear "Sept. 11th: What Happened, and What Now?" at Memorial Auditorium.



Ronald K. Noble '82 is trying to give Interpol a
makeover. The challenge? Getting police forces
around the world to collaborate in building a
high-tech global crime-fighting network.

OUR MAN

in Lyon

BY MARK ROBINSON

THE CUSTOMS OFFICIAL AT John F. Kennedy International Airport had pulled Ronald K. Noble aside for an interrogation. On eight of Noble's previous dozen international trips, he had been singled out for questioning, but this incident in 1996 was the worst yet. The official told Noble that he had the power to search his luggage, frisk him, and even force him to remove his clothes. The guard then proceeded to dig into Noble's bag, going so far as to shake out a package the size of a cuff link box, not the place you would expect to find a weapon.

Noble could have made an ugly scene perfect for the next day's tabloids, but he's not the sort to pull rank on a working stiff. Sure, only a few months earlier he had been this guy's boss's boss: the Treasury Department's Undersecretary for Enforcement. Sure, he noticed that white passengers were being allowed to walk by without a second glance while black travelers were being detained. He was convinced this was a clear case of racial profiling. Still, he knows how to keep his cool. He held his tongue. Afterward he wrote a letter to the official in charge of customs at JFK and then did not pursue it any further.

In October 2000 Noble became the Secretary-General of Interpol, the world's largest international police organization, and months later he was stopped for questioning yet again while leaving France. He mentions the incidents in passing during an interview in November, not to complain about the affront to his civil liberties but to make a different point: This is sloppy security. "Police officers, border officials, customs officials often develop bad habits," he explains. "They believe they know who is a risk based on limited and select information." But how much more offensive a gaffe can an officer make than to mistake the world's top cop for a terrorist or a smuggler?

The 45-year-old Noble has a solution: he wants to replace such crude profiling with a global information network. As the head of Interpol—the organization that fosters



cooperation among 179 member-nations' police forces—he has emerged as a leading advocate for the development of massive criminal databases to combat terrorism in the wake of the September 11 attacks. He envisions a system that will issue alerts whenever a security officer encounters a suspected felon trying to cross a border, use a fraudulent passport, or purchase firearms. Now he just needs to get police chiefs around the world to help out.

NOBLE IS A LAW ENFORCEMENT VETERAN. After graduating from Stanford Law School, he clerked for the late federal appellate court judge, A. Leon Higginbotham, Jr., from whom he learned a deep respect for civil liberties [see sidebar]. He went on to become a federal prosecutor and a top official in the Justice Department's criminal division. He later won praise at the Treasury Department for reviving one of its most troubled branches, the Bureau of Alcohol, Tobacco and Firearms, after its debacle at the Branch-Davidian compound in Waco, Texas. Before taking the Interpol job, he was a professor at New York University Law School and the winner of the school's great teacher award. He speaks three languages—French, German, and Spanish—in addition to English, and he is studying Arabic.

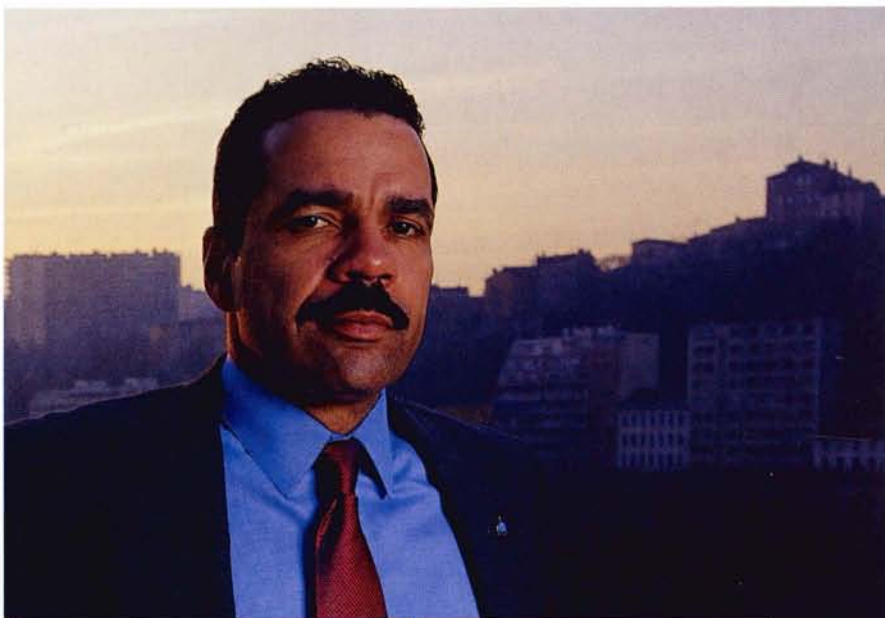
Noble campaigned hard for the Interpol job, enlisting high-ranking U.S. officials to lobby on his behalf. The first non-European to run the agency, he acknowledges that his multicultural background—his father is African American, his mother West German—may help him build stronger bridges to police in developing countries. But his experience in the Justice and Treasury Departments could also lead to closer relations between Interpol and the U.S.

Interpol certainly needs both Noble's expertise and connections. The agency was established in 1923 to function as a clearinghouse where police departments from around the world could share information. Its usefulness, however, has been undermined by its lack of adequate financing and the reluctance on the part of some law enforcement officers to collaborate with an international organization. The agency's outdated technology and leisurely pace—before Noble took over, Interpol closed its headquarters in Lyon, France, at 6 p.m.

every weekday and remained shut for the entire weekend—have not added to its standing.

Noble had been shaking up Interpol prior to the terrorists' attacks, but the tragedy added urgency to his efforts. Since then, he has trekked the globe to promote the agency. It can be a hard sell, and the backlash following the attacks sometimes adds to the challenge. He is trying, for instance, to improve communication between police forces in developed and developing nations—a task that is complicated by Western law enforcement officials engaging in ethnic profiling. Some say that singling out people of Arabic origin is a logical way to investigate terrorism, though Noble sees little evidence of its effectiveness and believes it alienates valuable sources. He tried to convince some colleagues that racial profiling can go badly awry by sharing his own experience, but to no avail. “[They] deny that I was stopped because of racial profiling,” he says, with a slight hint of frustration in his voice.

Noble has a lot more persuading to do in the months



Imagine a state-of-the-art computer system that would help to nab suspected felons as they move from country to country. Under Noble, Interpol is developing massive databases so border guards can instantly identify criminals wanted in other nations.

ahead. Stopping ethnic and racial profiling is but one small piece in the puzzle. He needs to foster unprecedented international cooperation to create the global police network for the 21st century. Countries that cannot abide each other need to be able

to sit together at his table. The spotlight is on. The mission: to persuade police everywhere that the future of crime fighting rests with a stronger Interpol.

FROM THE AGE OF NINE until leaving home for college, “Ronnie”—what Noble was called through law school—spent almost every weekend and many weeknights helping his father, who owned a janitorial business. Together they scrubbed floors and toilets. He was struck by the respect that clients gave his father, and he wanted to grow up to be a janitor, just like his dad. He wanted to wield the huge set of keys that dangled from his father’s belt loop. “I used to be amazed at how he could remember which keys went to

which offices,” he says, leaning back in a leather chair in his spacious office at Interpol headquarters. “I used to ask, ‘Dad, why do you have so many keys on your key ring?’ And he said—and it gives me goose bumps when I think of it—‘Because so many people trust me.’”

That was good enough for Ronnie, but his father had other ideas. When his dad’s clients would ask the apprentice janitor if he was going to take over the business someday, he would answer, yes, absolutely. “No,” his father would interrupt, “he’s going to college.”

Noble excelled in school. Ivy League colleges recruited him, but he chose the University of New Hampshire, so he could go to the school where his older brother, James Jr., was

A Janitor and Judge Higginbotham

Noble’s big break came from his dad’s surprising letter.

RONALD NOBLE, Interpol’s polished secretary-general, radiates confidence, so it is difficult to imagine that day in 1979 when he telephoned his father and could not keep from crying. It was during his first semester at Stanford Law School, and his search for a summer job was going badly. He had no previous work experience to point to and no family connections in the legal profession. He had applied to more than 70 firms; every one had rejected him. “I called my father one day and just broke down in tears saying, ‘I’m not going to be able to get a job,’” he remembers.

James Noble, Sr., a janitor who had dropped out of school at 14, was not a likely candidate to pull strings to launch his son’s career, but he had an idea. A few weeks later, Ron received an envelope from his father. It contained a copy of a letter James had written to one of the country’s most prominent jurists and one of the few African Americans on the federal bench: A. Leon Higginbotham, Jr., then a judge on the U.S. Third Circuit Court of Appeals in Philadelphia.

The letter was full of misspellings and grammatical errors, but the message was unmistakably clear: You should hire my son to clerk for you. He’ll make *you* a better judge.

“Dad, tell me you didn’t send this,” Noble recalls saying over the phone. James Noble hadn’t actually sent it. He had delivered it himself—after midnight, driving over from New Jersey after finishing the late shift. He had knocked at Judge Higginbotham’s house. The judge had refused to let him in and eventually instructed the stranger to slide the letter under the door.

Noble chewed his father out—a tirade he still regrets. A few weeks later, his father mailed him Higginbotham’s response. All his clerkships were filled that summer, but Mr. Noble’s son should apply the following year.

Ron Noble did just that despite his embarrassment. He wanted to work with a black judge, and a clerkship for a federal court was the ticket to a lucrative job. In his application to Higginbotham, he made no mention of his father’s letter. He thought it would sink his chances. But when he walked into his interview, the judge’s first words were, “How’s your father? I haven’t heard anything from him lately.”

Noble was offered the job on the spot. The two-year clerkship with Higginbotham, who died in December 1998, was a turning point in Noble’s life. From 1982 to 1984 he researched articles and decisions, wrote speeches, and traveled with the judge to conferences. The 6-foot-5 Higginbotham covered Noble’s plane fare by trading in his first-class ticket for two coach seats.

“I spent the two most extraordinary years of my life working for him,” Noble says. A black-and-white photo of Higginbotham hangs prominently by the door in Noble’s Interpol office. “I never learned so much about the law,” he adds. “I never learned so much about precision and integrity and commitment to public service.”

After that, Noble abandoned his plans to work at a white-shoe law firm. With his mentor’s help, he landed a job in the U.S. Attorney’s office in Philadelphia. Since then he has never made a big salary—he told a reporter a few years ago that he had never even bought himself a new car. His feet have remained planted in the public sector.

already enrolled. After graduating, he picked Stanford for law school on the advice of his brother, who was then a tennis pro in Hawaii. If his days were to be spent studying, James Jr. said, then he should go to the best school in the best location to make the most of the little free time he would have. It was a bold leap of faith, as Noble had never been to California. "I went there sight unseen," he says. "I feel to this day that it's the best decision I ever made. It changed my life forever."

It was not an easy move. Noble describes himself as "self-conscious and a loner." As the head of enforcement at the Treasury Department, he had carte blanche to attend all White House functions, but he rarely did. "In a large room with a lot of people, I prefer to stay alone or to stay within my own circle of friends," he says. Indeed, upon arriving at Stanford, Noble felt out of place on the Farm, even as he marveled at the view down Palm Drive and the majesty of Memorial Church. "Most of the students I met the first couple of days seemed to have come from backgrounds so different from mine—even the black students," he says.

While Noble insists that he feels socially awkward, he can make someone he has just met feel like a longtime buddy. At Stanford, he quickly found a few friends. One of them, Martin D. Mann '82, convinced him to run for president of the Law Students Association. Noble does not recall his exact campaign slogan; he says it had something to do with 1Ls sticking together. Mann ran the campaign. "All I remember is that Marty came from Cleveland, and the politics that Marty practiced were enough to get me elected," he says with a laugh. "If it had been public, I might have gotten indicted." Far from being indicted, he won his classmates over with his honest self-deprecating manner, becoming the first 1L ever elected the association's president. He later became articles editor for the *Law Review*.

One classmate, however, remembers him as much for his toughness as for his social and political graces. While attending school, Deborah L. Wagnon '82 had been the singer for a band. She had sued the bandleader when he refused to pay her, but she had not been able to serve him. Noble and another student agreed to go with her one night to the man's apartment. When they arrived, Noble told his classmates to wait in the car. They watched him press the security button and speak animatedly into the intercom. "Voilà!" Wagnon recalls. "The bad guy comes literally running out of the building, only to be greeted by Mr. Noble, summons in hand." She ultimately won the case.

"Ron went after the bad guy for me in 1980," Wagnon says. "Now he's doing it for the world."

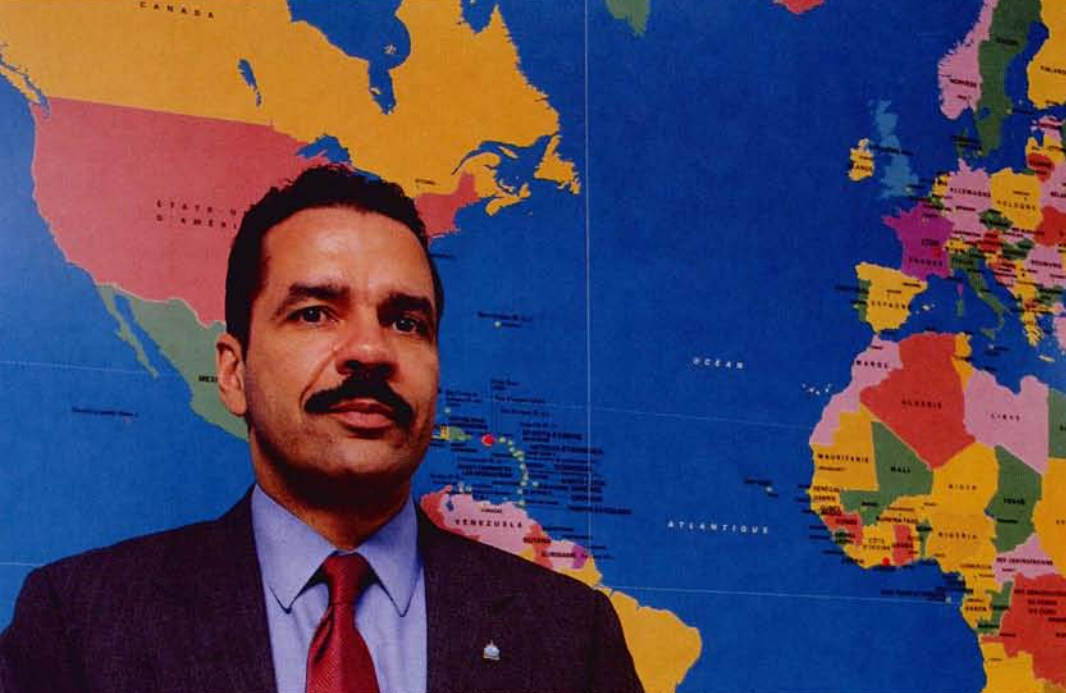
Noble has risen high, but he has not forgotten the road he traveled to get there. The walls of his office are now adorned with framed degrees, and it makes him think of the time he spent with his father as a youth. As the two would clean offices, especially law offices, James Noble, Sr., would point to the degrees hanging on the wall. "One day you're going to have degrees on your wall and have people like me cleaning your offices," James told his son. "When that day comes, remember to treat them with respect."

RESPECT. Ron Noble saw just how important it was to his father. Lack of respect and lack of sufficient funding are two of the biggest obstacles to Interpol's playing a bigger role in the war against terrorism and international crime.

First, the money. The 79-year-old agency has a budget of roughly \$28 million—less than one percent of the New York City Police Department's \$3 billion for annual operating expenses. Noble has boldly stepped into the group's financial quagmire, which had been rife with fingerpointing amongst its member nations over who owes what. He revamped Interpol's dues structure, increasing rich countries' dues while slashing poor countries' dues by as much as 70 percent. This change not only improved Interpol's cash flow; it also wiped away the debt owed by 30 countries, including Bangladesh, Bolivia, and Cuba, lifting the suspensions on their memberships and allowing them to return to full and active status in the group. In addition to changing the amount that members pay, he also looked to develop new sources of revenue, hiring Stanford MBA Hugh Williams to raise money from insurance firms, technology companies, and other global businesses that are affected by international crime.

Four days after the September 11 attacks, Noble made his case for increased aid to international policing in an opinion piece in *The New York Times*. "The best information often comes from neighbors that see unusual things near their homes or businesses," he wrote. "This information is ordinarily given to local police officers, who then are in position to relay the information to national or international police. It's a chain reaction that begins at the local level." Unfortunately, the rich nations do not put enough money toward helping police forces in the developing world collect, analyze, and transmit intelligence, he added.

Beyond the money is the other problem: respect. Many law enforcement officials do not take Interpol seriously. "Interpol has been viewed as a joke, an opportunity for people to travel and get together for a nice dinner," says Mariano-Florentino



Cuba, Bolivia and Bangladesh are among the 30 countries that Noble has brought back to Interpol as active members. They had owed millions of dollars in unpaid dues, but Noble fought successfully to wipe these debts off the books.

Cuéllar, an assistant professor of law at Stanford who was an aide in the U.S. Treasury Department's enforcement division after Noble left. "Law enforcement agencies tend to trust a bilateral relationship. Scotland Yard and the FBI talk directly to each other. That's viewed as more productive."

Noble bristles at that assessment. He believes that U.S. law enforcement officials have tended to undervalue Interpol, because this country could independently maintain strong relationships with a select group of law enforcement agencies in other nations. But the events of September 11, Noble maintains, clearly show the risks of going it alone instead of building an international crime-fighting network. His argument appears to be carrying some weight. In the weeks after the attacks he met with Homeland Security chief Tom Ridge and newly nominated FBI director Robert Mueller to encourage more cooperation from the U.S. In December he announced a new partnership between Interpol and the Treasury Department to create a database to track the international financing of terrorist activities.

In turn, Noble has also been making the case that Interpol can work with countries that are sometimes reluctant to work with the West. "We come in as a neutral arbiter of information," he told *The Philadelphia Inquirer*. He has, for instance, taken steps to help Arab law enforcement agencies work more easily with Interpol. In a speech in October before an international Arab police group, he mentioned that he had just created a new position—assistant director for North Africa and the Middle East—and that he was working to translate more

of the agency's websites into Arabic as well as to ensure that the headquarters would have Arabic speaking staff available at all hours.

These efforts to win more respect and more money for Interpol, however, rest squarely on Noble's being able to overhaul the agency's technology. In the 1980s Interpol had one of the world's most advanced electronic networks, but Noble now calls that system "antiquated." He explains, "Interpol must play catch

up: The Internet and Internet technology have passed us by." One of his first acts as Secretary-General was to increase the size of the agency's

cyber crime unit. In addition to the new database Interpol is developing with the U.S. Treasury Department, he is pushing for a more extensive international database of arrest warrants. The agency is also attempting to build a database of images of passports and weapons seized by border officials and police around the world. "What shows up in Hong Kong or Havana will likely show up in Budapest or Bangladesh," he says. "The ability to quickly see what criminals are doing will make us more vigilant and safer. This has certainly been the case with drug-smuggling methods."

In the days following September 11, Noble moved quickly to expand Interpol's services. The agency had been set to move to a new schedule on September 17, but Noble made it happen the day after the attacks. Fulfilling a promise he made during his campaign for the job, Interpol is now open around the clock, seven days a week, to process arrest warrants and requests for database searches. He also set up a special task force to act as a clearinghouse for information on the worldwide investigation into the attacks. And he began pressing for a restructuring of the agency. "Interpol will never be the same again," he told representatives of the member-countries at the agency's meeting in Budapest at the end of September.

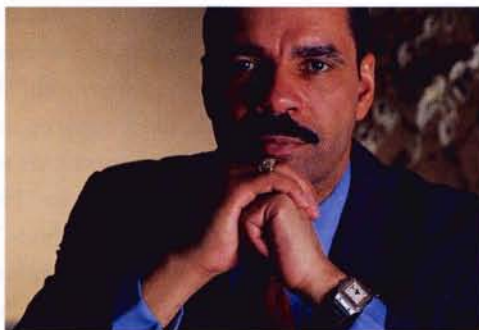
Noble had been pushing for a house cleaning for months, but the attacks of September 11 made his audience much more receptive. "I've been making the same arguments since 1998," he says. "Since September 11, more doors have been opened. More people have been listening."

RON NOBLE '82

THIS IS NOT the first time that Noble has been in the hot seat. On May 4, 1993, the Senate approved his appointment as the Treasury Department's chief enforcement officer, overseeing 30,000 employees and a \$2.4 billion budget. Only a few months earlier, one of the agencies that would report to him, the Bureau of Alcohol, Tobacco and Firearms (ATF), had staged a raid on the Branch-Davidians that left two cult members and four agents dead. Before they stormed the compound that February, Noble, who had just been nominated for the job, argued against the action. His advice was not followed, but the job of fixing the demoralized agency was now his. Top officials in the Clinton administration were looking to close the ATF, transferring its responsibilities to the FBI and the IRS.

Noble responded by issuing what *The New York Times* called a "brutally detailed" 220-page report reviewing every mistake the ATF had made and the individuals responsible for each one. The agency's top officials were forced to resign in its wake. Meanwhile, Noble developed good working relationships with Attorney General Janet Reno and FBI director Louis J. Freeh. Over the next three years, under Noble's direction, the ATF not only survived but also was given more authority to enforce gun laws.

Noble was one of the first officials to recognize that the Treasury Department needed to make a higher priority of tracking the ways that suspected criminals moved money internationally. He pushed for a crackdown on money laundering, the lifeblood of the worldwide drug trade, international arms sales, and terrorist movements. David Medina, one



"Let there be no doubt about it, the terrorist attacks may have occurred on United States soil, but they constituted attacks against the entire world and its citizens. . . . None of us can prevail alone."

of Noble's deputies at Treasury and now Citigroup's director of global compliance, notes, "In putting money laundering front and center in the U.S. agenda and the worldwide crime agenda, he was ahead of the curve."

By 1996, when Noble departed Washington, his title had been changed from assistant secretary in charge of enforcement to undersecretary, a sign of how his responsibilities had grown. He returned to New York University Law School, where he

had taught from 1990 to 1993. He still had some unfinished business in the policy world, however, and, in a few years he had set his sights on the top position at Interpol.

During an interview for this article in November, Noble is gracious and charming, though the burdens of his new job are all too evident. He walks onto a veranda at Interpol headquarters to show off a grand view of the Rhône River, but he soon is fretting rather than pointing out landmarks. Anyone could set up a rifle or even a rocket launcher from a building across the river and blast away, he says, questioning the wisdom of locating the agency's offices in this spot. He knows his staff is nervous about such attacks, and it troubles him.

Adding to his worries are his new responsibilities as a husband and a father. After many years as an avowed bachelor—he once said he worked too many hours to be a decent partner—he married Esperanza Hernandez Azcutia, a native of Madrid, in 2000. Last summer they had their first child, Max. He does not wish to discuss where they live, as he and his family could be prime targets for terrorists. So Noble now worries not only about protecting the public and his officers, but also about making the world safer for his son.

Part of the challenge, Noble says, is for Americans to avoid seeing terrorism strictly as a threat to the U.S. He stresses that the victims of the September 11 attacks included citizens from more than 80 countries. "Let there be no doubt about it, the terrorist attacks may have occurred on United States soil, but they constituted attacks against the entire world and its citizens," he declared in his speech at the end of September. The stepped-up ethnic profiling that he believes U.S. law enforcement has been doing in recent months, he adds, will only isolate the country from potential allies. "I don't believe that we need to trample on individual liberties of people to keep America and the rest of the world secure," he says.

The question now is whether police chiefs around the globe will follow Noble's lead. He knows that some critics don't want to see Interpol extending its reach. Others may like the idea of a revamped agency but wonder whether Noble can deliver. He is not letting such skeptics slow him down. The world is his beat, and it has become a more dangerous place. "We will never again turn out the lights and close the doors at Interpol headquarters," he vows. "None of us can prevail alone." ■

Professors in Print

Excerpts from faculty publications,
quotations, and commentaries



Living with Terrorism

"[National IDs] would have done nothing to prevent what happened September 11. . . . There have been civil liberties problems wherever there are national IDs. Given what the U.S. Supreme Court has already said, it will not be a stretch that police will have the right to ask you for your papers. When the police have the right to ask us for our papers, the likelihood that they will ask people of certain races is quite high. Beyond that, America's gift to the history of civilization is liberty. We should continue to achieve maximum liberty with as minimal government as possible."

Professor of Law **TOM CAMPBELL**, in
"Stanford Law Professor objects to national
ID card," *The Orange County Register*,
Nov. 10, 2001

"Ashcroft's apparent priorities on the gun issue are wrong, because any sacrifice of gun owner rights is outweighed by the benefits of passing reasonable legislation to close the gun show loophole or checking whether people detained in connection with the investigation bought guns. Ashcroft seems to take the view that the records checks and changes in gun show regulations are sacrifices not worth making in the name of security. . . . The next time the administration argues that we [must] use all the tools available in the war against terror—even those that restrict civil liberties and target immigrants—it should remember that Ashcroft seems to disagree."

Assistant Professor of Law **MARIANO-FLORENTINO CUÉLLAR**, "Do gun rights take priority?" *San Jose Mercury News*,
Dec. 10, 2001

"Those were all declared wars against identifiable enemies. This is more like the McCarthy period, which was obsessed with secret, hidden enemies. That was one of the worst episodes for threats to civil liberties."

LAWRENCE M. FRIEDMAN, Marion Rice Kirkwood Professor of Law, comparing the internment of Japanese civilians during World War II and the restrictions on speech during World War I with law enforcement measures imposed since Sept. 11, in "Security vs. civil liberties," by Mike France and Heather Green, *Business Week*, Oct. 1, 2001

"I don't think a citizenship requirement goes beyond anything that's already been established. But if I was going to argue it, I would argue there's no rational basis when other non-citizens have more sensitive jobs."

WILLIAM B. GOULD IV, Charles A. Beardsley Professor of Law, on requiring citizenship for workers in "Airport screeners likely to lose jobs discuss legal strategy," by Aaron Davis, *San Jose Mercury News*, Dec. 20, 2001

"Many of the people who lost their lives were people who were well insured. . . . Their families are protected. I think the moral thing to do here is to look at each family on an individual basis and say, 'What are going to be the needs of this family going on into the future?' And I think if by offsetting for charitable contributions for some families we had more money available to help other families, I would think that's appropriate."

DEBORAH R. HENSLER, Judge John W. Ford Professor of Dispute Resolution, on the allocation of federal funds for Sept. 11 victims, in "Charities worry that government could undermine their efforts," by Tovia Smith, *All Things Considered*, National Public Radio, Oct. 29, 2001

"That Miranda [waiver] is likely to be very hard for [John Walker Lindh] to overcome. . . . [And the standard for proving conspiracy] is kind of broad and vague."

ROBERT WEISBERG'79, Edwin E. Hudson, Jr. Professor of Law, in "U.S. v. Lindh, Round 1," by John Cloud, *Time*, Feb. 4, 2002

Feminism, Voting, and Boy Scouts

"We must now force the practice on every level truly to accommodate the lives of women. And that process, in turn, will take us a long way toward restoring the abandoned public service and redemptive ideals of the profession itself. But first, we must deal with the skeptic who asks: 'Why now? Women have been lawyers for a hundred-plus years without making much of an impression on practice. What is so different today?'"

"In short, the profession is psychically reel-

ing. Public dissatisfaction mingles with agonized self-criticism about the meaning of a life in the law. The male-created and male-centered model is under attack, as never before. Add to this timing the sheer numbers of women and their male allies—in the hundreds of thousands now—and the scene is set for revolutionary change."

BARBARA ALLEN BABCOCK, Judge John Crown Professor of Law, "A Real Revolution," *University of Kansas Law Review*, May 2001

"[T]he remedy the Court ordered distinguishes *Bush v. Gore* from every other voting rights case and virtually every other modern equal protection case as well. Faced with a finding of unconstitutional inequality, especially in an area that touches on a fundamental right, courts generally 'level up,' that is, they order that the previously excluded group receive the benefit already accorded to everyone else. They almost never 'level down,' ordering the withdrawal of the benefit from everyone. But *Bush v. Gore* took precisely this leveling down approach: If Florida could not conduct a manual recount in which all voters' ballots were treated identically, then it could not conduct a manual recount at all. This meant that the U.S. Supreme Court's order left more presumably legal ballots uncounted than the Florida Supreme Court's ruling had. If anything then, the remedy exacerbated the equal protection problem that some citizens' votes were recorded while other citizens' were not."

PAMELA S. KARLAN, Kenneth and Harle Montgomery Professor of Public Interest Law, "Equal protection: *Bush v. Gore* and the making of a precedent," *The Unfinished Election of 2000* (Basic Books, 2001), edited by Jack N. Rakove

"Which are the Boy Scouts more like, an inn or a parade? In *Boy Scouts of America v. Dale*, a closely divided court upheld the First Amendment expressive association right of the Boy Scouts to exclude an otherwise distinguished scoutmaster, James Dale, on the ground that he had spoken publicly about his homosexuality, thus suggesting that the parade analogy was the more apt one. . . .

"How one views the decision normatively will turn on how one regards a private sphere

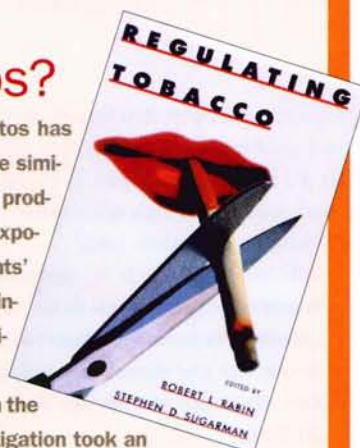
The Tobacco Wars: A Sequel to Asbestos?

"FOR THE PAST 20 YEARS the specter of asbestos has haunted the tobacco industry. Not without reason. The similar pathology of lung disease associated with the two products, and the synergistic health effects from joint exposure, led attorneys from both the plaintiffs' and defendants' asbestos bar, among others, to migrate into tobacco plaintiffs representation—and to pose a far more sophisticated challenge to the industry than did the less experienced personal injury lawyers who predominated in the earlier cases. And just as in asbestos, the tobacco litigation took an alarming turn for the industry when enterprising pretrial discovery contributed substantially to uncovering a pattern of deceit and misrepresentation about the health risks inherent in its product.

"If the battleground of asbestos produced more formidable adversaries for the tobacco industry, it also, more dauntingly, yielded alarming lessons. Once the asbestos producers began to settle cases, a stream became a raging river; a seemingly endless number of claims were filed that soon reduced even the most profitable firms, such as Johns Manville, to insolvency. From the outset of the first wave of tobacco suits, the stark numbers—the legions of potential lung cancer claimants—energized the industry to avoid settling at virtually any cost. But the asbestos debacle stiffened this sense of resolve. It also shaped the industry strategy. Asbestos had sealed its fate by settling cases that were indistinguishable from literally hundreds of thousands of other cases. No industry could withstand such an onslaught. And so, in the third wave the tobacco industry continued to pursue its no-holds-barred strategy in the individual cases, while attempting to 'seal off' its aggregate liability (to public entities) through once and forever settlement.

"In the future, if the tobacco industry can put its past misdeeds behind it, and persuade most—not necessarily all—juries that it is repentant, the prospects for once again prevailing on a freedom of choice line of defense are not necessarily bad. Here the tobacco story sharply diverges from asbestos: smokers, unlike asbestos claimants, do not bear the mantle of innocent victims—unless the addiction argument, coupled with youthful initiation prevails. Correspondingly, tobacco continues to sell its product, on the premise that risk is often intermixed with pleasure in life, unlike asbestos, which was removed from the market once its hazards were revealed."

Robert L. Rabin, A. Calder Mackay Professor of Law, "The third wave of tobacco tort litigation," *Regulating Tobacco* (Oxford University Press, 2001), edited by Rabin and Stephen D. Sugarman



that deviates from public constitutional values of tolerance and equality: as a desirable safeguard against centralized homogenization and orthodoxy like the protection of abstinence from flag salutes in West Virginia [*State Board of Education v. Barnette*] or as a dangerous backwater likely to undermine the public values that depend upon the alteration of social norms. The desegregation of the public schools, for exam-

ple, might arguably have been impeded had the civil rights acts not extended integration to inns and housing and barbecues and lunch counters, as well. The answer may turn on context; in a world where this decision has prompted both increased membership and decreased public subsidies and charitable donations to the Boy Scouts, is it closer to lunch counters or to *Barnette*? There is a good argument that the extension of

equal protection to gay men and lesbians need not extend all the way down into every private association in New Jersey in order to be effective and that the right of expressive gay organizations to exclude homophobes is an important implicit corollary of the decision."

KATHLEEN M. SULLIVAN, Dean and Richard E. Lang Professor of Law and Stanley Morrison Professor of Law, "Sex, money, and groups: Free speech and association decisions in the October 1999 term," *Pepperdine Law Review*, 2001

Clones, Microsoft, and Choice

"I'm not worried about a cow miscarrying very much, but I am worried about women miscarrying, having stillbirths, and having babies with birth defects."

HENRY T. GREELY, (AB '74), C. Wendell & Edith M. Carls Smith Professor of Law, on why a panel on which he served supports cloning for research and treatment but not for human reproduction, in "Panel urges state to limit human cloning to research, therapy," by Rosie Mestel, *Los Angeles Times*, Jan. 12, 2001

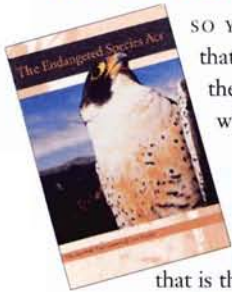
"[T]he test of this agreement is not whether it is stronger or weaker than the last. The test is whether it will work. . . . [The decree] does nothing to establish a more efficient or direct way to hold Microsoft to its promises. It instead relies upon the company's good faith in living up to the letter and the spirit of the agreement—and of the law."

Professor of Law LAWRENCE LESSIG, "It's still a safe world for Microsoft," *The New York Times*, Nov. 9, 2001

"If the goal is to lower abortion rates, experience teaches that the gag rule will not be effective. It was in force between 1983 and 1993, and the abortion rate grew in the affected countries during that period. . . . [It is] the worst form of hypocrisy to undermine the rights of poor women abroad in ways that we would not tolerate in our own country."

DEBORAH L. RHODE, Ernest W. McFarland Professor of Law, urging President George W. Bush not to deny foreign family planning aid to groups that provide abortion-related services overseas, "Gagging on a bad rule," *The National Law Journal*, Sept. 10, 2001 ■

The Endangered Species Act for Dummies



SO YOU'RE AN NFE HOPING that the ESA will let you go to the FWS to get an HCP that will grant an ITP.

Hub?

The Endangered Species Act (ESA) has spawned its share of acronyms, but that is the least of the headaches it causes environmentalists, local planners, and landowners who are trying to make sense of the law. While the act is arguably the most powerful environmental statute passed by Congress, many of those affected by it are confused about how it is applied and the bureaucracy behind it.

Enter the Stanford Environmental Law Society. In the summer of 2001 the student group issued *The Endangered Species Act: A Stanford Environmental Law Society Handbook*, published by the Stanford University Press. The 296-page paperback guides lawyers and nonlawyers through the act's nuts and bolts.

"This is the hot statute for people to fight over, but many local and state officials don't know the details," explains Law School Lecturer Deborah Sivas '87, director of the Earthjustice Environmental Law Clinic and a consultant on the society's project. "The book unpeels the law layer by layer so you can see how it works." In a review in *Conservation Biology*, James Salzman, a professor at American Law School, praises it as a "user-friendly guide" that is "comprehen-



GALEN ROWELL

sive" and "extremely accessible." Former Interior Secretary Bruce Babbitt calls it a "must read" for those wishing to understand the act.

Over the last few years little has been published on the act even though the controversies about it have grown increasingly bitter, notes Meg Caldwell '85, director of the Law School's Environmental and Natural Resources Law and Policy Program. When it was passed in 1973 only a few members of Congress opposed it, but, as the book explains, the legal battles to save the habitats of the chinook salmon and

the northern spotted owl turned the law into a pariah in certain business and political circles. Responding to its status as a hot potato, federal officials in the 1990s looked for ways to be more flexible in enforcing the law; the result, however, was a more complex maze of regulations. "There's now a real need for this sort of resource book," says Caldwell, the faculty member who oversaw the project since its launch in 1997 and had it reviewed by a bevy of experts.

The Environmental Law Society began issuing handbooks more than 30 years ago, but this is the first one to be produced and distributed by an outside publisher. (The group is expecting to release other handbooks with Stanford Press in the coming years.) As of August, more than 1,000 copies had been sold, says Caldwell. The editors-in-chief were Jason P. Holtman '98, Janine Scancarelli '98, P. Stephanie Easley '99, and Brian A. Schmidt '99. "We were all obsessed with it," says Holtman, who wrote the fourth chapter on registering a species as threatened or endangered. "It was a great legal education."

And the experience also taught Holtman and the others how to translate acronyms, as in the first sentence of this review. In plain English, the act allows citizen groups—sometimes known as nonfederal entities (NFEs)—to apply to the Fish and Wildlife Service (FWS) for a habitat conservation plan (HCP) that permits some harm to a threatened species under an Incidental Take Permit (ITP). So if you're looking for help deciphering the ESA's alphabet soup, here's your bedtime reading. ■

Who Owns That Lecture?

CORYNNE MCSHERRY '02 had been preparing to become a social science professor. But as a PhD candidate in communications at UC-San Diego, she grew so absorbed in researching her dissertation, an analysis of academic freedom and intellectual property rights, that she changed paths. "I realized my heart was in the law," she says.

Which explains how McSherry has come to publish her first book, *Who Owns Academic Work: Battling for Control of Intellectual Property* (Harvard University Press, 2001), during her third year at the Law School. It is based on her dissertation, and she spent part of her 2L year revising it.

The book explores the tension surrounding professors' push to gain more control—and profit—from their intellectual efforts. This issue has greater urgency now because of the Internet and because universities are searching for new revenue sources. Professors' lectures, syllabi, and other course material are increasingly being recorded, repackaged, and sold as online courses—sometimes without compensation for the professors. Faculty members are fighting back by copyrighting such intellectual property. "These issues have been around a long time," McSherry



says. "But the Internet has brought them into sharper focus."

The tension is greatest in technical fields, in which the mindset of corporate research clashes with academic ideals of sharing. McSherry notes that such tension does not always lead to conflict. "Many people are deeply invested in maintaining a balance," she says, suggesting that faculty and university administrators can find ways to share academia's financial fruits.

Such cooperation would happen in a perfect world. But McSherry, who will join McCutchen Doyle after graduation as an associate handling intellectual property law cases, knows it often does not. "I suspect I'll find myself making arguments for an imperfect world," she says. ■

THE END OF INNOVATION?

The final chapter of *THE FUTURE OF IDEAS* issues a call to arms.

Internet-inspired creativity will disappear unless the consolidation of control over the Web is reversed.

BY LAWRENCE LESSIG

ORRIN HATCH is a conservative. The senior senator from Utah, former chair of the Judiciary Committee, he is a critical force in practically every sphere of the Senate. He was a candidate for president in 2000. And he is admired by most, especially on the Right, as a principled politician and a decent man.

But there's something funny about Hatch. He betrays "policy anomalies"—positions that can't quite be explained on a simple left/right scale. Some of the things that he believes in most are puzzles to many conservatives. And puzzles in a politician are trouble. Unpredictability is not an asset in a political world where results cost lobbyists millions to buy.

Two of Hatch's anomalies are at the core of this book. The first is his concern about the market power and behavior of the Microsoft Corporation. And the second is his affection for emerging technologies like Napster. Hatch was a strong supporter of the Justice Department's investigation into Microsoft's behavior; he is a strong skeptic of the pow-

er that music labels have over innovation in the arts.

The pundits think they have an explanation for Hatch's resistance to Microsoft: Corel Corporation, which purchased WordPerfect. WordPerfect had been the dominant word processor. It was a Utah-based company. As with many leading technologies, WordPerfect fumbled the move to GUI interfaces. Microsoft picked up the ball and ran far. Many attribute Hatch's skepticism about Microsoft to these sour grapes.

Hatch's views on Napster are explained in a different way. Hatch is a musician. He has written and recorded many Christian songs. But you don't find the senator's CDs in record stores; the recording labels were not much interested in recruiting the senator from Utah. Thus, Hatch again may have a motive to resent the labels. Therefore, when a new technology comes along that threatens the power of the labels, it is Schadenfreude, not concern, that drives the senator.

It is hard to believe that any politician does what

Stanford Law Professor Lawrence Lessig, director of the Law School's Center for Internet and Society, argues that innovation depends on freedom in cyberspace.

From the book *The Future of Ideas: The Fate of the Commons in a Connected World*. Copyright © 2001 by Lawrence Lessig. Reprinted by permission of Random House, Inc.



he does for a reason of principle. We live in an era when principled politicians are characters in TV dramas; real politicians are something very different. Thus, the idea that a successful senator would do something that might harm him politically because of *ideals* strikes us as a fantasy. The stuff of Hollywood, perhaps, but not of Washington, D.C.

But as this book has made clear, there is a principle that would explain Hatch's stand. And while I am no friend of Hatch's, or of many of the policies that he has pushed, I do believe that what pushes Hatch to both positions is a matter of principle. Concentrations of power worry conservatives like Hatch; and in both of these anomalies, concentration of power is at stake.

In the Microsoft case, the fear is that this dominant controller of the platform will be able to use its power to direct evolution. Power over the platform will mean the ability to direct how the platform develops. And the ability to direct how the platform develops is a dangerous power for any single company to hold. It would be awful for the FCC to decide what technologies should look like in the future, then force those technologies on us through the power of law. But likewise, while it wouldn't be as awful, it is still fairly bad that any single company, whether by virtue of the law or because of its control over a platform, could control how technology should develop. Hatch is a believer in the diverse, decentralized market that allows consumers to choose the future. Thus, though he is among the oldest members of the Senate, his spirit is among the closest to what makes the Net run.

The same can be said about the production of culture. Obviously, the government has no legitimate role in controlling how our culture should evolve. What music people listen to and what art they find compelling are matters of private, not public, choice. But even if not as bad as it has been, the world we now have controlling media in our country is worse than the world that Hatch would want. The concentration of power that Hollywood has permits Hollywood a power that Hatch would rather it not have. A better system is less concentrated, less controlled, more diverse and decentralized. As Hatch has written:

[I]f those digital pipes through which the new music will be delivered are significantly narrowed by gatekeepers who limit access to or divert fans to preferred content, a unique opportunity will be lost for both the creators of music and their fans. That is why I think it is crucial that policymakers be vigilant in keeping the pipes wide open.

As I have argued throughout this book, the architecture that keeps the "pipes wide open" is simply the original architecture of the Net. And a commitment to keeping these pipes open is

a commitment to preserving the Net.

In both of these contexts, the senator sees something that ideologues miss: that the greatest lesson of our history is the strength that comes from our economic and cultural diversity. That concentration in either threatens innovation in both—not because concentration alone is necessarily bad, but because concentration gives the concentrated the power to steer evolution as it benefits them.

That power is not within our tradition. It is not what has built the America we admire. And whether you're from the Right or the Left, there is a lesson in what this conservative preaches. We make choices, Hatch shows us, that affect how easily the concentrated can direct the future. We should make choices, Hatch insists, that make it less easy for the future to be directed. Decentralized, diverse, nominated: this is the tradition that Hatch defends; this is the architecture of the original Net.

RATHER THAN "WAIT AND SEE," THE LAW HAS BECOME THE WILLING TOOL OF THOSE WHO WOULD PROTECT WHAT THEY HAVE AGAINST THE INNOVATION THE NET COULD PROMISE. THE LAW IS THE INSTRUMENT THROUGH WHICH A TECHNOLOGICAL REVOLUTION IS UNDONE.

AS I WRITE THE LAST PAGES of this book, the threat to those values grows. A court has just effectively shut down Napster, thereby assuring that the recording industry gets to choose what kind of innovation in the distribution of content will be allowed. Another court has ruled against Eric Eldred's challenge to copyright's bloating, finding that "copyrights are categorically immune from challenges under the First Amendment." [See "*Freeing Mickey Mouse*, p.9] Though the Constitution speaks of "limited times," Congress is free to give Hollywood "perpetual copyright on the installment plan." And streaming across my computer as I write these final paragraphs, judges from the D.C. Circuit Court of Appeals are asking skeptical questions of lawyers for the government defending the judgment against Microsoft. Commenting on the government's defense of Java technologies, one judge has just said, "We are going to replace one monopoly with another . . . right?"

Though we've seen the new only when it has been freed

from the old, that lesson is lost on the Napster court. And though our Framers saw as clearly as we can today that free content fuels innovation, that lesson was forgotten by the court that decided Eric Eldred's case. And though the clearest lesson of the past twenty years is that innovation flourishes best when it flourishes freely on a neutral platform, the judges deciding the Microsoft case cannot even imagine the value of a neutral platform. Is one monopoly really just as good as another?

Alexander Hamilton promised that the judiciary would be "the least dangerous branch." The early history of the Net confirmed Hamilton's predictions. The Court in *Reno v. ACLU* spoke of the values in a free Net. It resisted the popular efforts by Congress to regulate it quickly, even if Congress was regulating in the name of important social values.

But the most significant governmental actions affecting the Net in the twenty-first century so far are instances of judges intervening to protect the old against the new. Rather than "wait and see," the law has become the willing tool of those who would protect what they have against the innovation the Net could promise. The law is the instrument through which a technological revolution is undone. And since we barely understand how the technologists built this revolution, we don't even see when the lawyers take it away. As activist and technologist John Gilmore has put it, in a line that captures the puzzle of this book: "[W]e have invented the technology to eliminate scarcity, but we are deliberately throwing it away to benefit those who profit from scarcity. . . . I think," Gilmore continues, "we should embrace the era of plenty, and work out how to mutually live in it."

LATE IN THE AFTERNOON of one of California's inevitably beautiful days, Marc Andreessen was driving along one of California's inevitably overcrowded highways. More fitting the traffic than the weather, Andreessen's mood was dark. He was a twenty-nine-year-old computer science graduate who had become one of the most successful entrepreneurs of his generation. Coauthor of an early browser for the World Wide Web (Mosaic), founder of the first company to make the World Wide Web go (Netscape), Andreessen was nonethe-

less down on the future.

"Innovation," in Andreessen's mind, is what the Web produced. As he told me:

When I came to Silicon Valley, everybody said . . . there's no way in hell that you could ever fund another desktop software company. That's just over. And then in 1995, 1996, 1997, and 1998, all those developers who previously worked on desktop software said, Ah-hah, we're upgrading to a brand-new platform not controlled . . . by anybody—the Internet. [All] of a sudden there was an explosion of innovation, a huge number of applications, and [a] huge number [of] companies.



Innovation "resumed" just at the time when the platform for innovation was neutral and, in the sense that I've described, free: when many different actors were able to bring new ideas to the Net; when they knew that this neutrality meant the old could not control how the new would behave; when the new could behave however the market demanded.

But this innovation, Andreessen said, "is slowing once again. . . . Application lock-in . . . [has] actually gotten stronger." The opportunity to innovate outside of the dominant players has again evaporated. We are back to where we were before this revolution began. As control shifts back to the large, the powerful, and the old, and as that control is ratified by the judges in black robes, the opportunity that drew Andreessen from cold but trafficless Illinois disappears. The chance for something different

is lost. The innovation age, Andreessen says, "is over." And we are back to a world where innovation proceeds as the dominant players choose.

Andreessen's story is the fear of this book. An "explosion" of innovation grew upon a neutral platform; that explosion is burning out quickly as the platform is increasingly controlled. Whether through changes in the physical, or code, or content layers, the change Andreessen worries about is the shift that I have described.

There is little to stop the transformation that worries Andreessen; there is everything to push it along as fast as it can go. This book will be published just as Microsoft's .NET and Hailstorm initiatives hit the network. They promise to integrate an extraordinary range of functionality into the core operating system that Microsoft owns. Emboldened by an expected victory

WE ARE A DEMOCRACY INCREASINGLY RULED BY JUDGES. WE ELECT A CONGRESS THAT IS INCREASINGLY CHAINED BY LOBBYISTS. AND WE ARE A CULTURE THAT DEEP DOWN BELIEVES IN THIS COUNTERREVOLUTION: THAT STRANGELY THINKS THAT THIS INCREASE IN CONTROL MAKES SENSE.

at the court of appeals, Microsoft has expanded the bundling that the government attacked to include a range of services never imagined by government prosecutors. Authentication, instant messaging, e-mail, Web services—all these will be bundled into the core operating system of the next generation of Windows. Anyone who wants to compete in the provision of these services will face as strong a barrier as Netscape faced against a bundled Internet Explorer.

Microsoft is simply responding to another, very different nonneutral platform—the emerging and dominant platform of America Online. After its merger with Time Warner, AOL and its loyal members are another huge and powerful force influencing the future of the Internet. AOL is not an operating system, but for almost a majority of those who use the Internet, it is in effect an operating system. Functionality is served in the AOL suite of software; functionality beyond that is not.

These two companies—AOL Time Warner and Microsoft—will define the next five years of the Internet's life.

Neither company has committed itself to a neutral and open platform. Hence, the next five years will be radically different from the past ten. Innovation in content and applications will be as these platform owners permit. Additions that benefit either company will be encouraged; additions that don't, won't. We will have re-created the network of old AT&T, but now on the platform of the Internet. Content and access will once again be controlled; the innovation commons will have been carved up and sold.

This is the future of ideas. It could be different, but my sense is that it won't be. If we were more like Hatch, more skeptical of "gatekeepers," whether private or public; if we were less like Jay Walker, eager to view every government-granted privilege as a God-given property right; if we were more like Richard Stallman, committed to a principle of freedom in knowledge and to a practice that assures that the power to control is minimized; if there weren't so few Paul Barans, willing to struggle for many years to force a monopoly to face itself—if all this were so, there would be reason for hope.

But we are not. We are a democracy increasingly ruled by judges. We elect a Congress that is increasingly chained by lobbyists. And we are a culture that deep down believes in this counterrevolution: that strangely thinks that this increase in control makes sense.

As commentator Gordon Cook writes:

The Internet revolution has come and gone. It has created a tremendous burst of innovation [—a] burst that now looks to have been mismanaged. . . . [T]he people who did the least to advance the new technologies seem most likely to control them. We are left not with the edge-controlled intelligence of the [end-to-end] network but with the central authoritarian control of the likes of AOL Time Warner.

The irony astounds. We win the political struggle against state control so as to reentrench control in the name of the market. We fight battles in the name of free speech, only to have those tools turned over to the arsenal of those who would control speech. We defend the ideal of property and then forget its limits, and extend its reach to a space none of our Founders would ever have imagined.

We move through this moment of an architecture of innovation to, once again, embrace an architecture of control—without noticing, without resistance, without so much as a question. Those threatened by this technology of freedom have learned how to turn the technology off. The switch is now being thrown. We are doing nothing about it. ■

Law Gatherings



MARCO P. ZECCHIN

REVOLUTIONARIES: In December, Robert Raben, the Recording Industry Association of America's legislative counsel; Jonathan D. Schwartz '86, general counsel of Napster; Kent Walker '87, senior vice president and general counsel of Liberate Technologies; and Paul Goldstein, Stella W. and Ira S. Lillick Professor of Law, participated in a panel, "The Digital Music Revolution." Sponsored by the Stanford Law Society of Silicon Valley, the event addressed controversies surrounding online access to copy-righted music.

RIISING TO THE OCCASION:

In December, the Stanford Law School graduates who had passed the California Bar Exam several months earlier were sworn into the state and federal bars in a ceremony in Room 290, the largest of the Law School's recently renovated classrooms. The oaths were administered by California Supreme Court Justice Carlos R. Moreno '75 and Judge Joseph T. Sneed of the U.S. Court of Appeals for the Ninth Circuit, who had been a Stanford Law School professor from 1962 to 1971.

MARCO P. ZECCHIN



MARK FELLMAN



HONORING AN ANGELENO: In February, the Stanford Law Society of Los Angeles was proud to toast one of its own ascending to the state's highest court. The new justice, Carlos R. Moreno '75, was joined by his colleagues: Los Angeles County Superior Court Judge Elizabeth A. Grimes '80 and California Supreme Court Chief Justice Ronald M. George '64.



A QUESTION OF IDENTITY: Cheryl Krause '93 and Christina M. Bark '92 were just two of the many Stanford Law Society of New York members who attended "Who (or What) is Your Client: The CEO, the Board, the Employees, or the Shareholders? Exploring Ethical Issues in Corporate Representation" in New York City in October. The event featured William H. Simon, William W. and Gertrude H. Saunders Professor of Law, who explored the ethical challenges and pitfalls of representing corporate entities.

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Alumni Weekend 2002

Thursday to Sunday, October 17 to 20

◆ Presidential Power in a Time of Crisis: The Steel Seizure Case Revisited

Fifty years ago, William H. Rehnquist '52 (AB '48, AM '48) and Sandra Day O'Connor '52 (AB '50) graduated from Stanford Law School, the Marion Rice Kirkwood Moot Court Competition began its storied history, and the U.S. Supreme Court decided *Youngstown Sheet & Tube Co. v. Sawyer*. Better known as *The Steel Seizure Case*, this landmark decision held that President Harry Truman had exceeded his constitutional authority when he directed federal authorities to seize the nation's steel mills lest labor unrest threaten steel production during the Korean conflict. The Court was sharply divided, and the debate over the scope of presidential power during national emergencies remains vibrant today. Come celebrate all three of these fiftieth anniversaries at the reargument of this historic case before a distinguished panel consisting of Chief Justice Rehnquist, Justice O'Connor, and Stanford University President Emeritus Gerhard Casper. Charles E. Koob '69 and Karen L. Stevenson '98 will be the advocates presenting the case.

◆ War, Peace, and Civil Liberties: American Constitutionalism in the Wake of Terror

The stunning events and aftermath of September 11, 2001, have challenged core aspects of American constitutional culture and identity. American constitutionalism has traditionally adhered to rules of governmental restraint, particularly in the areas of freedom of speech and association, privacy, and due process. Historically, however, Congress and the courts have given exceptional deference to executive action in times of war or national security emergencies. Do we have one Constitution for peacetime and another for national emergencies, or one continuous Constitution? Should we give up some privacy to gain greater protection against terrorism? Should we convene military commissions to try suspected terrorists? A panel discussion moderated by Dean Kathleen M. Sullivan will explore these questions and address the constitutional, human rights, national security, and foreign policy implications of the nation's response to terrorism. Panelists to date include Mariano-Florentino Cuéllar (PhD '00, AM '96), Assistant Professor of Law, Stanford Law School, and former Senior Advisor to the Under Secretary of the Treasury, Enforcement Division (panel in formation).

◆ Alumni Reception

A festive reception for all alumni. Reunion classes will have the opportunity to gather together.

◆ Dean's Circle Dinner

This gala dinner will honor members of the Dean's Circle—annual donors of \$10,000 or more. By invitation.

◆ Reunion Dinners

Members of the classes of 1952, 1957, 1962, 1967, 1972, 1977, 1982, 1987, 1992, and 1997 will gather with classmates for delectable food and even better conversation.

◆ Delegates' Summit and Volunteer Recognition Reception

Dean Kathleen M. Sullivan will recognize current and prospective volunteers.

◆ Stanford vs. Arizona State Football Game

Show your rousing support for the Cardinal as they take on the Wildcats. Help cheer our team on to victory!