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Cover photo: In honor of VUSL's inaugural summer study program in Cambridge, England, our cover is a photo of a lithograph depicting a view of Kings College Chapel, Cambridge, from the "backs" -- the park area that borders the main colleges of the University of Cambridge. The Chapel was brought to completion by King Henry VIII in the 16th century. The lithograph is jointly owned by Professors Gaffney, Moskowitz and Dooley. They discovered the work, done by a local English artist, at the Old Fire Engine House Inn in Ely, Cambridgeshire, during a dinner hosted by the Honorable Allen Sharp of the Northern District of Indiana during his visit to England.
Dear Friends,

As I write to you this fall, I have a fresh memory of Parents' Day at Valpo, when the University-Civic Choral Society performed Randall Thompson's "Testament of Freedom." This composition features two passages from the writings of Thomas Jefferson. In 1774 Jefferson wrote in his *Summary View of the Rights of British America*: "The god who gave us life gave us liberty at the same time; the hand of force may destroy but cannot disjoin them." And in a letter to his friend John Adams in 1821, Jefferson wrote: "I shall not die without a hope that light and liberty are on steady advance. And even should the cloud of barbarism and despotism again obscure the science and liberties of Europe, this country remains to preserve and restore light and liberty to them. The flames kindled on July 4th, 1776, have spread over too much of the globe to be extinguished by the feeble engines of despotism; on the contrary, they will consume these engines and all who work them."

When Thompson first set these words to music in 1943, the words took on a powerful meaning because our nation was at war to remove "the cloud of barbarism and despotism" that had fallen over Fascist-controlled Europe. When I heard the composition in 1991, the words had fresh meaning because of the triumph of liberty in Communist-dominated Eastern Europe over the past three years.

The astonishing events of last August in Moscow are worthy of further comment. The eight self-appointed leaders of the coup tried to stop the recent process of reform and openness in the Soviet Union. They found that "the flames kindled on July 4th, 1776, have spread over too much of the globe to be extinguished by the feeble engines of despotism." I do not, of course, wish to claim too much for the American experiment in democracy. The real heroes of the Second Russian Revolution were the Russians, not the Americans.

On the first two days of the August coup, I heard lots of "experts" on Russia saying that Gorbachev brought on his own downfall by firing Boris Yeltsin and hiring the Gang of Eight (or at least failing to get rid of them). One computer scientist announced confidently that his machine had predicted the coup for that reason. Soviet students at Notre Dame told a reporter on Tuesday they did not think the coup could last, but their views were not "expert" enough for the networks.

By Wednesday, August 21, the coup had failed. Yeltsin had soared to the peak of his power, and had banned Party cells in the Soviet Army. I don't think I will soon forget the image of Yeltsin mounting the tank outside the Russian White House to urge the army not to fire on the people. The soldiers had voted for Yeltsin in overwhelming numbers in the elections last spring, and they proved to be his strongest ally in time of crisis just by refusing to fire on their own people. Nonviolence was the winner in Moscow, as it had under the leadership of Gandhi and Martin Luther King. The amazing difference was that the soldiers in Moscow and Leningrad joined the people in successful protest.

Gorbachev was back in Moscow, remarkably recovered from the "illness" that had detained him in the Crimea. The instant experts noted that he was "severely weakened"; they used terms like "figurehead." By the end of the week Gorbachev had not only resigned as Secretary of the Central Committee of the Communist Party, but was urging its dissolution. Whoever would have thought last summer that the world would be turning upside down again so soon?

Why did the coup fail? The experts who testified on television on Monday and Tuesday assigned the rise of the Gang of Eight to Gorbachev's inattention to details in governing. On Wednesday night the most common explanation I heard offered for the failure of the coup was the keystone comedy character of its organizers, whose inattention to details, indecisiveness, and lack of ruthlessness contributed to their own downfall. The experts never mentioned the Russian people, who triumphed without weapons, discounting any parity between tanks and the old Molotov cocktail. These unarmed people surrounding their parliamentary leaders achieved what no pitched battle on the ramparts can do: a virtually bloodless revolution. The people who put their bodies on the line in massive numbers demonstrated not only that Stalinism has long been dead in Russia, but also that no old guard is capable of resurrecting it. In the past decade two Russian words came into Western parlance: *perestroika* (reform) and *glasnost* (openness). In the dramatic week of August 19, two Western words were swiftly added to the Russian vocabulary: *junta* and *anticonstitutionalaya*. Used in the setting of that week's events, I think these words are truly revolutionary. I hope that revolution will last.

Although the Russians are the primary heroes of their own shift in power, there is an important sense in which we played at least a small role in the events of last August. The American revolution against British despotism and our commitment to ordered liberty have provided the democratic world's most salient alternative to the totalitarian repression of human rights and a corrective to unbridled nationalism around the world. In Jefferson's words, "the flames kindled on July
LETTER FROM THE DEAN

4th, 1776, have spread over too much of the globe to be extinguished by the feeble engines of despotism."

On December 15, 1791, Jefferson's Virginia became the tenth state to ratify the Bill of Rights, and the first ten amendments were added to the United States Constitution. At 5 P.M. on December 15, 1991, Valparaiso University and the City of Valparaiso will celebrate the Bicentennial of the ratification of the Bill of Rights with a magnificent civic ceremony in the Chapel of the Resurrection. The Hon. Randall T. Shepard, Chief Justice of the Indiana Supreme Court, will preside. Public officials at the national, state, and local levels of government will reaffirm their sworn duty to support and defend the Bill of Rights. I hope that many of you will come back to Valpo on December 15 to take part in our efforts to revitalize our nation's commitment to limited government as the means of ensuring a free society.

As I mentioned to you in my last letter, we have much to celebrate this year, and it is vital that we do so not merely with fanfare and hoopla, but with an eye to ensuring the ongoing vitality of the Bill of Rights in our own society. The speakers who have already come to Valparaiso have presented thoughtful, stimulating lectures on each of the major provisions of the Bill of Rights. They have urged us not to be complacent about the state of health of the Bill of Rights in this bicentennial year. One of the speakers, Professor Douglas Laycock of the University of Texas, noted that American lawyers are being invited to Eastern Europe these days with greater frequency than ever before, for the express purpose of assisting our colleagues in the former Communist bloc to find effective means of securing human rights by limiting the constitutional power of the government.

In the words of the Williamsburg Charter, "Our commemoration of the Constitution's bicentennial must go beyond celebration to rededication. Unless this is done, an irreplaceable part of national life will be endangered, and a remarkable opportunity for the expansion of liberty will be lost."

Sincerely yours,

Dean Edward McGlynn Gaffney, Jr.

TAX PLANNING TIP

Despite all the recent changes in the tax laws, charitable deductions remain an effective method of reducing your federal (and possible state) tax liability. To take advantage of charitable deductions in this tax year, be sure to make your charitable gifts before the end of calendar year 1991.

TAX PLANNING OPPORTUNITY

Watch your mail for the 1991-1992 VUSL Dean's Yearly Giving Campaign kick-off letter. Your participation in the Campaign provides critical financial support directly to the School of Law, and your contribution qualifies in full as a charitable deduction for federal and applicable state tax laws.
MESSAGE FROM THE ALUMNI PRESIDENT

Dear Alumni:

During the past twelve months, several very exciting things happened at the Law School. The first item was the inaugural summer school programs in China and England. Second, the Valparaiso Law School recently celebrated the Bicentennial of the Bill of Rights. No other law school attempted such an event, let alone achieved it in such a successful manner. As alumni, you should be proud of the efforts being undertaken by the faculty under the leadership of Dean Gaffney.

In this issue of the Amicus, you normally receive a message from the new President, not the past President. However, the Board of Directors asked me to stay around one more year and I am pleased to do so. We lost several board members this year as their terms ended. I want to thank Mary Squyres, '82, Donald Seberger, '80, John Diltz, '81, Mark Bates, '81 and Donn Wray, '80, for their services, each of whom have devoted many hours to the law school and the Alumni Association. I also want to welcome our new board members. They are Rhonda Craig, '78, Dave Hollenbeck, '74, Alan Landmeier, '67, Diane Kavadias-Schneider, '82, Eugene Schoon, '80, and Dawn Wellman, '76. In addition to the new members, incumbent Derrick Carter, '75, was re-elected to the Board.

On June 21, 1991, the Alumni Association was officially incorporated as the Valparaiso University School of Law Alumni Association, Inc. Our first official board meeting occurred on October 5. At that meeting, we adopted by-laws, elected our first officers and granted official status to our first alumni chapter in Indianapolis. It is my desire that the Indianapolis chapter be the first of many. All of us on the Board want to thank Lew Willis, '87, for his efforts in making this concept a reality.

On November 8, 1991, Marilyn Nickell, '87, and Dan Kozera, '66, sponsored an alumni dinner in Grand Rapids. A pleasant evening was had by all and we want to thank Marilyn and Dan for their efforts.

The Alumni Association does not exist without your support, and your support continues to grow each year. As of November 1, 1991, we had 319 dues-paying members. As a result of your support, the Alumni Association has been able to assist many students through our student emergency fund, as well as by other means. However, financial support is only part of the support needed by the students. An alumni/student network has been established by the law school to assist with the admission of students and the placement of graduates. The purpose of the network is to help students in their decision to attend VUSL, to assist law students through the three tough years at law school, and to assist them in locating a place to practice. If you are interested in being involved in the alumni/student network, please call Mary Beth Lavezzorio at the law school.

Moreover, if you are called by a prospective student interested in VUSL, or a law student who is interested in locating in your area, please take the time to meet with that person and to help him/her in whatever way you can. Believe me, you will be rewarded several times over.

Roger Benko, '72, President, VUSL Alumni Association

1991-1992 VUSL Alumni Association Board of Directors

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Professor Rosalie Levinson has published two articles: "Survey Article on Constitutional Law: Nude Dancing and Political Speech as Protected Expression: the Scope of the Due Process Guarantee," 24 Ind. L. Rev. 697 (1991); and "Protection Against Government Abuse of Power: Has the Court Taken the Substance Out of Substantive Due Process," 16 Univ. of Dayton L. Rev. 313 (1991). Professor Levinson spoke at two continuing legal education programs. The first, the constitutional law portion of "Indiana Law Update," was given on September 6 in Indianapolis. At the VUSL Homecoming continuing legal education program on Oct. 4 covering "Litigating Individual Rights Cases," Professor Levinson gave two presentations -- one on constitutional law claims frequently raised in §1983 cases and the other discussing Title VII of the Civil Rights Act of 1964.

In September Clark Boardman Callaghan published a revised Chapter on §1983 which Professor Levinson and Professor Ivan Bodensteiner co-authored for their treatise, State & Local Government Civil Rights Liability.

Professor Robert F. Blomquist will publish an article entitled "Reducing Risk: A Critique of the EPA's Science Advisory Board's Risk Management Report" in Volume 21 of The Environmental Law Review. For a five-week period during June and July, Professor Blomquist taught a course in International Environmental Law at Ningbo University in conjunction with the Valparaiso Summer Study Abroad Program. Professors Richard Stith and Jack Hiller also taught at the Ningbo program.

Professor Blomquist was recently appointed a member of the Porter County District Solid Waste Management Advisory Planning Committee. This Committee will advise regional governmental officials on the Porter County Solid Waste Management Board in implementing comprehensive solid waste planning according to the mandate of recent Indiana legislation.

On September 13, Professors Blomquist and Hiller joined a group of law students who participated in the Ningbo, China, program during the summer, in a founding meeting of the Pijiu Society.

Professor John Potts participated in an amicus brief, filed with the Indiana Supreme Court, in the Sue Ann Lawrance euthanasia case. The brief argued against "substituted judgment" as a mechanism for starving and dehydrating non-dying, handicapped patients who are not in pain but who are incompetent to say whether they want minimal life-sustaining care and treatment. Professor Potts continues to be involved in cases protecting minors from forced abortion, which is a felony in Indiana.

Professor Potts gave a public address at the LaPorte (Indiana) Public Library on the extremism of Roe v. Wade. The talk was hosted by Concerned Citizens for Life.

Professor Ivan Bodensteiner chaired the VUSL continuing legal education homecoming program: "Litigating Individual Rights Cases: Claims & Detainers" on October 4. He also spoke at the program. On September 6, Professor Bodensteiner attended the meeting of the Seventh Circuit Rules Advisory Committee.

Law Librarians Naomi Goodman, Sarah Holterhoff, Mary Persyn, Leslie Schaefer, and Tim Watts attended the annual meeting of the American Association of Law Libraries in New Orleans in July. Professor Persyn participated in a panel on the image of law librarians at the annual meeting.

Documents Librarian Sally Holterhoff was profiled in an article in the June, 1991, issue of the CALL Bulletin, published by the Chicago Association of Law Libraries. The article was written by Leslie Schaefer, Assistant Law Librarian, who is a columnist for the Bulletin.

Mrs. Holterhoff is planning a workshop for documents librarians on federal and Indiana government law and procedure, 24 Ind. L. Rev. 723 (1991). On September 6 in Indianapolis, Dean Berner addressed a CLE audience on "Recent Developments in Criminal Law.

Dean Berner directed the VUSL summer program in Cambridge, England.

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information, to be held at the Indiana State Library in November. She is also coordinator for a continuing education program on legislative history research for academic and firm librarians. The program, sponsored by the Chicago Association of Law Libraries, will be held in Chicago in February.

Acquisitions Librarian Elaine Moore attended the 2nd annual Conference on Acquisitions, Budgets and Collections this past April.

Professor Seymour Moskowitz taught in the Law School's Cambridge (England) summer program during June & July. He taught Family Law, with special emphasis on comparative international aspects of divorce, custody, legal issues of reproduction, etc. Professor Moskowitz is on sabbatical leave in the Fall 1991 semester, and has been studying in Israel. Professor Moskowitz and his wife, Linda, recently wrote and edited the 2 volumes on Discovery in the multi-volume treatise, Family Law Litigation Guide (Matthew Bender, 1991).

Director of Career Services Gail Peshei attended the National Association for Law Placement annual meeting in Keystone, Colorado this June. She helped facilitate a round table discussion about current employment trends. Mrs. Peshei is chairing the Research Policy Committee and serving on the Long Range Planning Committee of NALP.

Professor Michael Straubel will have an article, "Telecommunication Satellites and Market Forces: How should the Geostationary Orbit Be Regulated by the FCC?" published in the winter edition of the North Carolina Journal of International Law and Commercial Regulation, Vol. 17(1). Professor Straubel finished 3rd (bronze) in the recent National Masters Championships 3000 meter steeplechase.

In May Professor Ruth C. Vance spoke to the Valparaiso University Women of Academic Rank on negotiation. In July, Professor Vance hosted the Midwest Legal Writing Conference at Valparaiso. Fifty-three legal writing professors and attorneys participated. Joseph Williams from the University of Chicago was the keynote speaker. Professor Vance made a presentation on evaluating student writing.

Professor Vance has been promoted to the rank of associate professor, effective this academic year.

Professor Mary G. Persyn, Law Librarian, was awarded tenure by Valparaiso University at the opening convocation for the school year. In October Professor Persyn will complete her term as President of the Ohio Regional Association of Law Libraries at the association's annual meeting at Notre Dame. Professor Persyn will participate in a panel on teaching through the reference interview at the ORALL meeting.

Professor Persyn has been appointed to the Governance Committee of the Indiana Private College and Seminary Libraries' automated system development project.

Assistant Dean Katharine Wehling has been appointed to the Environmental Scanning Committee, an agent of the VU Strategic Planning Committee. Dean Wehling was quoted on law school enrollment in the "Law Schools" column of the October 7 issue of the National Law Journal.

Professor Linda S. Whilton conducted a workshop entitled, "Living Life Your Way - What Everyone Should Know About Living Wills and Durable Powers of Attorney," at Canterbury Place Nursing Home in Valparaiso. This is the first in a series of workshops that she is developing to provide information and pro bono legal services to senior citizens in Northwest Indiana. With the assistance of law student volunteers, she will be preparing living wills and durable powers of attorney free of charge for workshop participants.


Assistant Dean Curtis Cichowski, in preparation for the November site evaluation by the ABA/AALS, attended an ABA Site Evaluation Orientation Workshop for ABA accredited law schools.

Along with Deans Gaffney, Berner, Wehling and Professors Hiller, Blomquist, McGuigan and Dooley, Dean Cichowski attended the fall VUSL Alumni Reception held in conjunction with the Indiana State Bar Association Meeting. Over 100 alumni turned out for the reception, including members of the Indianapolis Chapter of the VUSL Alumni Association, Inc.

New Faces at VUSL

The curriculum of the School of Law has expanded this fall with the addition of three new professors. These professors, Derrick Carter, JoEllen McGuigan, and Linda Whilton, are or will be teaching in the areas of criminal law, civil procedure, jurisprudence, constitutional theory, pretrial skills, business associations, business planning, and elder law.

Professor Derrick Carter

Professor Linda S. Whilton

Professor Geri Yonover

Professor Richard Stith
teaching in India. Professor Carter is a graduate of Eastern Michigan University and the V.U. School of Law ('75) and serves on the VUSL Alumni Association Board of Directors. For the past sixteen years he has been representing indigent criminal defendants at the Michigan Appellate Defenders Office.

Professor Carter serves on the Board of Governors of the National Bar Association and is the current secretary and Newsletter Editor for the Criminal Law Section of the NBA. From 1988 to 1991 Professor Carter served as the Criminal Law Committee Chair and Newsletter Editor for the General Practice Section of the American Bar Association. He is the host of an hour-long weekly radio show, "On the Legal Side," in Detroit on WDTR, and has organized a continuous People's Law School program with Wayne County Community College where 16 attorneys teach various courses of law in the fall semester. In 1989 the Michigan Supreme Court appointed Professor Carter to a committee to revise Michigan's pretrial release rule concerning bail and preventive detention. The revised rules are now published for commentary to the Bench and Bar before formal adoption. In 1991 the Cooley Law School Law Review awarded Professor Carter its "Distinguished Brief Award" for his brief submitted in People v. Collins. Professor Carter is teaching criminal law and pretrial advocacy during fall semester.

Professor JoEllen McGuigan comes to Valparaiso from Utah where she taught law at the University of Utah and also worked on her doctorate in philosophy. After graduating from Stanford University in 1972, Phi Beta Kappa, in history and the humanities, she attended the UCLA Law School where she was on the Law Review. Professor McGuigan began practicing business litigation in federal courts with the Los Angeles firm of Ball, Hunt, Hart, Brown and Baerwitz after her graduation in 1975 and in 1977 began her law teaching career at the McGeorge School of Law, University of the Pacific in Northern California. During her time at McGeorge she taught civil procedure, contracts and the Uniform Commercial Code, among other subjects, while conducting research in issues relating to business and banking.

While living in California Professor McGuigan was appointed a public member of the California Dental Board and during her service on the Board pioneered regulations concerned with the use of anesthesia in dental offices. She also served as a consultant to the California Attorney General's Office on letter of credit transactions. In 1984, Professor McGuigan moved to Utah, where she became a partner in a large Salt Lake firm doing transactional work. In 1987, following a long-standing interest in the philosophy of law, she left practice to pursue a Ph.D. in philosophy. She expects to receive that degree in the current academic year and is putting her philosophical/legal training to work teaching civil procedure, jurisprudence and constitutional theory at VUSL. Professor McGuigan and her husband, Philip, who is also a lawyer, have a thirteen-year-old daughter, Erin, who attends Ben Franklin Middle School.

Professor Linda S. Whitton has joined the faculty full time. In prior years she has been an adjunct professor teaching estate planning, pretrial skills, and an interdisciplinary class in the study of nihilism. Professor Whitton has her B.A. and J.D. with honors from Valparaiso. While in law school she served as the Executive Editor of Publication for the Valparaiso University Law Review and was a brief writer for the National Moot Court team. After graduating from VUSL she spent two years as the law clerk to Judge S. Hugh Dillin in the United States District Court for the Southern District of Indiana, and then entered private practice in the areas of corporate and real estate law with the firm of Henderson Daily Withrow & DeVoe in Indianapolis. She continues to serve the firm on an of counsel basis for special projects. Professor Whitton will be teaching courses in the areas of elder law, business associations, and business planning.

GALILEO Sheds New Light on Library Collection

The arrival of Galileo, the Law Library's new online catalog, has brought VUSL into the world of computerized access to library materials. This system, which replaces the card catalog, provides one-stop information shopping. Records for books, serials, and periodicals can be searched by title, author, subject, and keyword, by using a self-explanatory menu system. Galileo also provides a more efficient circulation system for checking on the availability of library materials, placing reserves, and borrowing items from the collection.
The Law Library shares Galileo with Moellering Library (VU's undergraduate library), and the resources of both libraries are reflected in the system. Galileo provides easy access to the Law Library's over 200,000 volumes (paper and microform) and to the approximately 260,000 volumes in Moellering Library. Four public access terminals are available in the Law Library, as well as others for staff use.

Galileo is an integrated library system purchased from Innovative Interfaces, Inc. of Berkeley, California. This company is becoming the library automation supplier of choice for law libraries. One of Innovative's strengths is the ability of its serials system to record and display the complicated serials which make up a large portion of a law library's collection. VU is Innovative's first installation in Indiana. A Lilly Foundation "Dreams of Distinction" grant helped provide funding for the automation project.

Over ten years of planning and preparation went into the process of automating the library catalog, with the work intensifying during the past several years. Hundreds of thousands of bibliographic records were converted to machine-readable form, and several available systems were studied by librarians from the Law Library and Moellering Library before Innovative was selected. At times it seemed as though Frankenstein's monster had intersected with Murphy's Law on this project, as the library staff dealt with the myriad details of processing the database, meeting deadlines, and handling mysterious appearances by various workmen. One enormous task, necessary for the circulation system to work, was attaching bar code labels to each and every book in the collection, and then linking the bar codes to records in the database. But the rewards for all these efforts started in July when Galileo began operating in the Law Library and continue with the positive feedback and increased use of the library which have resulted.

Users of Galileo enjoy expanded research options, including indexes in the Subject and Author Indexes. These guide the user from his own words to the terms actually used in Galileo, and also suggest related subjects or authors which could be useful. Another option which was not available in the card catalog is keyword searching of titles, conferences, corporations which sponsor books, and, in some cases, titles of individual chapters. Users can now limit their searches, for example, to material published after a particular year. Another advantage is that users can check on both the availability of a volume and on the most recent volume received by the library. By the end of fall semester, Galileo will contain entries for the library's government documents (including Congressional materials and federal agency decisions), which had not been included in the card catalog.

In order for a person to borrow materials from the Law Library or Moellering Library, he or she needs an ID card with a bar code on it. Students, faculty, and staff have University IDs. Alumni and other library users who wish to check out materials can purchase a borrower's card for $10.00 at the Library circulation desk. (Use of the library itself continues to be available to all free of charge.) The first Galileo borrower's card was purchased by George Terrell, '84.

Galileo consists of modules that provide not only the online public access catalog and an automated circulation system, but also automated serials and acquisitions systems. These allow library users to see which volumes of multi-volume sets are available and which is the most recent issue received for a given title. Automating acquisitions and serials will help the library staff to handle the greatly increased amount of material now being purchased by the library to strengthen the collection.

Dial access into the system from off campus should be available by Thanksgiving to anyone who has a computer with a modem. Further information on how to dial into the system will be forthcoming. By January, the installation of all parts of Galileo should be completed. A dedication ceremony will be held early in the second semester.

Comments about Galileo have been uniformly positive. Library staff members have observed many more people intently using the online catalog than were ever seen using the card catalog. In addition, the library staff can now trace the location and status of materials in the collection with greater accuracy.

Visiting alumni are invited to stop by and get acquainted with Galileo.
FACULTY FOCUS -- Habeas Corpus

Whatever Happened to Habeas Corpus?

By Professor Laura Gaston Dooley

We do well to bear in mind the extraordinary prestige of the Great Writ, habeas corpus ad subtiaciendum, in Anglo-American jurisprudence: 'the most celebrated writ in the English law.' 3 Blackstone Commentaries 129. It is . . . 'perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.' . . . [T]his Court has had occasion to reaffirm the high place of the writ in our jurisprudence: 'We repeat what has been so truly said of the federal writ: "there is no higher duty than to maintain it unimpaired," . . . and unsuspended, save only in the cases specified in our Constitution.'

With these words, written during the early years of his illustrious Supreme Court career, Justice Brennan set the stage for implementing a vision of federal restraint on unconstitutional state imprisonments. It is ironic that in the year following the resignation of this influential Justice his vision has been finally and explicitly dismantled.

The Supreme Court has achieved this drastic cutback on the federal habeas remedy by developing two distinct strands of purportedly non-substantive limits on the availability of federal habeas review. First, the Court has held that a state prisoner whose failure to comply with state procedural rules, such that his constitutional claim would be considered a "default" in state court, is foreclosed from federal habeas review unless he can show "cause" for his non-compliance and "prejudice" resulting from it. This "procedural bar" to federal habeas review applies except in the rare case that failure to consider the merits would result in a fundamental miscarriage of justice—that is, the continued incarceration of someone who is "actually innocent." Second, the Court has held that no "new rule" of constitutional law will be announced in federal habeas proceedings—the so-called "non-retroactivity" doctrine. Together, the procedural bar and non-retroactivity doctrines effectively foreclose federal review of the merits of many constitutional claims brought by state prisoners.

Ironically, they have spawned a new flurry of prisoner litigation centered on the proper application of the doctrines themselves.

The current inhospitable climate toward prisoner petitions in federal court was not, of course, created in a vacuum. Dissatisfaction with the tide of litigation brought by prisoners has surfaced in a number of fora, including the media and the legislatures. There is a widespread public perception that the current two-tiered post-conviction review system enables prisoners to tie up the courts with numerous challenges to their convictions, the great majority of which are frivolous. Death row prisoners in particular are thought to delay their punishments with groundless and seemingly endless appeals.

In 1990, Chief Justice Rehnquist appointed an ad hoc committee of the Judicial Conference of the United States to consider federal habeas corpus reform, with a particular focus on review of capital sentencing. Headed by former Supreme Court Justice Lewis F. Powell, the legislation recommended by the committee included an opt-in provision that allowed states to earn expedited federal habeas review of cases filed by their prisoners in exchange for providing appointed counsel in proceedings at the state court level. After this and other legislative efforts faltered in Congress, the Bush administration developed a habeas reform plan that would eliminate federal habeas review in noncapital cases in which the state courts had "fully and fairly adjudicated" the federal constitutional claims, despite substantive error in the state court. At present, Congress has yet to commit to a habeas reform bill, and the future of pending legislative proposals is unclear.

Available empirical data belies the notion that our federal courts are being overrun with habeas petitions filed by state court prisoners. After examining available statistics, Professor Meltzer of Harvard concluded in 1986 that "most state criminal cases, whether or not involving a procedural default, simply do not result in the filing of a federal habeas corpus petition." Yet the palpable public and judicial concern over prisoner petitions persists, resulting in legislative and judicial initiatives to reform the system. It is interesting that the concern manifests itself in the notion that procedures need to be modified rather than a sense that there may be substantive constitutional errors in state court criminal proceedings that need to be remedied.

I have argued elsewhere that with regard to the procedural bar doctrine, the Supreme Court is effecting a substantive cutback on the scope of federal habeas review in the guise of tightening procedural safeguards. The Court has likened its procedural bar rule, which forecloses federal review of constitutional claims deemed "defaulted" under state law, to the independent and adequate state ground doctrine which limits Supreme Court jurisdiction over judgments of state supreme courts that rest on state law grounds. The difference, of course, is that the procedural bar doctrine in federal habeas corpus is not a jurisdictional mandate; indeed, the jurisdictional mandate of federal habeas corpus is the statutory command that federal courts "shall" entertain applications for writs of habeas corpus on the grounds that a state prisoner is in custody in violation of the federal constitution. It has long been established that the federal courts
have the power to look beyond state procedural defaults to consider the merits of a constitutional claim in a habeas corpus proceeding. The sole source of the procedural bar rule is the notion that comity to the states, essential to preserve our federal system, requires that the procedural holdings of state courts be respected in federal court.\(^4\)

Yet the procedural bar rule never has been, nor is it now, absolute. Under Justice Brennan's \textit{Fay} rule, a prisoner's state procedural default did not interfere with his right to federal review of his constitutional claims unless he "deliberately bypassed" state court procedures. That is, a prisoner was not allowed to "sandbag" by deliberately refusing to present the claim in state court, taking his chances on a favorable verdict knowing that his claim can be raised at a later point in the criminal process, namely post-conviction review. Such a deliberate strategic choice on the part of the defendant would be in effect a forfeiture of the claim under \textit{Fay}. But a defendant's inadvertent procedural error, or more to the point one by his otherwise competent attorney, would not forever prohibit review of a federal constitutional claim. In \textit{Fay} itself, for example, the Court refused to prohibit habeas review of claims on the basis of the state prisoner's failure to take a state appeal.

The \textit{Fay} deliberate bypass standard was one part of the great trilogy of habeas corpus cases decided in 1963. The other two cases provided guidance to the courts as to how successive petitions filed by the same prisoner were to be handled and to the permissible scope of federal court power to receive evidence on habeas claims.\(^5\) Together, these cases set up a procedural structure for federal habeas corpus that provided substantive review of claims and, at the same time, calibrated foreclosure of review to deliberate forfeiture on the part of the prisoner. That structure manifested the vision of the Warren Court that federal habeas review should be a meaningful and consistent check on constitutional errors in state criminal systems, and survived into the early years of the Burger Court.

In 1977, though, the Court revisited the issue of federal review of constitutional claims deemed defaulted in state court and announced a rule that demonstrated a far narrower vision of the role federal courts should play in the oversight of state criminal systems. \textit{Wainwright v. Sykes}\(^6\) involved a state prisoner's challenge to the introduction into evidence of inculpatory statements he claimed he made without understanding his \textit{Miranda} rights. Sykes had failed to object at trial, in contravention of Florida's contemporaneous objection rule. Without explicitly overruling \textit{Fay}, the Supreme Court held that Sykes' claim was barred from federal review unless he could show both "cause" for his state court procedural default and "prejudice" resulting therefrom. In so holding, the Court handed back to the state courts the final say as to what claims will be afforded federal habeas review. While under the \textit{Fay} rule the federal courts were directed to afford habeas review unless the prisoner deliberately forfeited review, under \textit{Sykes} the courts are directed \textit{not} to afford review except under the rare circumstances under which he may invoke the "cause and prejudice" escape hatch. Indeed, post-Sykes cases have demonstrated just how narrow that escape hatch is. Attorney error short of ineffective assistance of counsel, for example, does not constitute cause for excusing the attorney's procedural default. This has the effect of punishing the prisoner for mistakes attributable to their attorneys.

Though the restrictive interpretations the Court has given to the terms "cause" and "prejudice" have rendered the escape hatch an elusive means of relief, its existence is important as a theoretical matter. The fact that the Court still acknowledges that there may be some circumstances, however rare, that justify a federal court ignoring state court procedural default indicates that it has not backed away from the view that federal courts retain jurisdiction even over defaulted claims. Even more significantly, the Court in the late 1980s added another escape hatch to the mix: a state court procedural default may be overlooked despite the lack of cause and prejudice if federal review is necessary to prevent a "fundamental miscarriage of justice." In particular, the Court preserved federal review to protect prisoners who are "actually innocent" -- those who did not in fact commit the crime of which they were convicted.

The content of this second escape hatch is especially telling. There are some substantive claims, those that bear on actual innocence, that the Court considers compelling, so much so that it is willing to abandon the ostensibly neutral procedural bar rule to facilitate review. Yet the Court has not explicitly acknowledged that it is effecting a cutback on the types of substantive claims that receive federal habeas review. Instead, it uses the procedural bar doctrine as a proxy for weeding out those claims that it considers less compelling on the merits. So, for example, a prisoner who wishes to make a \textit{Miranda} claim in federal habeas corpus does not get the benefit of the "fundamental miscarriage of justice" escape hatch because his claim does not bear on the issue of whether he is in fact guilty of the crime charged. This selectivity of claims is a substantive policy choice on the part of the Supreme Court, clothed in the procedural trappings of supposed "comity" to the states.
During the summer of 1991, the Supreme Court solidified this disingenuous approach in a case that finally answered what had been left unanswered in the wake of Wainwright v. Sykes and its progeny: whether a prisoner's failure to take an appeal in state court worked to foreclose all future claims in federal habeas corpus that could have been raised in a state appeal. That precise factual situation had been the basis for the Fay deliberate bypass rule. Even after Wainwright v. Sykes, an open question remained as to whether such complete foreclosure of review was subject to the new strict procedural bar rule. In Coleman v. Thompson, the Court explicitly overruled Fay and held that a Virginia prisoner could be sent to the death house without federal review of seven claims that had been included in a state appeal filed three days late. With Justice Brennan gone, Justice Blackmun garnered only two additional votes for his dissent, which took the majority to task for "transform[ing] the duty to protect federal rights into a self-fashioned abdication." In a poignant rebuke, the dissenters noted that:

One searches the majority's opinion in vain . . . for any mention of petitioner Coleman's right to a criminal proceeding free from constitutional defect or his interest in finding a forum for his constitutional challenge to his conviction and sentence of death . . . . Rather, displaying obvious exasperation with the breadth of substantive federal habeas doctrine and the expansive protection afforded by the Fourteenth Amendment's guarantee of fundamental fairness in state criminal proceedings, the Court today continues its crusade to erect petty procedural barriers in the path of any state prisoner seeking review of his federal constitutional claims . . . . I believe that the Court is creating a Byzantine morass of arbitrary, unnecessary, and unjustifiable impediments to the vindication of federal rights.9

The other strand of judge-made procedural doctrine used by the Court to limit review of substantive claims made in habeas proceedings is the non-retroactivity doctrine. It too is troubling. Teague v. Lane,10 decided in 1989, represented the convergence of two lines of cases. In one continuous line of cases, the Court had announced new constitutional rules of criminal procedure and applied those rules to grant habeas relief to the prisoners whose claims occasioned the change in doctrine. A second line of cases would then have to be brought to determine whether the "new rules" should apply retroactively to warrant relief for other prisoners who seek the benefit of the new rule long after their convictions have been final. In Teague, Justice O'Connor spoke for a plurality of the Court in concluding that the costs of applying new rules of constitutional law in habeas are too great: "In many ways the application of new rules to cases on collateral review may be more intrusive than the enjoining of criminal prosecutions, for it continually forces the States to marshal resources in order to keep in prison defendants whose trials and appeals conformed to then-existing constitutional standards." Under the plurality view, a habeas petitioner may not benefit from a proposed change in constitutional doctrine: "We can simply refuse to announce a new rule in a given case unless the rule would be applied retroactively to the defendant in the case and to all others similarly situated." That would happen only when the claim impacts on accuracy and implicates the fundamental fairness of the trial; the plurality believed it "unlikely that many such components of basic due process have yet to emerge." Concluding that petitioner's sixth amendment fair-cross-section claim, even if successful, would not undermine the fundamental fairness of his trial or diminish the likelihood that he was accurately convicted, the plurality declined to consider the merits of that claim. In a concurring opinion, Justice Stevens rejected the plurality's emphasis on reviewing only those claims that bear on factual innocence, noting particularly that this standard would be unsatisfactory in capital cases involving errors during the sentencing phase. Justice Brennan, in a dissent joined by Justice Marshall, expressed his belief that this new barrier to habeas review "can be expected to contract substantially the Great Writ's sweep." He noted that most of the Court's most important constitutional criminal procedure cases would never have been decided had the plurality's approach been in place—the "new rules" announced in those cases, including some involving sixth amendment right to counsel, fifth amendment privilege against self-incrimination, double jeopardy claims and so on, would never have been developed. Instead, the federal habeas courts would have had to refuse to consider the merits of those fundamental issues because the decisions could not be retroactively applied given that they do not impact on the actual innocence of state prisoners.

Justice Brennan's prediction that the scope of habeas review had been severely restricted in Teague proved accurate. In Saffle v. Parks,11 a full majority of the Supreme Court applied Teague and refused to consider the merits of a habeas claim which would lead to a new rule of constitutional criminal procedure. In another case decided last term,12 the Court held that a prior holding that jurors in capital cases may not be left with the false belief that they are not ultimately responsible for the decision to impose the death penalty was a new rule which could not benefit a prisoner whose conviction was final before the rule was announced.

As with the procedural bar doctrine, the bar on retroactive application of new constitutional rules is not absolute. The plurality in Teague suggested that the new
HABEAS CORPUS: Covert Abdication

The nonretroactivity rule should admit of two exceptions, both of which had been earlier articulated by Justice Harlan. The first exception is that a new rule should be applied retroactively if it places "certain kinds of primary, private individual conduct beyond the power of the criminal law-making authority to proscribe." The second exception is even more amorphous: "a new rule should be applied retroactively if it requires the observance of "those procedures that ... are "implicit in the concept of ordered liberty."" Interestingly, the Teague plurality modified the second exception, noting that "since Mackey was decided, our cases have moved in the direction of reaffirming the relevance of the likely accuracy of convictions in determining the available scope of habeas review." Accordingly, the plurality defined the scope of the second exception as limited to "those new procedures without which the likelihood of an accurate conviction is seriously diminished." The explicit focus of this second exception to the nonretroactivity doctrine is on issues that bear on a habeas petitioner's actual innocence of the crime on which the conviction rests. The parallel between this exception and the actual innocence escape hatch of the procedural bar doctrine is obvious and, I think, telling. The Court is seeking a substantive cutback on the scope of federal habeas review of state court convictions. To recognize that the development of these two strands of procedural doctrine in federal habeas are really manifestations of a larger agenda to cut back on the substantive scope of review is not necessarily an indictment of the wisdom of that policy choice. Given the societal and legislative pressures to limit the ability of prisoners to mount successive challenges to their convictions, one might make a convincing, if not compelling, argument that a substantive cutback is appropriate. And the constitutional validity of such a judicial cutback in light of legislative inaction is beyond the scope of my remarks here. My point is simply this: the Court's use of these two doctrines, procedural bar and retroactivity, which are ostensibly non-substantive and neutral, as a proxy for weeding out claims whose merits it considers less than compelling is disingenuous and does damage to the entire habeas review system.

It is especially troubling that the Court continually disavows this substantive agenda. In Teague, for example, Justice O'Connor's plurality opinion referred to the procedural bar doctrine: "We have declined to make the application of the procedural default rule dependent on the magnitude of the constitutional claim at issue."

Of course, the very existence of the "actually innocent" escape hatch belies that position, for it is impossible for the Court to evaluate the applicability of that escape without making evaluative judgments about the merits of the underlying claim.

The Supreme Court should own up to its substantive agenda in federal habeas corpus. Rather than obscuring its judgments about the merits of particular claims in complicated procedural baggage, the Court should forthrightly inform the lower federal courts of the claims it considers worthy of habeas review, so that they can be about the business of affording that review. This would improve the efficiency of the habeas system by obviating the need for huge judicial expenditures in deciding peripheral procedural issues. Most importantly, the Court would be forced to be accountable for the substantive judgments it is now making in the guise of procedural cutbacks. This in turn would invite discussion about the merits and pitfalls of the habeas system, indeed of the criminal justice system as a whole, and would if necessary lead to legislative reform.

Unless and until the Supreme Court undertakes a project of habeas reform that openly embraces the problem of the appropriate substantive scope of the remedy, one would have to conclude that it is abdicating its "high duty" to protect the writ. Sadly, its abdication is practically invisible to the public which it is charged to serve. For by deferring away in procedural terms its duty to protect the writ, the Court can pretend that there has been no abdication at all.


2. See Melzer, State Court Fortunes of Federal Rights, 99 HARV. L. REV. 1130, 1192 (1986). Professor Melzer compared official statistics of first-time habeas petitions filed by state prisoners for a one-year period to the number of new admissions to state prisons following judicial conviction for a one-year period two and one-half years earlier. See id. at 1191-92 and n. 322 & 323.


4. The procedural bar rule is statutorily grounded in the provision that requires state prisoners to "exhaust" available state court remedies before coming to federal court, or show the lack of "available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner." See 28 U.S.C. Sec. 2254 (1988).

5. They were, respectively, Sanders v. United States, 373 U.S. 1 (1963) and Townsend v. Sain, 372 U.S. 293 (1963). This was also the year of the famous decision in Gideon v. Wainwright, 372 U.S. 335 (1963), a federal habeas case holding that state criminal defendants are constitutionally entitled to assistance of counsel.

8. 111 S. Ct. at 2571.
9. Id. at 2569.
11. Id. at 1075.
12. Id. at 1078.
13. Id. at 1077.
17. Id. at 1075, quoting Mackey, 401 U.S. at 695.
18. Id. at 1076.
19. Id. at 1076-77.
20. Id. at 1074.
When I boarded the plane last June, I was unable to envision the adventures that awaited me as a student in the Valparaiso Summer Study Abroad Program in Ningbo, China. I embarked on an experience of a lifetime.

Hong Kong, our port of entry, overwhelmed my senses with its people, neon signs, markets, and buildings. We then flew to Hangzhou, China, and rode to Ningbo. Throughout the trip, I realized that my pictures and journal would not completely depict what I experienced, so I tried to remember all of the different sights, smells, tastes, and sounds I encountered. I will always remember the kindness and hospitality the Ningbo University students and faculty extended to our group.

At Ningbo University, I studied International Environmental Law and The Judicial Process classes that were taught by the Valparaiso law professors. It was interesting to study law in a country that has a civil law system. We even were able to take some classes taught by Chinese teachers. Subjects of the classes included Taiji (traditional shadow boxing), Chinese history and geography, traditional Chinese painting, the Chinese legal system, Chinese language, and Chinese environmental law.

We had a number of opportunities to talk with the Chinese students. During our first week in Ningbo, we were invited to the "English Corner." Once a week, the Chinese students gather in a classroom to practice their English. The students asked many questions about our families and lifestyle in the United States. I was amazed at how knowledgeable the Chinese students were about American movies and culture. We even had a chance to play basketball against the students -- a wonderful time.

Walking and biking into the villages near Ningbo University led to many experiences with the people of China. Everyday, I saw new things in the villages. A few of us had dinner with a group of rice farmers. The farmers did not speak English, and a Chinese student and teacher interpreted for us. We ate shrimp, crab, fish, snails, vegetables, and rice. Our hosts also made sure that our bowls were always filled with pijiu (beer). At first, the children were shy and scared of us, but the candy and balloons we brought made them smile and laugh. Even though we had a language barrier, there was an uncanny way of communicating with our Chinese hosts.

Whenever I had the chance, I took a bus into Ningbo to explore the city. I became friends with "Lisa," who is from Ningbo and a student at the University. We walked around Ningbo for hours. She invited me to eat dinner with her family and I spent a wonderful evening eating and talking with the Wu family (although I think I ate snake).

Celebrating the Fourth of July was very special. Our hosts had a feast, complete with a cake with "Happy Independence" written on it. After lighting the firecrackers, our group heard songs sung by the students and faculty. The celebration was complete when our group sang the national anthem.

After final exams, we took a boat to Shanghai. I was very sad when we left Ningbo and the friends we made. Shanghai was a different world than Ningbo; the streets and shops were crowded with people. Special memories include walking on the Bund at twilight and seeing Shanghai from the O.K. Boat Restaurant.

We flew to Beijing, and spent several days exploring China's capital city. I will never forget walking around Tian'anmen Square and visiting the Forbidden City. Late one night, a few of us sat in Tian'anmen Square and we talked and sang for hours. Of course, we had to make a special trip to climb the Great Wall.

Attending Valparaiso University School of Law has given me many opportunities and challenges to learn and grow. My experience this summer was the ultimate adventure. Everyday I think about the people I met and the things I saw in Hong Kong and China. A special friendship has developed between Ningbo University and Valparaiso University. I hope that both universities continue to nurture and expand this friendship.
I must admit that my first thought of taking summer school was not very appealing. However, this was a great chance to be in another country and take courses that are not normally offered during the regular school year. I think someone forgot to tell the faculty that this was summer school, because in my opinion the classes were just as challenging, if not more, as those back in Valparaiso. Although there were many late night study sessions, I anticipate that a report of the cultural activities may be of more interest. They ranged from seeing a Shakespeare play at Stratford-on-Avon, to a visit to an English castle, to weekend trips to London (about an hour-and-a-half train ride). A few of the students went to Wimbledon and this writer actually saw match play on Centre Court.

Cambridge is a place that we might call a university community here in the States, but nevertheless a crowded community, unlike Valparaiso. The city is widely known for the university it houses—Cambridge University, which is made up of 31 colleges. The area around the colleges, known as the Backs, is famous for the medieval architecture as well as the beautifully landscaped lawns and gardens that extend along the river Cam. Captains Bemer and R. Dooley were known for their occasional punting (a canoe-type craft propelled manually by a pole) escapades down the Cam, although there was an occasion when one captain lost his pole. There were many evening strolls along the Backs that allowed the students to transgress the grueling days of studying.

At the heart of downtown was the round (yes actually a circle) church, which was the focal point for directions in and around the city. Not too far from the round church was Nadia's, a small pastry shop which sold fresh pastries to sweeten a tooth. It was also a place where you could find Ron and Professor Dooley daily, or any other restaurant in town for that matter. As you walk down the narrow winding one way streets you would come upon the open market. There one could buy anything from fresh fish and postcards to wool sweaters. Professor Moskowitz would always come back with a bargain to brag about.

Not far from our "abode" was the local grocery store named the Nazerine Dar. It was a small Indian owned store that turned into a modern supermarket by the time we left (probably from all of our American money, which was about half the value of the British pound.) Across the street from "the Dar" was the Grapes Pub, in which the students, and a couple of faculty, became regulars. It took awhile to get used to the lager beer, but after two pints worth one got acquainted in a hurry. However, the pubs closed at 11:00 p.m., so the socializing was done early in the evening. The early closing I suppose is part of the culture, like the real English tea Dean Gaffney had us all addicted to by the end of the program.

There were many aspects of the good old United States that we missed, but we improvised. Our substitute for American baseball was the great sport of cricket. By the end of the program cricket masters such as Graham Gooch and Curly Ambrose were household names.

Another sport that was greatly missed was basketball. Fortunately, the American Armed Forces network carried the NBA championship on the radio. Although we had to stay up all night to listen to the games (and we did make it to class the next morning), it was a sweet victory to rub in to Dean Gaffney, a Lakers fan. We also improvised on the 4th of July. For some reason the British do not celebrate the day they lost an entire country. We celebrated anyway by cooking hamburgers on the grill.

Professor Dooley made arrangements for us to meet with a Barrister in London, and we were fortunate enough to have the opportunity to see the English legal system explained to us from a practitioner. Solicitors do all of the pretrial work and if the case goes to trial, a barrister takes over and presents the case to the court. Dean Gaffney arranged for us to participate in personal tours through the House of Parliament. A few of us were fortunate enough to enjoy an afternoon tea on the Parliament members' terrace. We were also allowed to watch the very lively debates in the Parliament gallery, the topics of which ranged from England's poll tax to the possible reunification of Europe.

Dean Gaffney and Bemer should be commended for putting VUSL into the international market, not only for the Cambridge program but also for the China one as well. Giving our students international exposure is something for which the law school is to be applauded. The recent and continuing events in Europe and the Soviet Union exemplify that the international community is ever changing. I offer my sincere gratitude to the Law School for providing me the opportunity of a lifetime. The learning experience was fantastic and the relationships that developed are everlasting. To conquer may be the goal, but the true learning experience comes from the journey to attain the goal.
Commencement addresses invariably contain advice well worth heeding, and this year's commencement address was no exception. Yet, few of us remember anything of substance from the address delivered during our law school graduation ceremony. As a cure, the full text of this year's address, delivered by U.S. Attorney John F. Hoehner, '74, follows:

Words cannot begin to express the depth of the honor I feel for having been invited by your law school to present the commencement address on this most auspicious occasion. It is with a great deal of humility that I have accepted that invitation, and I shall endeavor to justify the law school's confidence in its selection of me.

When Bruce Bemer called me early this past week and extended to me the invitation to participate in this day's ceremonies as your commencement speaker, and after I recovered my sensibility, I inquired of him as to the preferred content of my address. After all, I had never before been so privileged to so partake in such an eloquent festivity. What does the commencement speaker say to an accomplished gathering of students and their distinguished audience? What could I say to a group of students soon to be lawyers who quite understandably have stars in their eyes and who are filled with an anxiety to expedite the celebration of the occasion?

Ever the helpful friend, Bruce suggested that my remarks encompass whatever subject matter I deemed appropriate, with the further suggestion that whatever my remarks might be that they at least border upon the inspirational. He further suggested that, perhaps, I share with you my experiences in the practice of law, including those experiences gained in my work in the United States Department of Justice or in my years of law practice which preceded those days in the Justice Department.

For a considerable time I struggled to find the right topic, one which would avoid the boredom of a narrow applicability, and one which might appeal to the larger audience of the day. Finally, something that Bruce said in his suggestions struck a chord. He had mentioned the United States Department of Justice. Within that imposing title is one word, a single word which serves as symbolic reference for all that I as the United States Attorney for the Northern District of Indiana represent -- the word is "justice." It is that word about which I would like to speak today and in so doing ask for only a few moments more of your time this grand afternoon.

As I look out upon this large audience, I suspect that many if not most of you, and this observation includes those of you who are students about to become lawyers, consider today's ceremonies to be the beginning of the end, the culmination of a long and sometimes difficult academic exercise whose ultimate design was to provide you students with the coveted degrees which you are about to receive. I suspect that all who are seated before me this afternoon, both students and those who have come to witness this important event, are indeed possessed of an understandably powerful sense of pride, satisfaction and outright joy in respect to that which is about to occur. And so each of you should be, for what these young men and women have accomplished is substantial and worthy of these emotions.

But I suggest that it is worth just a moment of time today to reflect upon another aspect of what this day means, for its meaning reaches far beyond this hallowed place in terms of both space and time, for what occurs today, the conferring of degrees, the presentation of documentation entitling the holder thereof to practice the profession of law, will have an impact upon untold thousands of persons who one day shall fall within the ambit of the American system of jurisprudence and who will be looking to these 123 or so men and women for guidance, for advice, indeed for consolation itself in a foreign but important and essential venue. In this regard, what occurs here today should not be considered the beginning of the end of the educational process, but the end of the beginning, a beginning of enormous responsibility, a beginning of a pursuit whose measure of success will have to wait years to be accurately determined.

As with all dictionaries, Black's Law Dictionary defines with precision a multitude of terms. There are two which are relevant to today and which I should like to bring to your attention. The first is the term "law."

"Law" is defined in Black's as "that which is laid down, ordained, or established.... That which must be obeyed and followed by citizens, subject to sanctions or legal consequences." The degree conferred upon you students today attests to the fact that each of you has successfully completed the study of that term and that there is a reason to believe you have at least a working knowledge of the concept. In many respects, the term is self-explanatory even to the lay person but to the extent that a refinement of that term in its practice may occasionally be required, your degree tells the world that you are quite capable of rendering the necessary detail.

But hand in hand with the term "law" must go an understanding of what I consider to be the more important term "justice."

Black's defines "justice," in relation to the old English practice, as "to do justice, to see justice done; to summon one to do justice."

As I have intimated, the term "law" and the term "justice" are inter-related, indeed intertwined, and the man or woman who practices the former cannot permit himself or herself to forget the application of the latter.

Seventeen years ago, in order to become a member of the bar of the State of Indiana, I took an oath of office. I believe it pertinent to...
today's exercises to share with you a portion of that oath.

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Indiana; I will maintain the respect due to courts of justice; I will not counsel or maintain any action, proceeding or defense which shall appear to me to be unjust; I will abstain from offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged; I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed; so help me God.

Some day you students-soon-to-be-lawyers will take a similar oath. It is worthy to note that not once in the excerpt which I have just recited did the word "law" appear; yet, the word justice or its derivative appeared no fewer than three times. I suggest the emphasis is telling, for the word "law" denotes power, a concept conspicuous by its absence, and the word "justice" denotes compassion, an understanding of the human condition, a quest for equity, a fairness in the application of the law, a concept most conspicuous by its included emphasis.

Time is insufficient today to begin, let alone complete, the educational process in respect to what I now announce is my challenge to you; that, with all the vigor of your being, you pursue and realize justice both for yourself and the society which you are about to serve, from this day forward. Time is insufficient quite simply because justice is a somewhat elusive concept that is based less in formal study and more so in experience, an elusive concept that takes root in the fertility of a man or a woman's heart. It is, nonetheless, a spirit I challenge each of you students to incorporate into your careers, into your individualized practices of law. For it is the law which is the useful tool, but it is justice which will define how best the tool is to be used.

Today is a most splendid day for each of you. Today marks the end of the efforts of the considerable intellect of your law school faculty in preparing you for that which lies ahead. By their presence today each of these teachers honors your achievement, commitment and sacrifice. As your parents did before them, the formality of their task having been recently completed, each of these teachers releases you to find your own way in what is sometimes called the real world. Each of them has contributed immeasurably to the molding of your mind, the molding of your intellect to the point where you can now begin to think like a lawyer. It is upon their teachings and efforts that the definition of law has taken on some solidity within the confines of your mind. In essence, these teachers have given you your wings.

There is, however, another company of persons who, by their physical or spiritual presence, bid you honor today, a company who rightfully shares in the grandeur of your moment for as your illustrious faculty has given you your wings, so has this company provided you with the wind beneath those wings. I speak of the grandmothers and grandfathers -- the mothers and fathers -- the wives and husbands -- the sisters, brothers, and children, both born and yet to be born, who, seated behind, to the side, and perhaps above you, began your education in the concept of justice long before you entered this school of law. It is this community of family and friends who have had, and who will continue to have, the greatest influence upon the measurement of your ultimate success, the measurement of whether or not years from now you have met the challenge which I give you today. For it is this community of family and friends who have molded your character and delimited the size of your heart. It is this community of family and friends which by design and otherwise will have the greatest impact upon your proclivity to do justice.

I mentioned earlier that the degree of your success will have to wait years to be accurately measured. It is my fervent hope that that measurement is one day defined for each of you not by the size of your annual income, but by the extent of hope which you will have extended to those persons requiring your services; not by the number of accolades and titles given you and not by the size of your bank account nor by the splendor of your material possessions, but rather by the degree of comfort experienced by those who will have fallen within your professional circle of responsibility.

Ladies and gentlemen of the graduating class, the judgment you will exercise on a daily basis soon after today has been influenced by a dedicated and learned faculty in conjunction with a devoted community of family and friends. Each has contributed to a firm foundation from which you may comfortably and with confidence reach for the nobility of the elusive, struggle for the accomplishment of fairness, and thus realize for yourselves the best and highest use of that which you have so rightfully earned — your degrees in law.

Whether it has escaped you or not, you have been blessed, for your educational foundation is sound. It is now your responsibility to exploit that blessing not for selfish, personal gain but in the pursuance of a higher plane.

It is my sincere hope in the days, months and years to come, that He who has so far blessed each of you, continues to caress your professional judgment with His wisdom in all that you undertake in the name of the law.

That said, I wish each of you success, and I bid the class of 1991 the fondest of farewells.
CAPITALIST MISSIONARIES IN MOSCOW

by Richard W. Duesenberg, '53

The following article, "Capitalist Missionaries in Moscow," originally appeared in the Commentary section of the St. Louis Post-Dispatch. It is reproduced here, in full, with permission of the Post-Dispatch.

More than a few times during a recent two-week program in the Soviet Union, people expressed utter dissatisfaction with current conditions and a longing for some likeness to the United States: "What Russia should do is to declare war on the United States, and the next day surrender."

Disintegrating with lightning speed, the Eastern superpower is restless for better ways.

With four other distinguished lawyers from America, I had the rare opportunity in the shadow of the aborted August coup to discuss the American legal system and economy with Soviet law professors, economists and high-level officials of the Russian Ministry of Justice and Supreme Soviet, plus as many visits with citizen comrades as could be managed.

What main themes emerge from these exchanges? On the positive side is the inescapable realization that history's most sweeping experiment in socialism has been a dramatic failure -- a cruel hoax on hundreds of millions. Three-quarters of a century of command and control organization has produced a first-class military structure, but almost a Third World social and economic environment.

As we discussed the U.S. government and legal system, relating it to a market economy, our "students" heard the words, but only little of the music. Why?

Russian society never has been free in any sense. Command and control is all it has ever known. The individual has always existed for the state, never the state to preserve an environment of law in which individuals can best achieve their ambitions. Anglo-American principles were neither experienced nor read about.

In such a legal system, the concepts of contract -- central to all of Western civilization -- as a way for ordering economic and other relations between individuals is largely alien and unfamiliar. So also is that of private property. The state owns just about everything. And markets? Prices? Means of distribution of goods? Costs? All such notions, so common to us, have almost no intellectual content to the Soviet lawyer or citizen.

On more than one occasion, the doctrinaire and indoctrinated listeners equated capitalism with greed. The sin of the system is that little word "profit." "Service" is the creed of communism: "From each according to his abilities; to each according to his needs." "Intellects so oriented could not comprehend the declaration: "No enterprise is ever in business for the purpose of making a profit."

To penetrate that mindset, I drew an analogy. "Does one live to eat, or eat to live?" Foreheads of frowns! Again: "Profit is to business what eating is to living." What's that? "Just as eating is essential to living, so also profit is essential to a business enterprises's surviving. Businesses exist to produce goods and services that society wants to consume. They do not exist to make a profit. The more of its goods and services consumers want, the greater its profits. The better its health."

Fewer frowns, but loads of skepticism.

Another example: Since the average Soviet citizen is untutored by any practical experience with private ownership, our listeners recoiled at the observation that "most Americans believe that the pursuit of private interests by individuals produces the best public results."

Not convinced that my observation registered, I offered an expository anecdote from the settlement of the American West -- a saga most of the world has heard something about.

"When land on the frontier was government owned, ranchers would often over-graze. To do otherwise did not pay, for what one rancher left untouched another would consume. Land became barren. But after land was divided and given to ranchers, there was now an economic incentive to manage as a productive resource for long-term usage." A perfect example of the pursuit of private interests serving a public purpose.

Maybe the story will blossom on reflection.

The hardest thought to convey was Americans' traditional distrust of any concentration of power -- in government, in business, in labor or wherever.

Try explaining our concept of federalism or our constitutional separation of powers doctrine to a mind used to five-year plans centrally contrived and executed. The challenge is herculean.

Try painting the picture of a General Motors wounded by foreign competition, or of a once-proud U.S. Steel fighting for its economic health, and doing so to listeners who have had it drummed into them that...
CAPITALIST MISSIONARIES IN MOSCOW

such corporate giants are masters of the capitalist society.

Try explaining that our government by and large has historically designed its regulatory machinery to promote competition, to umpire processes and to establish ground rules, rather than to command who can do what, when, where and how. To citizens used only to the latter, the former must be unworkable.

Try explaining how capital markets work in America. From where, and by what methods, is money raised to establish and carry on business? Even more difficult is to convince a Soviet citizen that the techniques work, and that they create wealth in many different ways for a large percentage of America's people.

Though hard for Soviets to understand, it was encouraging that they were willing listeners. Whether this desire to search beyond their own boundaries and dogma for a better way will take effect was the quintessential question of the program. It is also for the world.

We came back with no answer, of course. Hope, and lots of it. But a huge amount of communist teaching will have to be unlearned. The starting place is an open mind, and, interestingly, our students were mostly young.

The question of potential success of this new openness was put in Moscow to Konstantin D. Lubenchenko, deputy chairman of the Committee on Legislation and Law of the Supreme Soviet. Lubenchenko is one of the most powerful men in Russia. His views are not encouraging.

The coup, he said, was supported by a large percentage of the population. It was, happily, badly executed. Crime is on the rise; goods are scarce. The economy needs outside help, but the problem is to whom to give it. The same old people are in power, centrally and in the republics. If aid is offered and handed over to the same old factions, it will be "robbed." The population is not working hard enough, and some republics "over-demonstrate," rather than attacking economic problems. The "only way out" is for a new party to be organized, consisting of new leaders, businessmen and ordinary people. How this can occur he said he cannot describe. And "another spasm or coup is certainly possible."

My sense is that the opening of Russian society will continue. Even culturally, there are new vistas. I attended an all-Bach concert at the historical Conservatory and heard only his intensely religious works. As former president of the St. Louis Bach Society, I was surprised to find a sister group - the Moscow Bach Society - in this formerly communist capital. To hear Bach's theological works was stunning.

Before perestroika, none of this would have happened.

Now is the time for all VUSL Alumni to come to the aid of their Alumni Association.

Alumni dues are now payable for the 1991-1992 academic year. For the class of 1991, alumni dues are complimentary. For the classes of 1990, 1989 and 1988, dues are $15. For all other classes, dues are $30.

Your voluntary dues are the sole source of financial support for your Alumni Association.

Please use the postcard on the back cover to remit your dues. Thank you.
Ten Years After: Reflections from Old Cape Cod

As usual, the debate was spirited, colorful, and without consensus. Republican rubs predictably (and purposely) triggered Democratic defenses. About the only thing we could agree on was that the water was deep, the current very swift, Mary Jo tragically could not have been rescued, and the approach as well as the bridge were negligently designed.

The place was the Chappaquiddick Bridge (or what's left of it), Martha's Vineyard, Massachusetts. To the east was a narrow, peaceful strip of sea grasses and sand; to the north was Nantucket Sound; to the south was the mighty Atlantic; and to the west was Edgartown (the backdrop of Jaws) and the remainder of Martha's Vineyard.

While the location of our debate was not familiar, the banter and the participants were. Every year since graduating from VU Law in 1981, 15 individuals from the class of '81 have gotten together during the weekend following Labor Day: Steve and Jackie Leimer, Maggie Mawby '82 and Nelson Chipman, Jeff and Barb Eggers, Bob Caflisch, Curt Cichowski and Kathy Wehling '83, Dean and Liz Young, Mike and Terese Massa '90, and my wife Arm and I. Our usual reunion destination has been a large, old home overlooking Lake Maxinkuckee in Culver, Indiana.

But this year was our tenth anniversary and we decided to do something special—spend September 7 through 15 on Cape Cod. Despite multiple family and professional commitments, all but Maggie, Curt and Kathy were able to attend.

Our Cape Cod home base was the "Manor-by-the-Sea" in South Orleans of the Lower (most eastern) Cape. The "Manor" is an old ten-bedroom, six-bath cedarshake mansion on a point overlooking Pleasant Bay. What else can I say?

Highlights of our week included: A Red Sox game at Fenway Park; visiting Provincetown (I can assure you the Pilgrims are turning over in their graves!); whale watching (one majestic humpback shot entirely out of the water before our very eyes); golfing Brewster's Captain's Golf Course; taste-testing in Boston's Quincy Market; charter fishing out of Rock Harbor; terrorizing Martha's Vineyard on mopeds (not a distinguished sight at all!); finding John Belushi's grave; eating and drinking in a rough and ready BYOB lobster joint in Wellfleet; a candlelight lobster dinner for all 12 in the "Manor"; shopping Mainstreet in Chatham; debating what really happened at Chappaquiddick (Steve and I now know); reading excerpts from Teddy Bare (a Chappaquiddick book we found in the "Manor" and recommend to no one); walking Nauset Beach; traveling north on 28 South; familiarizing ourselves with local terms such as "carriages" (shopping carts), "bundlers" (grocery store baggers), "thickly settled" (congested area warnings), and "live parking only" (we still don't know what that means); playing Trivial Pursuit into the wee hours (team captains: Massa v Caflisch; "Wake up, Nellie"); participating in the Massa triathlon (a double-

The vistas were grand; the weather sunny and generally in the 80's; and the interaction, as usual, superb.

As I jot these notes, I can't help but reflect on the latter. The members of our group include a judge, successful homemakers, a musician, single-practice attorneys, a Quaker Oats trademark attorney, a union attorney, an engineer, a medical defense attorney, a city attorney, law school deans, single people, married people, couples with no children, couples with too many, people from Chicago, people from Hartford City, crusty conservatives, lively liberals, polite sailors, and Harley aficionados. Despite all of these differences, something in this group clicks. In fact, it's been that way since our paths first crossed at Valpo.

In my humble opinion, the similarities have always outweighed the differences, both in number and in importance: the love of laughter; respect for ethics; respect for excellence; a willingness to acknowledge mistakes; tolerance of (if not an attraction to) the unconventional; concern for humankind; and now, after ten years (actually thirteen) a special affection for one another.

These similarities were initially discovered at VU Law. I like to think they were also nurtured there. To say the least, our group is proud of and well satisfied with our Valpo connection. Without it, I for one, would have missed something very special, something which ironically had little to do with law.

Roy J. Portenga, Class of '81
CLASS ACTIONS

1950

Richard Homan, a retired FBI agent, is living in Mt. Home, Arkansas, with his wife, Mildred. They have 9 grandchildren. Dick is Chairman of the GOP in the Third Congressional District - the only district in Arkansas to have a GOP Representative in Congress. He was also elected by the Arkansas GOP to be an elector for George Bush in 1988.

Warren W. Wyneken has associated with Jerome O'Dowd and David Wangberg in the general practice of law in Fort Wayne, Indiana.

1953

Circuit Judge Angelo D. Mistretta was recalled by the Illinois Supreme Court to work from July 1 to November 1. He was one of 22 judges recalled in Cook County to help address the high caseload.

1957

McHenry County, Illinois, Circuit Judge Roland A. Herrmann, after 16 years on the bench, will retire in December, 1991. Those who worked with Judge Herrmann said they will miss his decisive nature and expedient manner in which he handled his court call.

1958

Millard Becker Jr., formerly of Detroit, Michigan, has moved to Port Huron, Michigan, to become managing partner in the satellite law office of Garan, Lucow, Miller, Seward, Cooper & Becker, P.C.

Glenn J. Tabor of Valparaiso was recently nominated as a representative from Indiana for the position of Governor of the Association of Trial Lawyers of America at the Association's recent annual meeting conducted in Indianapolis.

1960

Hon. James Danikolas, Superior Court Judge in Gary, Indiana, was appointed by Gov. Evan Bayh to the Indiana Commission for Uniform State Laws.

1962

Larry Evans, a partner in the Valparaiso law firm of Hoeppner, Wagner & Evans, plays host to three television programs and is working on getting a novel published, in addition to a full-time law career. He has interviewed more than 200 guests on the Larry Evans Show, which began airing on local cable TV in 1983. Indirectly, it got him a guest slot on the nationally syndicated program, Everyday with Joan Lunden. Also he's moderator of Indiana Now, a current events show, and host of Mayor's Forum on northwest Indiana's public TV station in Merrillville. The fictional novel on which he's been working for approximately five years is a tale of a lawyer who falls in love with a client.

1966

Judge Norman R. Buls spoke to members of Immanuel Lutheran Church on June 30, 1991, on "Sentencing Options and Considerations in Porter County." Judge Buls practiced law in Portage and has been Porter County Superior Court and Small Claims Court judge since 1989. He was also named Judge of the Year by the Indiana Correctional Association for his use of home detention systems for those charged with less serious offenses and his work with the Antabuse program, requiring people charged with alcohol offenses to take medication which makes the person ill if alcohol is consumed.

1967

John F. Flynn, Assistant United States Attorney in Hammond, Indiana, and Phoenix, Arizona, for nine years, announced the opening of his office for the practice of law in Northwest Indiana. He has practiced trial law for 20 years in the areas of accidents, environmental law, insurance, and criminal law.

1968

Kenneth Meeker was appointed U.S. Trustee for Region 10. He left his law practice in Danville, Illinois, and moved with his family to Indianapolis, Indiana. As Trustee, he has responsibility for handling bankruptcies for all judicial districts in Indiana and central and southern Illinois.

Michael V. Riley has become associated with the Valparaiso, Indiana, law firm of Hoeppner, Wagner & Evans. He has been a senior trust banker in Northwest Indiana for the past 11 years. Michael and his family live in Michigan City.

1971

After 16 years as Crow Wing County Attorney in Brainerd, Minnesota, Stephen C. Rathke has joined the Minneapolis law firm of Lommen, Nelson, Cole & Stageberg. The 43-attorney, general practice firm emphasizes insurance defense and complex litigation. Stephen, wife Susan, daughter Sarah (15) and son Justin (12) reside in Minneapolis.

1972

Hon. Robert M. Keenan, formerly Wabash Circuit Court Judge in Mount Carmel, Illinois, has been appointed Resident Circuit Judge for a 12-county area.

1973

Lawrence G. Albrecht is one of six attorneys who announced the formation of the new Milwaukee law firm of Hall, First & Patterson, S.C. The firm will focus on civil rights litigation, public interest law, and the representation of social and governmental agencies and small businesses, with a particular emphasis on minority and women-owned businesses. The firm began its practice on August 1, 1991. Larry is also the Legal Director for Legal Action of Wisconsin, Inc. He is a former Assistant Professor of Law and Director of the Clinical Program at Valparaiso University School of
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Law, and he has taught constitutional law and human rights law at the University of Wisconsin-Milwaukee. Mr. Albrecht is a former Assistant Attorney General for the State of New York.

Douglas D. Germann, Sr., has co-authored and published Buying A Business (For Very Little Cash). It is a reference and how-to book with practical advice for persons interested in purchasing or getting financing for their own business. Doug is also president and chief executive officer of Acquisition Resources, Inc., a firm that helps people realize their potential through business ownership. He and wife Linda live in Mishawaka, Indiana.

Thomas H. Nelson’s proposed research project The Impact of Public Utility Regulation on the Valuation of Public Utility Property - For Ad Valorem and Just Compensation Purposes received the 1991 Distinguished Award in Applied Research, co-sponsored by the Wichita Public Utility Workshop and the National Tax Association. Thomas is now researching and writing the article and will present it to those two organizations in 1992.

John Stoller and wife Margie have relocated from Littleton, Colorado, to Birmingham, Michigan.

1974

Jeffrey J. Dywan, '74

On May 10, 1991, Gov. Evan Bayh named Dyer resident Jeffrey J. Dywan to the Lake County Superior Court bench. Dywan is an attorney in Schererville and will replace Cordell C. Pinkerton who retired from the bench in January. Jeffrey has practiced in Lake County for 16 years, specializing in civil litigation.

In a landmark case for Indiana, Donald J. Evans is seeking state provision of education and medical care on behalf of an emotionally disturbed Porter County teenager. If successful, mental health advocates and special education officials said the suit could give all public school districts the right to request full state aid for other children with severe mental or physical handicaps. Professor Ivan E. Bodensteiner represents the girl’s court-appointed guardian.

Kathleen Evans, a member of the city Plan Commission for the past three years, is also the public defender for juveniles in Porter Circuit Court - a position that was created in 1981 when changes in the law allowed juveniles to request an attorney. Kathleen is also a member of the Central Neighborhood Association. The group hopes to purchase and sell homes to persons who will preserve the historical nature of the homes.

1975

David DeBoer has been named city attorney by Mayor David Butterfield, '71. David will provide legal advice to the clerk-treasurer, the City Council, Board of Works and various city department heads. In addition to his new duties as City Attorney, he will continue practicing with the Valparaiso law firm of Blachly, Tabor, Bozik and Hartman. David resides in Valparaiso and has three children, Aubrey, Ashley and Daane.

Richard E. Federico was married on February 26, 1991. Richard, his wife Greta, and their expanded family live in a large home in order to accommodate 5 children and their friends. Rick's younger son recently won 1st Place in the World Finals of the Odyssey of the Mind competition in Knoxville, Tennessee. Rick and family reside in Hagerstown, Indiana.

Linda McKenzie Georgeson was appointed Judicial Court Commissioner in February 1991. Linda lives in Oconomowoc, Wisconsin.

Tim Hillegonds has joined the Grand Rapids, Michigan, law firm of Warner, Norcott & Judd as a partner. Tim has practiced business and corporate law in Grand Rapids since 1975, with a special emphasis on creditors' rights. He will chair the firm's Bankruptcy Practice Group. Hillegonds is on the Board of Directors of Respite Centers of West Michigan, Inc. and is a member of the Hope Network Foundation. He lives in Cascade township with his wife Lynn and their three children.

Since the early '80s, Kenneth B. Lowenstein has played Dixieland, swing and all that jazz at gigs throughout the Chicago area. Among his musical accomplishments are recordings made with old-timers J. C. Higginbotham and the late Bud Freeman.

James W. Mueller and wife Linda of Paradise Valley, Arizona, had their second child, Valerie Ruth, on April 24, 1991. Jim is an attorney with the firm of Murphy and Storey in Phoenix.

As actors in the Valparaiso Community Theater Guild, David W. Pera and Fred Grady (1973) helped to set a house attendance record for a non-musical production as cast members of the Shakespeare comedy A Midsummer Night’s Dream.

Eugene Ryding is practicing law in Portage, Indiana.

1976

Daniel R. Berning has formed a partnership with his wife, Nancy Dean Berning, '86. The law firm of Berning and Berning is located in Valparaiso.

Nancy J. Meyer, Assistant Professor of Communication, has been appointed director of VU's freshman seminar program. She is currently working on a textbook on communications law in Indiana.

Rich and Patti Wolter are the proud parents of Joseph Alex, born February 20, 1991.

Mark J. Mahoney is the proud father of a son born April 26, 1991, who joins daughter, Shannon, 5 years old. They live in Seymour, Wisconsin.

The U.S. Navy selected David H. Myers for promotion to Commander this past May. He will complete a tour at Naples in July 1992 and return to Annapolis for a follow-up tour.

Zenith Data Systems Corporation has promoted Charles Mackinnon to Associate General Counsel of their Buffalo Grove, Illinois, office.

Meliada Selbee Small, formerly Assistant Director of Legal Services, Indiana School Boards Association, has become associated with the firm of Rund & Wunsch in Indianapolis.

William M. Demmon, Jr., has been promoted to Assistant Vice President of Claims for Design Professional Insurance Company in Monterey, California. He remains responsible for supervision of its nationwide claims operation. DPIC is the nation's second largest underwriter of insurance for design professionals.

Reverend C. Alan Funk, 82


Kevin L. Scionti is a litigation attorney for the Indianapolis firm of Roberts and Bishop.

Daniel Avila, a staff attorney with the Indianapolis-based National Legal Center for the Medically Dependent and Disabled, was named temporary limited guardian in a right-to-die case by Judge Charles W. Deiter of Marion Superior Court Probate Division.

Thomas M. Dogan and wife Lolly are proud to announce the birth of their son, Matthew Bruce, on November 6, 1990. The family lives in Ogdens Dunes, Indiana.

Walter & Sally (Schalk) Kaminsky report the arrival of 6 lb. 8 oz. Anne Marie, joining Tommy, 3. Walter is a partner in the general practice firm of Terpstra, Black, Brandell, and Kaminsky in Elk River, Minnesota.
1984

Rick A. Cory has joined the law firm of Bamberger, Foreman, Oswald and Hahn of Evansville, Indiana, as an associate trial attorney. Rick's primary areas of practice include commercial litigation, insurance defense, and products liability. He presently serves on the Boards of the Vanderburgh County 4-H Club Association, Inc. and the University of Evansville Paralegal Program.

Voyle A. Glover was one of the winners in the Post-Tribune reader-columnist competition which drew 68 entries from Post-Tribune readers. His article, "The Monsters Amongst Us," a commentary on child abuse, appeared in the June 30, 1991 edition of the Post-Tribune. Voyle is an attorney in Schererville specializing in civil rights law.

Michael R. Graf and his wife, Jennifer, recently moved to Arlington Heights, Illinois, where Michael is an associate with the firm of Susan E. Loggans.

Thomas A. Massey has been nominated as one of three candidates to serve the First District of the Indiana Judicial Nominating Commission. He also was the ICLEF Faculty Chair for a six-hour divorce law seminar on October 11, 1991, in Evansville, Indiana.

Former Assistant U.S. Attorney Gwenn R. Rinkenberger has been named Chief Deputy for the Porter County Prosecutor's office by Prosecutor James H. Douglas, '68. Gwenn was employed in the criminal division of the U.S. attorney's Northern District of Indiana office in Hammond for more than 4 years and handled cases involving counterfeiting, arson, income tax evasion, mail fraud, child pornography and narcotics violations. She was formerly a law clerk for U.S. Magistrate Andrew P. Rodovich and a juvenile probation officer in Lake County. Since accepting the Chief Deputy Prosecutor position, Gwenn has tried defendants in two of the most publicized murder trials in Northwest Indiana.

Captain John T. Savee is now Foreign Claims Commissioner for the U.S. Army Claim Service - Europe, located in Mannheim, Germany. During Operation Desert Storm, he was on temporary duty with the 1st Armored Division. John is on leave of absence from the City Attorney's Office in Milwaukee, Wisconsin.

1985

Harry J. Falk and C. Nicole Schmidt were married on May 26 and are residing in Brook, Indiana. Harry is a partner in the Kentland, Indiana, law firm of Barce, Ryan, and Howard, and chief deputy prosecuting attorney of Newton County.

James W. Mueller & Associates, P.C. is pleased to announce that Aris J. Gallios has become a shareholder of the firm and that the firm name has been changed to Mueller & Gallios, P.C. They are located in Phoenix, Arizona.

On May 20, 1991, in Washington, D.C., Frank Harris was admitted to practice before the U.S. Court of Claims, U.S. Court of Appeals for the Federal Circuit, U.S. Court of Military Appeals, and U.S. Supreme Court.

John Zervos has joined the Trust Department of Gainer Bank in Merrillville, Indiana.

1986

On May 9, 1991, Joel M. Barkow graduated from the Peter Stark Motion Picture Producers Program with a Master of Fine Arts from the University of Southern California. Joel is Associate Hollywood Resident Counsel for the Screen Actors Guild.

John M. Evans has completed a national law review at San Joaquin College of Law in Fresno, California. He is currently working on two articles, one of which has been submitted for publication. An article he wrote last fall in the Journal of Law and Education received some national attention. His teaching assignments include corporations and secured transactions/negotiable instruments. This past summer John taught administrative law.

John M. Evans, '86

Erin M. McQueen has accepted a position with the Indiana Civil Rights Commission. Erin is living in Indianapolis.

Nancy Hughes Milstone has associated with Butler, Simeri, Konopa & Laderer in South Bend, Indiana.


The law firm of Katz Randall & Weinberg is pleased to announce that Stephen T. Saporita has joined the firm and is concentrating in litigation. The firm is located in Chicago.

Eric Sponheim is pursuing a Ph.D. in European History at the University of Iowa. He resides in Iowa City.
1987

First National Bank of Valparaiso recently announced the promotion of Pamela A. Almus to Senior Trust Officer. Pamela joined the trust department in July, 1988.

Andrea T. Borucki has become a member of the U.S. Patent Bar Association and has been promoted to Level II Attorney with Dow Chemical Company in Midland, Michigan.

Patricia K. Caulfield announces the opening of her law office in Union Pier, Michigan.

James S. DalSanto is a partner in the law firm of DalSanto & Harris in Highland, Indiana. He married Patricia Zapinski of Merrillville in September.


Jeffrey E. Wallace was recently appointed to the Board of Directors of TWG Entertainment, Inc., an affiliate of The Wellesley Group. The Wellesley Group, which maintains offices in Hollywood, Tokyo, Indianapolis and Louisville, is an international financial strategy firm which specializes in arranging financing for the production, distribution and sale of motion pictures for the film and television entertainment industry. Jeffrey and his wife Kayleen currently reside in Tokyo, Japan, where he is participating in a Foreign Legal Fellows program sponsored by the Tokyo law firm of Anderson, Mori & Rabinowitz.

1988


Robert Doelling has become associated with the law firm of Burt, Blee, Dixon & Sutton in Fort Wayne, Indiana, where he resides. Previously, Robert was an associate with Kightlinger & Gray in Indianapolis.

John A. Hallacy has been promoted to Chief Assistant Prosecuting Attorney in Calhoun County, Michigan.

Effective May 15, 1991, Bruce Kugler is an attorney with the Illinois E.P.A. - Springfield office, Land Division.

John H. Whitfield, an associate attorney with the Biloxi law firm of Rushing & Guice, was recently selected to serve on the Editorial Advisory Board of Fair Housing - Fair Lending, the only comprehensive reporting service on fair housing/fair lending laws, regulations and litigation in the U.S. John is one of eight individuals nationwide selected to serve on the editorial advisory board. He has authored several legal publications.

John has also been a voluntary instructor for the Biloxi-Ocean Springs Legal Secretaries Association and the Gulf Coast Community Hospital In-Service Training Program. He is also a participant in Leadership Gulf Coast, a division of the Chamber of Commerce. Participants are chosen on the basis of community involvement, leadership capabilities and potential in their fields.

1989

Tim A. Baker has become associated with Barnes and Thornburg's Indianapolis office. Tim will practice in the areas of employment litigation, labor law and general litigation.

David Barker is associated with the law firm of Van Valer & Williams in Greenwood, Indiana.

Gale Carmona is a Deputy County Prosecutor in Valparaiso, Indiana, dealing with juvenile cases.

Karen S. Crummie has been selected to appear in the 1992 edition of Who's Who Among Rising Young Americans.

Nadine Dahm is Assistant Prosecuting Attorney for Kent County in Grand Rapids, Michigan.


Timothy Eddy is associated with the law firm of Brusso, Gantz & Smyth in Chicago, Illinois.

Beth Henning Guria left the E.P.A. in Chicago to join the private sector. She is working for Howard and Howard, a law firm located in Bloomfield Hills, Michigan. She is now residing in Royal Oak, Michigan.
Lynne Homan is employed as a clerk for a Superior Court judge in Marietta, Georgia. She lives in Atlanta.

Since October, 1990, Christine S. Mascal has been with the law offices of Mark L. Delapp, P.C., Portland, Oregon, whose primary emphasis is in criminal defense.

David A. Mathies is a legal analyst with the Office of the Commissioner, Department of Revenue, in Indianapolis, Indiana.

Rachel K. Mathison is an associate with Heide, Hartley, Thom, Wilk & Guttormsen in Kenosha, Wisconsin.


Daniel Rustmann and wife Lydia are residing in Grosse Pointe Farms, Michigan. Dan is associated with the law firm of Butzel Long in Detroit.

Christian E. Sands is a deputy prosecutor in Peru, Indiana.

1990

David G. Clark has become associated with Hodges, Davis, Gruenberg, Compton & Sayers.

Jeffrey Cox is an associate with Horton, Knox, Carter & Foote in El Centro, California.

Andrea Kever accepted a position as a Deputy Public Defender with the Maricopa County Public Defenders Office in Phoenix, Arizona, where she is living.

The law firm of Hodges, Davis, Gruenberg, Compton & Sayers has added Jill M. Madajczyk as a new associate.

Anthony Makin is clerking for Indiana Court of Appeals Judge William G. Conover, ’51.

Georgeanna Orlich and Brian Nehrig (1991) were married in the VU chapel. She is a judicial law clerk for Allen Superior Court in Fort Wayne, Indiana. Brian is with the law firm of Rothberg, Gallmeyer, Fruechtenicht & Logan in Fort Wayne.

The U.S. Department of Justice, Federal Bureau of Prisons, has promoted Lisa Marie Sunderman to the position of Staff Attorney at the United States Medical Center for Federal Prisoners, Springfield, Missouri, where she will be on the Executive Staff of the institution and supervise the legal department. She moved to Springfield in July 1991. While an Attorney-Advisor at the South Central Regional Office, Bureau of Prisons, Dallas, Texas, Lisa received several special service awards and special recognition for being an honor graduate at the Federal Law Enforcement Training Center in Glynco, Georgia. On August 24, 1991, Lisa married Michael D. McDonald in San Antonio, Texas.

James L. Clement, Jr. is an associate with Hoeppner, Wagner & Evans’ Merrillville office. Jim, his wife, Lacye, and their four children live in Valparaiso.

Michael King was one of three persons hired to fill newly-created intern positions funded by the Battle Creek Community Foundation. Interns will interview clients, do research, and will also practice before courts and administrative bodies under Michigan Court Rule.

Teresa and Michael J. Massa, 81, announce the birth of son Corbin Christopher on April 6. The family resides in Hobart, Indiana. Teresa is an associate with Meites, Frackman & Mulder in Chicago.

IN MEMORIAM

The entire Valparaiso University School of Law Community extends its sympathy to the family and friends of the following deceased alumni:

Hilbert W. Dahms, ’31
Oconomowoc, Wisconsin.

James B. Clements, ’35

Albert W. Anhold, ’37

E. B. Williams, Jr., ’41
December 30, 1990.

George Krstovich, ’51

James Russell Peterson, ’56
February 6, 1991.

Lisa Suerdeman, 90 and husband
Michael McDonald

David E. Woodward and Susan Diane celebrated their one-year wedding anniversary in September.
The AMICUS invites and encourages Alumni to write to the School of Law with news of interest for publication in the Alumni News section of the magazine. Items such as a change in address or career; status within your firm; births; marriages; membership, selection or appointment to positions within professional organizations/associations are a few examples of the types of information we like to receive and publish. Copies of articles and photographs are welcome.

We also want to give you ample opportunity to order a copy of the new 1991 edition of the VUSL ALUMNI DIRECTORY. Copies are still available for $25.00 each.

If you are not one of the over 330 alumni who have already paid ALUMNI ASSOCIATION DUES for the 1991-1992 academic year, please do so! Your association cannot function without your financial support.

The "post cards" on the back of the AMICUS are designed for your use for any of these items. Please complete the appropriate card(s) and send them in!
Alumni News

Name: ___________________________ J.D. Year: ______
Home
Address: ____________________________

Telephone: Home: (___) ____________ Business: (___) ____________

Firm Name: ____________________________
Firm Address: ____________________________

News or Comments: (Attach additional sheets, if needed, or copies of articles. Photos are welcome!)

__________________________________________________________________________
__________________________________________________________________________

VUSL 1991 Alumni Directory Order Form

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Address: ____________________________

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Send Directory to: ___ Home ___ Business

# of directories ordered @ $25.00 per copy: _____ Total Enclosed: $__________

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VUSL Alumni Association Dues

Name: ___________________________ J.D. Year: ______
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Jurisdictions Admitted: ____________________________

Please make checks payable to: VUSL Alumni Association

Dues are free for the year immediately following graduation, $15 for the next three years and $30 per year thereafter -- payable on June 1 annually.