

P O R T R A I T S

Photography by John Snyder

JAMES H. BACKMAN

RUNNING A NEW RACE

*A*fter 19 years of teaching property law, Professor James H. Backman recently changed direction. Since October he has been working exclusively to design, supervise, and promote student externships, including a new program called LawHelp. And though Professor Backman has always enjoyed teaching property law, he says of his new position, "I don't think there's ever been anything that's caught my fancy quite so much. It's been a thrilling experience for me. We've come up with a very worthwhile set of projects."

LawHelp is a pro bono partnership between the Law School, the Central Utah

Bar Association, and Utah Legal Services—Provo Office. Attorneys from the Central Utah Bar Association and Utah Legal Services participate by supervising BYU law students in each of four LawHelp projects: the Tuesday Night Bar, the Domestic Relations Project, the Volunteer Immigration Project (VIP), and the Mediation Project (see "Students, Alumni Team Up," p. 29).

Professor Backman became involved with clinical work in 1990, when he was appointed a member of the Utah Legal Services board of directors. In 1991 he served on a faculty task force appointed to study how the Law School could get its students and alumni involved in community service. One of the committee's recommendations was that a full-time faculty member be appointed to create pro bono opportunities for Law School students. Jim got the job.

"The Tuesday Night Bar is such a real, dynamic operation," he says of the largest LawHelp project "It reminds me of the emergency room—the hub of hospital activity, where doctors and nurses and patients and family all mingle together to talk about what's going on. It's such a practical, learn-by-experience program."

Jim likes to think that his assignment as director of LawHelp comes at an appropriate point in his career. Speaking of his 1991–92 Professor of the Year Award, Professor Backman smilingly says, "I've graduated now. I can move on to other things." Seriously, though, it was partly last year's class that inspired him to seek new approaches to teaching—approaches that the LawHelp projects fulfill. Last year's class had 37 percent women; before the largest percentage of women had been 27 percent. With so many women and many minorities, Professor Backman says class interaction was markedly different. "There was such a public interest evident in the class, such a service orientation, such a commitment. It was much more activist than I had seen before, less interested in making money. It's not just the women and minorities who have that attitude. It has spread throughout."

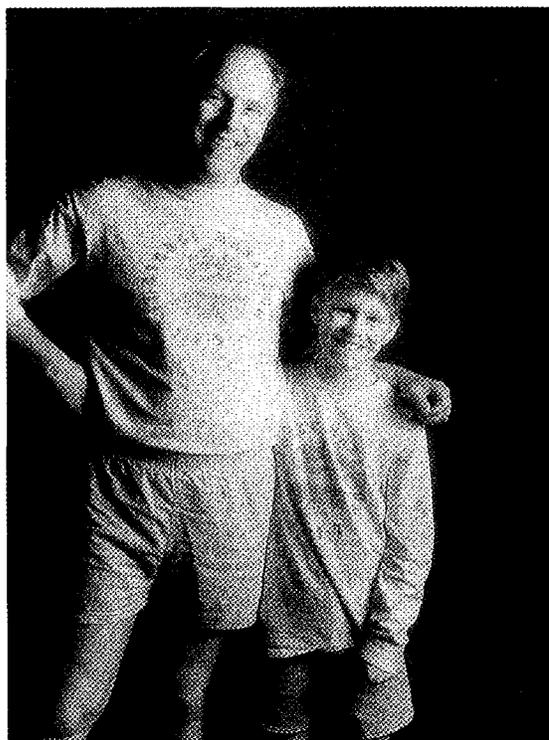
"LawHelp is so satisfying," remarks Jim, "because it makes sense. Think of doctors. What would doctors be if their only training were in the classroom? And yet law schools, until our time, had hardly started any clinical programs."

"Our program's community-based structure gives it an advantage over the small in-house clinics at other law schools. But it fits us. We have a very service-based community, but within a structure. Once the structure becomes available, everyone is willing to step forward. This attitude has provided us with enough professors and attorneys to potentially give the experience to every student. At other law schools, manpower limits pro bono opportunities to a small handful of students per semester."

Jim feels strongly about LawHelp's value for clients. "Though many matters we handle seem insignificant, for the clients this is the first time they've had anyone able to even listen. The results aren't terribly dramatic, but some of the cases are meaningful for those who have finally been able to get out of a very bad home or marriage. They haven't done it before because they haven't

known the first place to start. Finally they've reached the end and come in to find help."

"In one immigration case a Cambodian was threatened with deportation. The student assigned to him really had to work hard because the client was so uncommunicative. He didn't have English skills enough to help much, and he didn't seem to understand our systems. The student, surprisingly, won the case, and the fellow was able to stay. That kind of result is really satisfying."



Professor Backman and his wife, Carolyn, *James H. Backman and his son Joe* have five sons and one daughter. One son just returned from the Czechoslovakia Prague Mission, and another is currently serving in Dresden, Germany.

Jim also enjoys running. For the past two years he has run the St. George marathon with his youngest son Joe, who was 10 years old the first time and 11 the second, when he finished half an hour before his dad. This year Joe is going to try to get some of his older brothers to run, too.

W. COLE DURHAM, JR.

THE PHILOSOPHICAL LIFE

Professor W Cole Durham, Jr is a philosopher at heart. An undergraduate philosophy major, he says of his law career, "My students have long noticed that I've simply taken a devious route to exploring philosophical issues. And in the deepest sense I do see my work as exploring critical legal issues from a philosophical perspective. I think applying a philosophical standpoint gives depth to any discipline."



W Cole Durham, Jr

As a member of the International Academy for Freedom of Religion and Belief, Professor Durham recently participated in an intensive two-day set of meetings with Russian scholars to discuss religious liberty issues. The academy is a group of religious liberty experts from many countries. In response to a memorandum on a pending Russian draft law on religious liberty that Professor Durham helped write, the academy was invited to consult with the Expert and Consultative Council to the Committee on Freedom of Conscience, Religion, Mercy, and Charity of the Russian Parliament. A Russian parliamentary committee parallels U.S.

Congress legislative committees; the Expert and Consultative Council was created last November as an official advisory body to the Committee on Freedom of Conscience, Religion, Mercy, and Charity. It has representatives from many religious groups and also academic and other experts on religious affairs. Professor Durham's team had scholars from Italy, Spain, Germany, and the United States, and from a variety of religious denominations and academic backgrounds.

In Russia Professor Durham and the academy examined international human rights norms in the religious liberty area as they apply to legislation in a country like Russia. Professor Durham reports that in general in the world there is great consensus that there should be strong protections for religious liberty.

The academy talked to Russians about practical problems they are facing and provided them with information on how other countries deal with those problems while maintaining consistency with international human rights norms. Another of the academy's goals is to establish strong connections with Russian religious liberty experts. It also hopes to help move legislation toward a more protective stance for religious minorities. The conference focused on practical issues such as religion in education and how to set up the corporations or the legal entities through which churches conduct their affairs.

Cole has also been advising regimes in East Central Europe on not-for-profit-corporation law.

Last summer he and BYU Professor John Welch helped organize a team to advise Bulgarian foundations on the subject. Obviously, he says, this interest relates to his work in Russia.

In addition, for the past two summers Professor Durham has been involved in a program carried out in Budapest under the auspices of Columbia University called Raising Rights Consciousness. In this program Cole and other legal experts train young legal professionals from Eastern Bloc countries in a curriculum designed to give them an intensive immersion in western theoretical approaches to law. "In many ways," says Cole,

“it is much more jurisprudential than many technical training programs” The program immerses its participants in something like the American law school experience—not because there is anything defective about civilian training, but because, according to Professor Durham, civilians often do not sense the depth and power of the theory in the common law world “Civilians tend to think of common lawyers as pragmatic problem solvers that are not necessarily theoretically and philosophically sophisticated about the issues involved, which is certainly a far cry from reality,” says Cole

Professor Durham’s favorite part of his Eastern European experience is the life-changing effect of Western programs on participants he has taught “The Raising Rights Consciousness program really had a deep impact on the way people thought about law. It was very impressive working with participants So often when we talk to our BYU students they have many interests and concerns, but their primary objective is preparing to get hired by a law firm In East Central Europe, by contrast, students are concerned about making a new world”

When Professor Durham is not helping former communist countries establish new orders, he is busy working on a few other projects on the home front As a board member of the Church/State Center at DePaul University, he has been working on a major treatise on legal structures that churches can use to organize their affairs in the United States Cole is also the principal draftsman of the proposed religious liberty amendment to the Utah constitution In addition, Cole and several other authors are finalizing a contract for a casebook on comparative constitutional law

Cole’s “outside” interests are teaching gospel doctrine in his home ward, playing with computer toys, skiing (along with Nordic Tracking, if he’s feeling especially ambitious), and doing extracurricular projects with fellow law professors. For instance, Cole has been involved with Professor Larry Farmer in developing automated jury instructions for the federal and many state systems “That’s clearly a domestic law project,” says Cole,

“but it has been very interesting” Obviously, Cole has an incurable love for books—of any kind—to which any casual visitor to his book-crammed office can attest

Cole and his wife, Louise, have four children Their oldest son is serving a mission in Austria, one of the places he visited with his dad in 1990 after the Berlin wall came down Their second child is also providing Cole with some exciting experiences, as he helps her learn to drive. Louise teaches English at Timpview High School

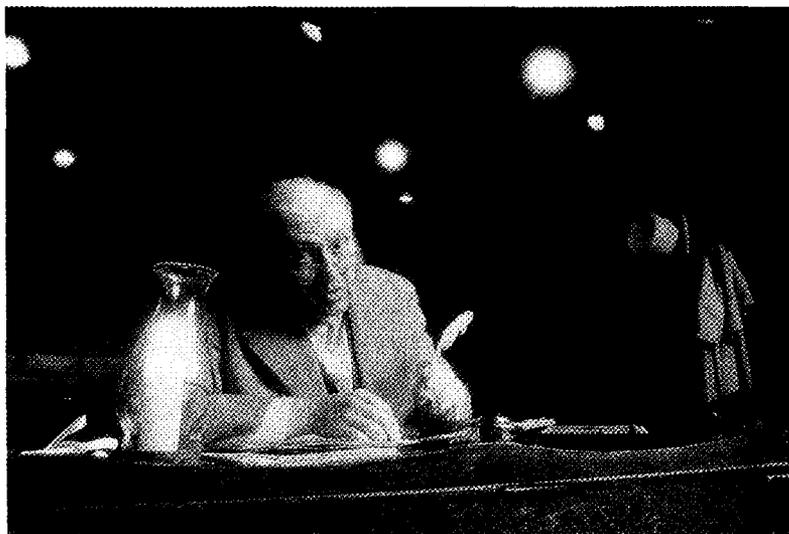
RICHARD G. WILKINS

NOT A SCROOGE

*I*t’s not my business [to help those who are worse off than myself],” says Ebenezer Scrooge of Dickens’ *A Christmas Carol* “It’s enough for a man to understand his own business, and not to interfere with other people’s Mine occupies me constantly” Professor Richard G Wilkins, who has played Scrooge in Hale Center Theater’s Christmas production for the past eight years, disagrees with these sentiments. Although teaching classes, arguing abortion policy, and serving on a federal reading committee take much of his time, he strongly believes in “showing love and concern for our fellow travelers here on earth”

For the past three years Professor Wilkins’ main work has centered on abortion policy,

*Richard G Wilkins
as Scrooge*



though not of his own choosing, he says. In 1982, while Richard was working for the Justice Department, the United States filed with the Supreme Court the first brief urging a retreat from *Roe v. Wade*. According to Professor Wilkins, only two people in the Justice Department were then willing to write that brief: himself and Rex Lee. The two collaborated in writing the brief in *Akron v. Akron Center for Reproductive Health*. Later Richard helped Professor Lynn Wardle write an amicus brief in *Webster v. Reproductive Health Services*.

After these activities Professor Wilkins was prepared for his next assignment: special counsel to Governor Bangerter on abortion policy. After Professor Wilkins advised Governor Bangerter on proposed abortion legislation that he felt had serious legal difficulties, Governor Andrus of Idaho asked his opinion on similar Idaho legislation. When Richard concluded that Idaho's legislation also had potential legal problems, Andrus vetoed the legislation, claiming that Professor Wilkins had advised him to do so.

Following Andrus' veto, Professor Wilkins felt a backlash from people in the right-to-life community who could not understand how he could claim to be pro-life and not support all pro-life legislation. Because he had not advised Andrus to veto the legislation, but merely that it had potential legal problems, Richard decided to set out his thoughts on the issue. He enlisted the help of Richard Sherlock, a medical ethicist, and Steven Clark, a specialist in high-risk fetal medicine, to review all Supreme Court abortion jurisprudence, project where the Court was likely to go, and formulate suggestions for legislative action that would work legally and medically.

The 1991 *BYU Law Review* article entitled, "Mediating the Polar Extremes: A Guide to Post-*Webster* Abortion Policy," was the result. The article made various proposals for legislative action designed to protect unborn life while still according appropriate deference to a woman's liberty interests. Following the suggestions outlined in the article, the Utah legislature enacted what Professor Wilkins calls a "rather liberal" statute, essentially codifying the American Law Institute's Model Penal Code abortion regulations. Last year Richard helped defend the statute against litigation brought by the American Civil Liberties Union. Although the Supreme Court somewhat unexpectedly reaffirmed *Roe*

v. Wade in its recent decision in *Casey v. Planned Parenthood of Eastern Pennsylvania*, Richard believes that the Utah statute may yet pass scrutiny under *Casey*'s "undue burden" test.

In addition to helping with abortion litigation, Professor Wilkins serves on one of two reading committees under the ABA standing committee on the federal judiciary. Richard's committee of scholars is headed by Rex Lee; the other committee consists of practicing lawyers. Professor Wilkins' committee reads all judicial opinions and other materials written by Supreme Court nominees—not for political content—but to determine whether they have the intellectual capacity, legal rigor, judicial temperament, and writing ability to sit on the Supreme Court. Professor Wilkins has served on this committee for three years—during Justices Souter's and Thomas' nominations.

The reading committee takes a lot of time. Last summer Professor Wilkins spent four weeks writing his own report and helping President Lee prepare the committee's report. Richard feels that the most interesting thing about the Souter and Thomas nominations was that so little about the candidates could be discovered from their writings, while past nominees had been much more prolific. Professor Wilkins believes the obvious choice of relatively obscure candidates is a sad reflection on how politicized the appointment process has become. He will probably serve on the reading committee for another four to six years.

Recently Professor Wilkins finished a statistical survey (previously conducted by Professor Robert Riggs) of Supreme Court voting patterns. He has also written a short article discussing why moderate abortion regulations (like the Utah statute) should be held constitutional under the Supreme Court's recent decision in *Casey*.

Richard's interest in community theater is longstanding. Including his experience as Scrooge, over the years he has done more than 15 shows. Salt Lake's annual large-scale production of *A Christmas Carol* usually has about 40 sold-out performances. Serving as a bishop in the Orem Canyon View Fourth Ward also helps Richard maintain balance with his other responsibilities. He calls the assignment a "wonderful but sobering experience," and enjoys the chance it gives him to fulfill Jacob Marley's admonition to "walk abroad among [one's] fellow-men."