

**STUDENTS, ALUMNI
TEAM UP ON PRO
BONO WORK**

Serving together in a wide range of new "umbrella structure" pro bono programs, second- and third-year students and volunteer attorneys are making a difference in the lives of many, offering free legal advice to persons who can't afford it. Professor James H. Backman reports that local attorneys have been extremely receptive to the Law School's programs because so many are service-oriented citizens, within a structure. Once the structure becomes available, everyone is willing to step forward.

In 1992 a task force was appointed to research how Law School students and alumni could become more involved with the community. The committee made two recommendations. The first was that all first-year students be required to take a Public Interest Law class, initially taught by Professors Kevin Worthen and Frederick Gedicks. The second was that a full-time faculty member, Professor Jim Backman, be appointed to coordinate "externships"—student opportunities for practical pro bono experience.

The Public Interest Law course focuses on landlord/tenant disputes, social security and disability concerns, child support collection, and consumer access problems. The course also highlights problems poor clients face getting legal services and encourages pro bono work.

"This class is required of every student—a major shift

in the Law School's perspective," says Backman, since similar "enrichment" courses in the past were offered but not required. "We feel that students exposed to pro bono concerns early in their law training will be more likely to give pro bono service."

Another result of the public interest task force has been Professor Backman's creation of several externship opportunities called LawHelp. The four LawHelp programs—the Domestic Relations Project, the Volunteer Immigration Project, the Tuesday Night Bar, and the Mediation Project—provide an ideal solution to the Law School's need for public service. LawHelp not only assists many local citizens but it also provides pro bono opportunities for students and alumni.

Domestic Relations Project

In the Domestic Relations Project each of approximately 15 students is matched with a volunteer attorney to take on Utah Legal Services cases that normally would be turned away because of lack of resources. Students see cases from original client interviews through depositions and final paperwork. Student preparation includes special training in the divorce process, the court system, and learning how to use software that produces the various documents needed.

The Domestic Relations Project was developed in association with two Law School alumni: Thomas W. Seiler '77, president of the Central Utah Bar Asso-

ciation, and Susan Griffith '87, head of Utah Legal Services.

Volunteer Immigration Project (VIP)

Students involved in the Volunteer Immigration Project work with attorneys to represent clients in family unification matters, deportation hearings, and amnesty and asylum problems under the U.S. Immigration and Naturalization Service. Most of the students involved in this project are either foreign born or are second-generation immigrants. For this reason they are eager to help people having problems similar to those either they or their parents have had.

Students participating in VIP have prepared for the experience by taking a course in immigration law. Every other Wednesday night the students meet with clients and attorneys for intake interviews. At these sessions students gather information, help clients with paperwork, and offer limited legal advice. Clients come from the Utah County Latino Council, BYU International Office, the Catholic Church, the UVCC counseling program, and the international LDS branches on campus. German T. Flores, the Hispanic student assistant for VIP, highly recommends the program, saying, "Those served by VIP now have an opportunity to be a part of the American dream, which before they could not do, simply because they could not afford to hire an immigration attorney."

Tuesday Night Bar

The Tuesday Night Bar is the largest and most comprehensive LawHelp program. Participating students meet with clients and attorneys every Tuesday Night to see a variety of cases, mostly civil but some involving shoplifting, assault, debt collection, and partnership agreements. The program also handles a wide range of divorce and child support cases. While other students observe from behind one-way glass, participating students conduct interviews and an attorney observes. After the student gathers information he or she asks the observing attorney for a recommendation. When the interview is over, the attorney and student review the case and the student is given an evaluation on conducting future interviews.

Students participate in the Tuesday Night Bar as part of Professor Larry Farmer's Legal Interviewing and Counseling course. Before the program was organized students in this class practiced their skills with each other in mock interview situations.

Mediation Project

The Mediation Project offers clients an alternative to courtroom litigation, serving clients in small claims courts, the BYU Off-Campus Housing Office, and Provo's Family Court Mediation Office, which handles all Provo divorce cases involving dispute over child support or child custody. Students in small claims courts are introduced by the judge as the session opens. The judge

presents them as mediators and gives the clients the opportunity to have their case mediated instead of heard by the judge. Almost always one or two people go with the students and their assigned attorney assistants.

Students in this project have completed a special eight-hour training program and have taken or are enrolled in Gerry Williams's Alternative Dispute Resolution class.

By working in one of the four LawHelp programs, students have the advantage of learning by experience. They have the opportunity to work directly under the supervision of a volunteer attorney in live client settings. They have experiences in interviewing, investigating, deciding on strategy, drafting documents, researching, preparing for trial, and (in the case of third-year students) representing clients in trials and administrative hearings under the state's third-year practice rule.

Student reports indicate satisfaction with the educational benefit of externship experiences. Students feel they are learning by doing, having the opportunity of applying classroom theory in real practice settings.

Most students believe they have better learning experiences in an externship than they have in paid summer clerkships. Because they are not concerned about paying students for their time, the attorneys are more willing to have them participate in all phases of office practice. Students also report they feel greater responsibility to the cases they work on because they generally have a greater

chance to participate directly with the client.

Not all the Law School's public programs have been started by the administration. Students are becoming more involved in public interest projects as well. For instance, this semester students have been involved in BYU's Public Interest Society, Women's Law Forum, and Student Bar Association.

The Public Interest Society seeks to persuade attorneys to donate time to public service and coordinates volunteer legal services. The society recently held its second annual scholarship auction. The money raised will go to help law students who choose to do summer work in public service organizations, such as government agencies, nonprofit organizations, and legal aid societies. Fundraisers are held to make it possible for students to take these jobs. This year the local community donated \$12,000 in merchandise for the auction, which yielded more than \$5,000 in scholarship funds. In addition, the J. Reuben Clark Public Interest Law Society's national sponsor promised to meet the local chapter's funds. Therefore, because the auction netted \$5,000, the Public Interest Society will be able to offer \$10,000 in scholarships.

The BYU Women's Law Forum has also made efforts to benefit the community. In February, the forum sponsored a variety show benefit to aid the Women and Children in Crisis Center in Provo. Approximately \$1,000 was raised to purchase sweat

suits for rape victims. When the forum became aware that rape victims are required to leave their clothing at the hospital for evidence and go home in a hospital gown or blanket, the group wanted to make this return a little less humiliating for the victims. Drawing on a program already in place in Salt Lake City and run by the Young Lawyer's section of the Utah Bar, the forum hopes to make this an annual event.

The Student Bar Association sponsored the Rex Lee Run for Cancer Research in April. This year's committee expanded the usual race preparations, beginning with coordination with the United Way and the American Cancer Society. The committee solicited sponsors, hosted benefit luncheons, arranged media coverage, designed attractive T-shirts, and introduced new baseball caps. The result was an impressive turnout of 120 runners. The run generated \$1,300, all of which will go to the American Cancer Society.

TWENTY YEARS AND TAKING OFF

August 27, 1993, marks the 20th anniversary of the opening of the J. Reuben Clark Law School for instruction, and plans are underway for a celebration.

"This celebration is for and about people," said Dean Reese Hansen. "We'll remember not only the Law School's historical events but also the 2,700 remarkable alumni who have studied here. We'll remember the friendships formed, the

knowledge gained, and experiences shared during this fabulous first 20 years."

During the 1993-94 academic year many events that have become the fabric of student's lives will be sponsored: the Woody Deem Trial Advocacy Competition, Homecoming with the briefcase brigade, the Law School fireside with Elder Dallin H. Oaks, the annual Bill of Rights Symposium and Dinner, Student Bar Association pizza parties, the faculty roast, the student untalent show, the first year moot court oral arguments, the second year moot court final arguments with President Rex E. Lee sitting as Chief Justice, the spring formal, the Government and Politics Symposium, and graduation.

There will also be a series of special anniversary events, including a founder's day luncheon, a reunion of the Board of Visitors, Malcolm Wilkey's two week stay as a faculty member in residence, a visit from Justice Kennedy of the United States Supreme Court, and a swearing-in ceremony May 23, 1994, before the U.S. Supreme Court with other activities following.

"We look forward to renewed association with many alumni, society members, and friends this next year," said Hansen, "and we invite them to join us." In August 1993, look for a calendar detailing all the 20-Year Celebration events sponsored by the Law School, the Law School Alumni Association, and the chapters of the J. Reuben Clark Law Society.



Law School Moot Court team, from left to right, Glenn Rowley, Christine Drage, Daniel Packard, and Randy Spencer

LAW STUDENTS WIN REGIONAL TOURNAMENT

Four BYU Law Students traveled to Tempe, Arizona February 5-6 and brought home the title of Regional Champions of the Jessup International Moot Court Competition. Assisted by their faculty advisor and coach, Professor Stephen L. Wood, the team made BYU history by advancing to the International Competition in Washington, D.C., for the first time.

In this prestigious moot court tournament, the students argued the merits of an international law case to three-judge panels simulating the International Court of Justice at The Hague

Team members Christine Drage, Daniel Packard, Randy Spencer, and Glenn Rowley, were jubilant at the announcement during award ceremonies, February 6, in Tempe. "When the tournament sponsor announced the winner, we just couldn't believe it. We all worked very hard, but the competition was very strong. We had hoped to win, but hardly dared expect it," said team member Glenn Rowley, who also brought home the "Best Oralist" award.

Having defeated some top law students from California, Arizona, and New Mexico, the BYU team advanced to the International Competition in Washington, D.C., March

27 through April 3, where it competed against regional and national championship teams from all over the world.

The team continued its winning ways in Washington, D.C. by defeating the national teams from Hong Kong and South Africa during the first two preliminary rounds. However, the team was eventually eliminated by losses to last year's runner-up, Singapore, and Georgetown University.

Despite the losses, the team did not come home empty-handed. The team was rated 22 in an international field of 56. During award ceremonies at the conclusion of the tournament, Glenn Rowley from

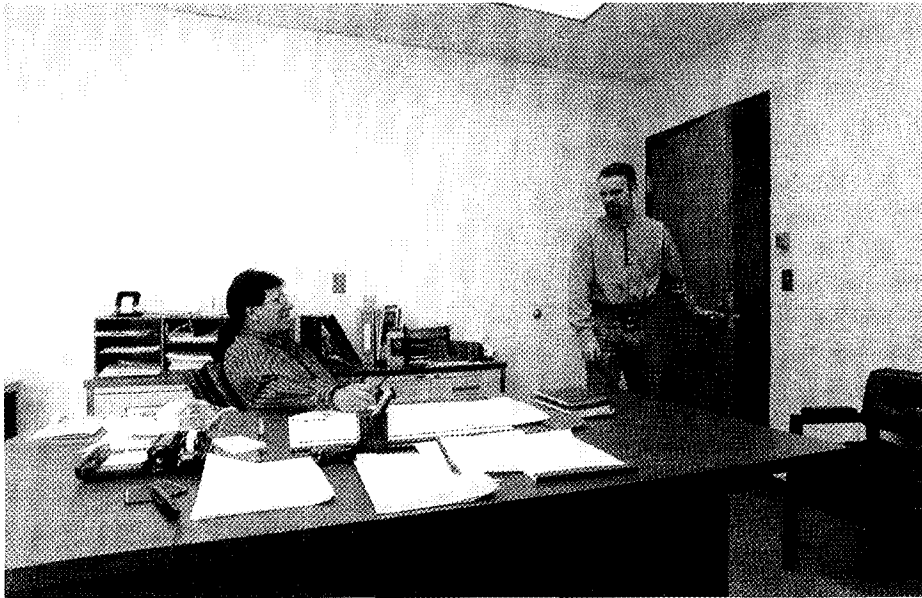
the Brigham Young University team was recognized as the seventh best oralist in a field of 280.

Dean Reese Hansen said this is the first time BYU Law School has advanced to international competition. He praised team members Christine Drage, Daniel Packard, Randy Spencer, and Glenn Rowley for their able representation of the school as well as themselves. "BYU has always done well in Moot Court Competitions, and this year's team has built on the success of past years," said Dean Hansen. For example, last year, Gary Challburg, Brian Gunderson and Dan Lounsbury received the award for the best brief in the Irving R. Kaufman Memorial Securities Competition at Fordham University in New York.

Also last year, Craig Aramaki, Thomas Low, and David Williams won best brief and advanced to the final oral round of The Harold H. Greene and Joyce Hens Green National Security Moot Court Competition sponsored by George Washington University Law School. Dean Hansen feels that this tradition of excellence in national and international competitions establishes a valuable reputation among the Law School's peers.

ALUMNI TRAVEL TO RUSSIA

Scott G. Crowley '88 and H. Wayne Gardner '87 recently returned from a trip to St. Petersburg and Moscow, Russia. While in St. Petersburg the two Law School alumni addressed a



Chief Judge Ed Zendejas '91, Omaha Indian Tribal Court, and Tribal Court Public Defender Chris Robinson '91

conference on intellectual property protection. In Moscow they represented Virginia companies interested in business with Russia.

Crowley, a member of Richmond, Virginia's Taylor, Hazen & Kauffman law firm, is general counsel for the Russian-American Exchange Foundation. An affiliate of Virginia Commonwealth University, the nonprofit foundation organizes cultural and academic exchanges between VCU and St. Petersburg State University. Last October Crowley and Gardner attended the second annual conference between the Russian-American Exchange Foundation and the St. Petersburg Regional Foundation on Scientific and Technological Development, the Exchange Foundation's sister organization associated with St. Petersburg State University. The conference discussed new Russian laws on patents, trademarks, copy-

rights, trade secrets, and methods of converting intellectual property into profits.

On the business end of their trip, Crowley and Gardner represented Virginia businesses interested in trading American automobiles, security/alarm systems, agricultural commodities and equipment, medical supplies, food and food processing equipment, cranes, and timber. Since his return, Crowley has established joint ventures to operate Chrysler dealerships in Lithuania and Siberia. Other joint business ventures are in the works.

Besides establishing many business relationships, these exchanges also fostered some "extracurricular" developments. For instance, as a result of the team's agricultural marketing, Crowley is now discussing with various research institutions the possibility of sending a team of researchers to Russia to train farm businesses.

Another side effect is that while in Russia Crowley and Gardner developed a relationship with the managers of the Hermitage Museum. One of the largest and finest museums in the world, this edifice houses an enormous collection of works by such masters as da Vinci, Raphael, Caravaggio, Rembrandt, Rubens, Poussin, El Greco, Monet, Renoir, Cezanne, van Gogh, Gauguin, and Picasso. Crowley hopes his relationship with the museum managers will lead to opportunities to help preserve the museum's works from the rather careless protection they now receive. He also hopes to be able to introduce some of them to other European and American countries, as most of them have never appeared outside of Russia. In addition, Crowley discussed the possibility of the museum lending an exhibit to the new BYU Museum of Art.

Since their return Crowley and Gardner have

also helped bring an LDS college student from St. Petersburg to study at BYU.

**ZENDEJAS, ROBINSON
WORK WITH
TRIBAL COURT**

Ed Zendejas '91 is the first law-trained Omaha to sit as chief judge of the Omaha Indian Tribal Court. He has been serving for more than one year.

Ed was originally viewed as an outsider since he is Mormon, was not born on the reservation, and has a hispanic surname. Now that tribal members know his mother is full Omaha, he is finding greater acceptance in his role as judge.

To ensure good representation of tribal members, Ed was influential in the hiring of Chris Robinson '91 as public defender for the Tribal Court. Now the former classmates share daily driving chores between Omaha, Nebraska, and Macy, Nebraska—85 miles each way.

CLASS NOTES

J. Michael Bailey '86
Michael is a shareholder with the Salt Lake City, Utah, firm of Parsons, Behle & Latimer. His practice concentrates on environmental and natural resource litigation and general commercial and tort litigation. He and his wife, Jacqueline, are the proud parents of Clare Jacqueline, born March 27, 1992.

Daniel A. Barker '81
Daniel was appointed to the Superior Court of Arizona for Maricopa County in Mesa, Arizona, on January 1, 1992. He has a civil

calendar, although in Arizona assignments among calendars change at the direction of the presiding judge. Judge Barker reports that he has thoroughly enjoyed being on the bench

David R. Benard '90

After graduation David joined the law firm of King & King in Clearfield, Utah, where his practice includes the areas of corporate law, domestic law, criminal law, and estate planning. Before joining King & King, David worked as a sole practitioner in Ogden, Utah, and as director of Corporate Affairs for CompuMed, Inc., a Wyoming Corporation.

Matthew R. Bryan '90

Matthew has been appointed to a position with the World Intellectual Property Organization (WIPO), a specialized legal agency of the United Nations. He has been assigned to a post in Geneva, Switzerland, for at least a two-year term as a legal officer in the Patent Cooperation Treaty (PCT), which currently has 50 member nations. His main responsibilities will be to become conversant with the treaty, give seminars in Latin America about practice under the treaty and its advantages, and facilitate future ratification by Latin American countries. Matt recently completed his term as a law clerk on the United States Court of Appeals for the Federal Circuit in Washington, D.C., where he clerked for Judge Randall R. Rader and Senior Judge Marion T. Bennett.

Howard Chuntz '84

Howard was a member of a small Utah Mount Everest

expedition (five climbers, two Sherpa guides) that established a camp at the 25,000-foot level on the Tibet side of Mount Everest last fall. Howard was forced by illness to return to the United States before the final push to the summit. "The whole thing was just grand. Camp two was like being at the summit of McKinley and looking at 9,000 more feet of climbing."

Leshia Lee-Dixon '79

Leshia is currently serving as the secretary of the Young Lawyers' Section of the Utah State Bar. She practices with Legal Defenders in Salt Lake City, Utah.

Brett L. Foster '90

Formerly with the Phoenix, Arizona, firm of Teilborg, Sanders & Parks, Brett is now associated with the Salt Lake City, Utah, law office of Lynn G. Foster.

Ben H. Hadfield '81

Ben, the first judge appointed by Governor Leavitt, is judge of the First District Court, including Box Elder, Cache and Rich Counties. Before his appointment Ben was associated with Mann, Hadfield & Thorne.

Joel F. Hansen '78

In 1992 Joel ran for the Nevada State Legislature in Assembly District Three as an Independent American Party member. He decided to run because the Republican candidate favored legalized abortion, and Joel wanted to be sure there was a pro-life candidate in the race. Although he did not win the election, he received a significant portion of the votes in a

three-way race. Joel and his wife, Sharon, are the parents of four children, including Spencer Alexander, born in 1989. Their oldest son, Jonathan, is serving a mission in Argentina. Holly is a high school sophomore, and Gregory is a freshman.

Jack C. Helgesen '80

Jack, an Ogden, Utah, trial attorney, has been chosen president-elect of the 300-member Utah Trial Lawyers Association. A 1977 graduate of Weber State University, Jack is a founding partner of the firm Helgesen, Waterfall & Jones.

Mark Hendricks '79

Mark practices as an associate with the firm of Pillsbury, Madison & Sutro in Los Angeles, California, handling maritime and international business matters. He is currently doing research for articles on controlling litigation costs and managing outside counsel. Recently he formed a trading company that specializes in exporting used machinery and vehicles and medical, computer, and construction equipment to developing economies, which so far have included Nigeria, Ethiopia, and Mexico. In December 1991 Mark married the former Maren Hardy of Potomac, Maryland. Maren graduated from UCLA Law School in 1991 and is practicing at the Los Angeles office of the New York-based firm of Dewey Ballantine.

Gregory Hess '79

Gregory is an associate with the Salt Lake City, Utah, firm of Kimball, Parr, Waddoups, Brown & Gee.

He and his wife, Kim, had a daughter, Rebecca, on February 25, 1991.

Claralyn Martin Hill '90

Claralyn joined the Provo, Utah, law firm of Aldrich, Nelson, Weight & Esplin, where her practice includes domestic relations, estate planning, probate, and corporate law. Claralyn served as a clerk to the Honorable Norman H. Jackson at the Utah Court of Appeals before joining the firm.

Tamer Jergensen '88

Tamer recently completed her term as law clerk to the Honorable Grant L. Young and has become associated with the law firm of Beard, St. Clark, Peterson, Sullivan & Barber, chartered in Idaho Falls, Idaho.

William D. Marsh '79

Formerly with the Dallas, Texas, office of Jones, Day, Reavis & Progue, William has become associated with the Salt Lake City, Utah, office of Ballard, Spahr, Andrews & Ingersoll.

William H. Orton '80

Bill was elected in November to his second term in the United States House of Representatives, representing Utah's Third Legislative District.

Craig Russell Pett '85

Craig has been named a partner at the Atlanta, Georgia, law firm of Alston & Bird. A member of the Tax Department, he concentrates on ERISA, employee benefit law, non-qualified deferred compensation, stock option plans, executive compensation, and health and welfare plans.

Jeffery R. Price '79

Jeff has become associated with the Salt Lake City, Utah, firm of Walstad & Babcock. Jeff was formerly associated with the firm of McAllese, McGoldrick & Susanin in King of Prussia, Pennsylvania.

Korey D. Rasmussen '90

Formerly of Lathan & Watkins, Korey has joined the Salt Lake City, Utah, law firm of Anderson & Karrenburg.

Sidney M.B. Sandberg '84

Sid is currently serving as volunteer chair of the Southern Utah Division of the March of Dimes Birth Defects Foundation. Sid practices in Provo, Utah, in alternative dispute resolution, business law, partnership law, and real estate.

Douglas D. Smith '79

Doug practices franchise law in Portland, Oregon, an area where fewer than 1 percent of attorneys nationwide practice. Formerly a partner with the Portland firm of Lindsay, Hart, Neil & Weigler, Doug now splits his time between an of counsel position with a former rival firm—Fountain & Rhoades—and an office at his home in Tigard, Oregon. He anticipates construction of a three-story office addition with conference room facilities and a large office with a panoramic view of the Tualatin Valley. In his words, "I've kind of got the ultimate life-style."

P. Austin Vickers '79

Austin has become general counsel and vice president of Vitol International, a nutritional and skin-care products company in Chandler, Arizona.

Allan O. Walsh '79

Al has become associated with the Salt Lake City, Utah, firm of McKay, Burton & Thurman. Al was formerly associated with Latham & Watkins and, more recently, with Allen, Matkins, Leck, Gamble & Mallory.

Mark S. Webber '86

Mark is currently serving as the president-elect of the Young Lawyers' Section of the Utah State Bar. He formerly served as the secretary/treasurer of that section. Recently Mark became a shareholder with the Salt Lake City, Utah, firm of Parsons, Behle & Latimer, where he practices primarily in real estate and commercial and personal injury litigation.

FACULTY UPDATE*David Dominguez*

Professor David Dominguez wants to reform law school teaching. Although one of the Law School's main purposes is to teach legal doctrine, he says, it is not enough for students to know only textbook principles; they must also apply them in a variety of ways. Dominguez feels students can best learn different application strategies by engaging people with opposing viewpoints. Opposing interaction, Dominguez explains, expands students' thinking about the law because they must listen to viewpoints they haven't thought about before. The better students understand how different people tick, the more successful they will be as lawyers.

Dominguez has been working hard with his col-

leagues to have this type of multicultural learning integrated into the syllabus. In the past, comments Dominguez, one could assume that he or she understood the cultural context for the law, but now there are far too many new forces for this to be true. Recently Dominguez submitted for publication an article that explains the teaching methods he has been experimenting with for the last four years. Part of the article suggests what professors' responsibilities ought to be, given the changing demographics of the legal profession.

In class Dominguez has put students into collaborative negotiation settings, where they can share ideas and comments. Out of class Dominguez promotes heavily the celebration of diversity. Dominguez explains that it is not a matter of being right or wrong, but a matter of life experiences. Lawyers must be sensitive to the cultural collisions that take place in the law and anticipate them before they become their clients' problems.

One of Dominguez's recently begun projects examines what foreigners living in Mexico are doing in terms of dispute resolution. Typically, these people cannot go to the Mexican judicial system and therefore must form different organizations. This stretches their problem-solving skills. Dominguez hopes that in the future this research can be applied to inner cities, since people there often have as little access to our justice system as the foreigners do to the Mexican system.

Also a member of the executive board on Minority Groups for the American Association of Law Schools, Dominguez is particularly interested in learning whether minority law professors are adopting innovative methods of teaching and if they are impressing on students that there are color and gender issues in the law.

J. Clifton Fleming

Professor Cliff Fleming, a specialist in income tax law, has published many books and articles in his field. Recently he coauthored a reference treatise entitled *Tax Aspects of Forming and Operating Closely Held Corporations*. Late last year Fleming published an article in the *Journal of Corporation Law* called "Altering U.S. Treaty Policy to Permit the Negotiating of Zero Withholding on Portfolio Dividends: An Invitation to Research." He also publishes an annual supplement to his 1984 treatise, *Tax Aspects of Buying and Selling Corporate Businesses*, for lawyers and accountants.

Pursuing another interest, Fleming has published a review essay in a social science journal called *Society* on Stephen Carter's *Reflections of an Affirmative Action Baby*. This essay, which is a nonpolitical defense of affirmative action programs in higher education, will appear in expanded form in an upcoming issue of the *Howard Law Journal*.

Last summer Fleming was appointed to a two-year term as chair of the American Bar Association's committee on teaching taxation, a service committee

that helps law professors in their teaching and research. He also lectures regularly at CLE meetings as a service to the bar.

James D. Gordon III

As a legal humorist, Professor James Gordon loves to poke fun at the law. But he also has several serious pursuits, including serving as vice chair of the faculty committee that drafted BYU's new academic freedom documents. These documents describe the principles of academic freedom and the substantive and procedural protections that apply to it. In Gordon's view, there are two facets of academic freedom: the freedom of the individual scholar to teach and research without interference, and the freedom of the academic institution to pursue its mission. While it is essential that BYU professors have individual academic freedom, says Gordon, it is also their responsibility not to seriously and adversely affect the university mission or the Church. The academic freedom documents are designed to protect both individual and institutional academic freedom and to mediate the competing claims when these two freedoms conflict. They also provide procedural protections for faculty members, including the right to a hearing before a committee of faculty peers.

Also a popular speaker, Gordon last year delivered the graduation address at the University of Oregon School of Law, a speech at the Iowa Law Review banquet on why the public hates lawyers, and a speech

on religious freedom at the annual meeting of the Association of American Law Schools in San Antonio, Texas.

Although some might consider law school and law practice to be solemn enterprises, Gordon good-naturedly disagrees. Recently he completed the manuscript for a book entitled *Law School Babylon*. The idea for the book was developed after the *Washington Post* printed excerpts from his article, "How Not to Succeed in Law School," 100 *Yale L.J.* 1679 (1991). The article attracted the attention of a literary agent, who encouraged Gordon to write an expansion of the article and who placed the book with HarperCollins Publishers. Like the article, *Law School Babylon* is a hilarious collection of "inside" observations that poke fun at law school and life as a lawyer. Gordon says that although he very much enjoyed writing the book, trying to be funny under a deadline was a unique experience. The book is scheduled for publication in September.

Recently Gordon also published a book review in the *Stanford Law Review* called "Cardozo's Baseball Card," 44 *Stan. L. Rev.* 899 (1992), that is a lighthearted evaluation of Richard Posner's book, *Cardozo: A Study in Reputation*. Another book review, published in the *Michigan Law Review* and titled "Oh No! A New Bluebook!," pokes fun at the 15th edition of the infamous *Bluebook*. Three more pieces, included in the 1992 BYU Law Review symposium issue on humor and the law, also fea-

ture Gordon's interest in legal humor.

Gordon's activities during the recent past have solidified his reputation as a legal humorist. For example, NBC affiliates across the country broadcasted a news story featuring Gordon dressed up as Elvis while teaching his legal writing class. Gordon encourages his students to make their legal writing lean and trim—more like the "younger, slimmer Elvis" than the "older, fatter" one. He believes that good writing, like Elvis, will never die.

John W. Welch

Legal materials in the Bible and Book of Mormon. The trials of Jesus, Abinadi, Alma, Amulek, Korihor, Nehor, and Seantum. A Nephite legal system based on an understanding of the law of Moses as it existed in the seventh century B.C. In addition to tax, corporate, and pension law, these are some of the many interesting projects keeping Professor Jack Welch on the go.

Recently Welch completed work on the five-volume *Encyclopedia of Mormonism*, a reference work published by Macmillan about LDS history, scripture, doctrine, and culture. Several other members of the law faculty also wrote articles for the encyclopedia, including Professors Backman, Davis, Durham, Farmer, Hansen, L. Hawkins, C. Hawkins, Kimball, Parker, Riggs, Whitman, and Williams. President Rex Lee and Bruce Hafen also contributed. Welch wrote several and edited many of the articles and was also in charge of

illustrations for the project that took over three years and some 780 authors to complete. The encyclopedia has already sold out of its first printing in the LDS market and has been very well received and positively reviewed in international library journals.

Currently Welch is serving as editor of *BYU Studies*, where he solicits and edits articles that bring Latter-day Saint perspectives to bear on a variety of academic topics. Along with his work on legal materials in the Book of Mormon, Welch is also now returning to several other "back burner" projects that had to be put on hold while he was working on the encyclopedia. These efforts include a single treatise on ancient Near Eastern law and the scriptures. He would also like to publish a comprehensive source book on all materials from Jewish and Roman law pertinent to the trial of Jesus.

An interesting law faculty committee Welch chairs is exploring ways to improve testing techniques, giving students more specific feedback about what they have done well and where they need to improve. The committee is also searching for better ways to communicate information about each student's abilities to potential employers. For example, a student could be graded in several different areas so that an employer could find those who are successful in specific areas useful to that employer. Also, this type of grading, according to Welch, will give teachers more meaningful feedback on how successfully they are teaching.

Dale A Whitman

Professor Dale Whitman recently completed work on new editions of his real estate finance casebook, property hornbook, and real estate finance hornbook, which he coauthored with Professor Grant Nelson of UCLA. He also finished an article on mortgage prepayment, which was just published in the *UCLA Law Review*. The article focuses on two main issues.

The first is whether mortgage lenders should be permitted to "lock in" loans, absolutely prohibiting prepayment for some fixed period. Whitman argues that such lock-ins are economically inefficient and should not be enforced by the courts. A borrower who wishes to prepay should, of course, be required to cover all damages suffered by the lender because of the prepayment. Such damages typically occur because interest rates have fallen, so that the lender has to relend the funds at a lower yield. But if the borrower is willing to cover those damages, all loans should, in Whitman's view, be prepayable.

The second major issue discussed in the article is the enforceability of prepayment fees, which are often imposed by mortgage language. Whitman argues that such fee clauses should generally be enforceable, although they may occasionally produce recovery for lenders more than their actual damages. Prepayment fees are a form of liquidated damages, and Whitman argues that they are efficient and useful, since they allow the buyer to shift to the lender the risk of downward movements in interest rates.

Whitman observes that state courts nearly always uphold prepayment fees, but that several recent bankruptcy court decisions have scrutinized them much more carefully and have refused to enforce those considered unreasonable. However, Whitman argues that this distinction between state court and bankruptcy court results may be justified, since in bankruptcy the effect of enforcing an excessively large fee is not merely to penalize the borrower, but to deprive the borrower's other creditors of assets that should be distributed to them. Whitman also notes that it may be unjust to enforce excessive prepayment fees in cases of "involuntary" prepayment (such as fire insurance proceeds, eminent domain awards, and accelerations under due-on-sale clauses), if the lender has no business justification for the acceleration.

Besides his writing and teaching, Whitman serves on the Law School's committees on admissions, awards, and computers. He is also a member of the Accreditation Committee of the Association of American Law Schools and is a frequent member and chair of law school accreditation teams for the American Bar Association.

LETTERS*Confessions of an Ordinary Law School Graduate*

As a law student at JRCLS from 1976-1979, I quickly found out that I was very ordinary. "Performing" for Woody Deem made my knees shake and I'm sure I "pursed" my lips several times. Listening to Ed

Kimball discuss the rules of evidence made me wonder if there were any rules at all. Dallin Oaks caught me off guard in Trusts class, and I wished I had taken a "peremptory" that day. Yes, I had been the salutatorian of my high school graduating class and had breezed through undergraduate classes and graduated magna cum laude with a B.S. degree at BYU, but I soon discovered that in this law school experience, I was very ordinary.

In fact, I attribute my ability to "survive" the law school experience to a fellow survivor, Ron Mumford '79, and frequent breaks with him at the ping pong table. A recent visit disclosed that the old table is no longer there, and I wonder how current ordinary students survive. I also attribute my survival to "reality checks" administered by my wife and children during those three years.

Since graduation I have worked as an associate in a small firm in Oregon, as a JAG Officer in the U.S. Army, and now as the Sector Counsel for the U.S. Border Patrol in Yuma, Arizona. I have not written any books, handled any noteworthy cases, won any awards, or made a lot of money.

As I read about the accomplishments of many of my classmates, I am happy for them (and sometimes surprised) and proud to have been associated with them. But I sometimes feel a slight twinge of jealousy and unfulfillment.

Then I sit down and count my many blessings. My wife of 21 years is as sweet and beautiful as the day I married her. Our rela-

tionship has grown and been strengthened through difficult challenges. We are best friends and our love for each other grows daily. I have seven children, all with differing talents, hopes, and aspirations. We have fun together. I enjoy coming home from work to be with them. I have a good job that I enjoy. My salary is not the greatest, but it is adequate. I also enjoy my activity in church. These blessings, along with a knowledge that I have a Savior and that he loves me, help me to know that it is alright to be ordinary.

I do not regret going to law school and becoming a lawyer. I am thankful that I was able to attend and graduate from JRCLS. I treasure the experience and appreciate the knowledge gained and insight developed during those years. I have fond memories of my law school days. I'll never be rich and famous nor the subject of an article in the *Clark Memorandum* or *Brigham Young Magazine*. And though I may wince with jealousy at the accomplishments of my fellow classmates, I really am happy for them, but at the same time I am happy for myself and my ordinary life. In fact, I am so ordinary that I may be extraordinary.

—Scott M. Jefferies '79

The Clark Memorandum welcomes letters to the editor, articles, updates on job changes, etc. Send your materials to: Clark Memorandum, 342 JRCB, Provo, Utah, 84602