

The Opinion

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AN OPINION ABOUT THE OPINION

Professor Doug Heidenreich

William Mitchell College of Law, as we know it today, owes its character to a stern, humorless man named Stephen R. Curtis. When, in 1958, the college trustees had to select a dean to oversee the merging of two disparate student bodies and the creation of a new full-time faculty, they chose a man with no connection to the two old schools that had rather reluctantly merged on paper to form WMCL.

These two night law schools, the St. Paul College of Law and the Minneapolis-Minnesota College of Law, had, under pressure from the American Bar Association, joined forces two years previously to become the Twin Cities' only part-time law school. They had continued to operate in separate spheres, however, with different curricula and separate faculties and student bodies while the trustees searched for suitable physical quarters in which to blend the students and faculties into one law school.

In the Fall of 1958 a shiny new building at 2100 Summit Avenue in St. Paul opened to receive the combined student body and faculty. Steve Curtis had come a few weeks earlier from his position as the dean of the Ohio Northern University Law School at Ada, Ohio, to assume the leadership of the new college. He believed that a strong law school needed a feeling of unity and fellow-

ship among the students. He faced a formidable task. The students came from diverse backgrounds and made their homes in different cities. Nearly all worked full time during the day, came to classes in the evening, and, tired and hungry, escaped each night into the St. Paul blackness almost before the echoes of the last evening bell had died.

Curtis, in his effort to stimulate a feeling of esprit de corps among the students, quickly did two things. He dictated the creation of a Student Bar Association that would be funded by a mandatory SBA fee of \$1.50 per semester per student, collected as part of the registration fee, and he decreed the creation of a student newspaper. He handpicked the SBA leaders and the editor of the paper. Fortunately the 1958 student body, like every group of WMCL students since, included talented people with experience in many fields, including journalism. The first editor of the paper, Phyllis Gene Jones, was by profession a newspaper writer.

When the first issue appeared, its banner proclaimed it to be the William Mitchell Opinion. Whether Curtis had, in his inimitable fashion, "suggested" the name or whether the student editorial board had chosen it is unclear. The name was not, however, chosen at random. The man for whom the col-

lege had been named at the time of the merger had been Minnesota's most prominent and respected jurist at the end of the 19th Century. He had been known among legal scholars and judges throughout the country for the clarity and cogency of his opinions. A Mitchell opinion could carry special weight. Thus, the title was meant to announce in a subtle way that the college newspaper would carry on this tradition of quality.

Since its creation the paper has had its ups and downs. Like any student enterprise, it has sometimes flourished, won awards, and been a subject of pride; also, however, like all student enterprises, it has at times languished from lack of enthusiasm and leadership and been a subject of embarrassment. Whether the name is changed or remains the same, whether the paper is reborn or withers away, the worthwhile effort to revive and revitalize it demonstrates that the William Mitchell student body is still a talented and enthusiastic group. Steve Curtis, who rarely smiled, might grunt and mutter a few words of praise for the students who have undertaken the task. I wish them well.

THE LAST BASTION OF THE UNABASHED

Lisa Needham

My college newspaper had this inexplicable column by this frat-boy type who only wrote about two driving passions—drinking and college basketball. Don't get me wrong—I'm extremely pro-beer (although the hoops thing left me cold) but who could write about this EVERY WEEK?

I was thinking about the erstwhile bad writer as I ruminated over the resurrection/recreation/remake of The Opinion. Although I always found the frat-boy a waste of paper, he's serving as an important object lesson for me now: student

newspapers are space for everything in life that doesn't quite fit elsewhere.

Let's face it. Law school, more than we ever care to admit, is all about getting those rough edges and distinguishing marks rubbed off before we're let loose at Faegre & Dorsey & Patterson & Milavetz & Winthrop & Ciresi—or wherever. Doubt me? Think about what we ALL wore to OCI—the dreaded, identical, conservative black suit. Even I own one, and, suffice to say, its nothing like anything else in my closet.

Student newspapers are the last bastion of the unabashed—the unabashedly political, the unabashedly stupid, and, perhaps most importantly, the unabashedly sincere. At a time in your life when you're making sure not to stick out too much, it's a place where you can feel safe with your passions—with the things that make you uniquely you.

I couldn't be more proud to see The Opinion return to the halls of Mitchell. As a student body, our outlets for expression aren't just a pleasure—they're crucial. Welcome back, Opinion.

But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas - the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment. Every year if not every day we have to wager our salvation upon some prophecy based upon imperfect knowledge. While the experiment is part of our system I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country.
(Oliver Wendell Holmes; dissenting in **Abrams v. United States**, 1919)

The Opinion Editor-in-Chief Jennifer Macaulay

The Editors of the *Opinion* have begun the search for material to appear in our next edition, due out in August of 2000. If you are interested in contributing an article, editorial or artwork, please forward your submissions to "The Opinion; c/o William Mitchell College of Law, 833 Summit Avenue, Saint Paul, MN 55155", or to "theopinion@wmitchell.edu". The *Opinion* has selected its Editor-in-Chief for the 2000-2001 academic year, but remains interested in identifying more raw, unabashed, journalistic talent for positions as Contributing Editors. If you are interested in being a member of the *Opinion* staff for the 2000-2001 academic year, please forward your letter of interest, along with a writing sample or column idea to The Opinion; c/o the Managing Editor.

The success of this newspaper and is tied to our ability and willingness to build a community that appreciates and cultivates a diversity of opinions and points of view. The contributions of students, staff, faculty are essential to make this venture successful. We look forward to hearing from you.

Staff

Executive Editor:
Lisa Needham

Managing Editor:
Angela Ring

Faculty Adviser:
Doug Heidenreich

Business Manager:
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Contributing Editors: Jennifer Henderson, Dan Gilchrist, Chris Frank, Stephanie Zeman, Scott Forbes

From the Editor

The Inspiring Versatility of Perspective.

"Journalism—an ability to meet the challenge of filling the space." —Rebecca West, *New York Herald Tribune*, April 22, 1956.

In contemplating my approach for this, the first Letter From the Editor, of the first edition of "The Opinion" of the new millennium, I'm oddly uninspired. Perhaps it is that I'm too inspired by the recent events in my own life, and the important events in our law school community, local community, and world to even begin to set my thoughts to print. Or perhaps I've finally begun to embrace the humility that law school inflicts upon the person of a law student, and have realized that the only truly noteworthy sentiments might be those that we've already come to accept; the learned sentiments, rote-memorized and mentally digested to the point that they now are our own perspective. Perhaps the only things worth reading anymore were written 200 years ago, and this is just a vain attempt at some sort of theoretical juxtaposition???

The question that remains is whether there really is anything new to say? Is anything ever truly novel and innovative anymore? As we enter the new millennium, are we doomed to repeat the intellectual pathos of our predecessors? (I often wonder if law school is just this.) Resistance is futile when education is an exercise in recitation of facts and opinions discovered and enunciated by

others; when an innovative perspective can only be respected if it's theoretical progeny is simply traced by a series of citations to "authority" on a given subject; and when newspapers print mundane realities that are only too familiar to the reader.

I doubt that "The Opinion" can ever truly conquer the challenge presented by the omnipotence of mundane perspective, especially as it is a newspaper reflecting the points of view and events of concern to those who by definition are perilously absorbed by the demons of mundane academia (law students). If there is any hope for a refreshing perspective in the new millennium it will be a result of efforts to resist the constraints of academia, and to find the versatility in old perspectives, and inspire creativity in new perspectives, and finally discarding the notion of total, faithful homage to the wisdom of precedent.

As the Editor of "The Opinion", it is my sincere and unabiding hope that students will begin to find the time to develop their own perspective, and that the fruits of this endeavor might begin to make this wise old newspaper a forum for the "free exchange of ideas" epitomized by the wise old Framers who deemed it not only necessary, but indispensable to preserve our inalienable right to have it.

Now, I'm proud to turn over this forum once again to the William Mitchell community. Come on people. Inspire us. -Ed., Jen Macaulay

Congratulations Contest Winners

Professor Heidenreich and Lisa Needham win Newspaper's Contest.

In order to celebrate the first *Opinion* of the new millennium, the newspaper staff sponsored a competition. We asked the WMCL community to submit suggestions for a new name for the paper, and articles discussing the importance of the newspaper to the WMCL community. All submissions were reviewed by a panel of "experts" consisting of faculty and students. To counter any perception of impropriety, the editors took great care in selecting a second panel of experts consisting of household pets. The pets were allowed to briefly review the submissions for grammatical accuracy and journalistic merit. In the end, after hours of plaintive deliberation, the panels unanimously agreed on the winning

submissions. The articles, published in this issue on Page 1, were "An Opinion on the Opinion" by Professor Doug Heidenreich, and "A Bastion for the Unabashed" by Lisa Needham.

One panelist (pictured, right) was reached for comment late yesterday evening. He commented that "Some of this stuff was just impossible to read, so we based a lot of our decisions on scent alone,



Commented one contest panelist, "Some of this stuff was just impossible to read, so we based a lot of our decisions on scent alone"

Other panelists focused on a more holistic sense of aroma or taste. In all, I believe that we have identified the highest quality writers, and I am proud to have had

the opportunity to experience their work"

Congratulations to the winners, and thanks to all who participated.

The Opinion Forum

"Opening up the Can of Confederate Flag Worms in Minnesota"

The sight of the Confederate flag flying over the Capitol Dome in South Carolina symbolizes to many the horrible injustices suffered by African Americans for over a century. But noted historian and author Shelby Foote says what the flag actually stands for is law. Foote, who describes himself as pro-flag, likens the attempt to have the flag removed from the state capitol dome in South Carolina to an attempt to cover up history. Foote asserts that while the flag has become a symbol of racist incidents and bigotry today, people need to be educated about what



the flag stood for in the context of the Civil War. In contrast, Lonnie

Randolph, Jr., president of the NAACP's Columbia branch, says: "Saying the flag isn't about slavery is like saying the swastika isn't part of the holocaust. It's a symbol of white supremacy, hatred and oppression -that's why it's used by the Ku Klux Klan and skinhead groups."

The flag controversy has embroiled South Carolina for years. The National Association for the Advancement of Colored People says the flag is a symbol of racism. But supporters say it represents

Southern heritage and honors those in the Civil War. South Carolina, is the only state with the Confederate battle flag flying above its Capitol. (Georgia and Mississippi incorporate the Confederate symbol in their state flags.) It was raised at the Statehouse in 1962 (during the Civil Rights Movement) to commemorate the Civil War's centennial.

The Opinion asked several WMCL students for their reaction to this debate. Their contributions to "The Opinion Forum" appear on the following page.

The Opinion Forum

“Opening up the Can of Confederate Flag Worms in Minnesota”

The Confederate Flag is a Symbol of Hate

Angela M Ring

Periodically, our country goes through an era when old wounds are reopened and reexamined. During these times, we realize that the “social Band-aids” contrived by government to address society’s old wounds, are woefully ineffective. Race relations in the United States is one of these wounds that we, as a society, have not found a way to heal. In some cases, we even pretend that no such wound exists. Often, we exacerbate the problem with divisive, racially insensitive, and discriminatory actions and speech. Currently, the issue of the State of South Carolina flying the Confederate flag over its state capital has embittered race relations in our country.

This national debate raises fundamental constitutional arguments on both sides of the issue. Both sides acknowledge that the freedom of speech is implicated. The 14th Amendment is also at the center of this debate, as it guarantees the equal protection of the laws to all United States citizens. Passed after the civil war, the 14th Amendment was designed specifically to guarantee that the freed slaves would not be denied their rights. South Carolina asserts that flying of the flag over its

capital does not deny its citizens equal protection. Opponents, however, feel that this action aggressively denigrates the status of African Americans within their state and indeed, in society as a whole. In addition to the Constitutional debate, there is a larger and deeply complex social debate regarding the Confederate flag as a symbol. South Carolina argues that the flag is a symbol of “southern pride” while dissenters argue that it is a symbol of racial aggression and discrimination.

Focusing on the Constitutionality of the flying of the confederate flag over the capital of South Carolina confuses the issue. This narrow focus ignores the fundamental argument of whether it is morally right to fly the flag over a state building. Many will concede that the flying of the flag does not necessarily suppress the speech of the citizens of South Carolina. Many would also concede that the Federal Government is prohibited by the 11th Amendment from preventing South Carolina from flying the flag. That being the case, it appears that South Carolina is hiding behind a state’s rights argument. They very well may have the constitutional right to fly the flag, ostensibly as a sym-

bol of southern culture. The question then, is whether or not this is the symbol that they want representing their state. The truth of the matter is that “the south” is not separate entity unto itself. It is part of a larger, multi-layered society. A society in which the confederate flag reminds people of a difficult and oppressive part of our past and present.

In the 1960’s, Georgia raised the confederate flag as a protest to the civil rights movement. Now, some thirty years later, South Carolina argues that this symbol has now evolved to represent only southern pride. However, as a symbol of protest, the flag’s symbolic meaning was two fold; (1) that the Federal government should not decree how a state should make its laws, and (2) as a reminder to its black citizens of their position in society. It seemed, thirty years ago, that African Americans were being told that they were still second class citizens. Sadly, it appears that history is repeating itself.

This is a debate of posturing. South Carolina refuses to take down the flag as a matter of

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A Symbol of Heritage, Not Hate

Scott Forbes

The Confederate Flag is not a symbol of racism. It is not an expendable relic of the past. It is a venerated symbol that is near and dear to many Southern people. Yes it is from a dark time in American history when brothers fought brothers, and fathers fought sons. This country was at a crossroads that determined the future of the nation. It was about states’ rights vs. an intrusive federal government. To be fair, the war was about many things, but citizenship for blacks was not one of them. No, the noble Northern aggressors were not fighting for slaves’ freedom. If they were, the US Supreme Court would not have decided in Dred Scott v. Sandford, (1857) that blacks were not citizens, or in Plessy v. Ferguson, (1896) that segregation was legal and desirable. And yes, the North

had slaves. This entire country is guilty of that abomination.

The entire country is guilty of these vile and dehumanizing policies. I resent the Ku Kux Klan for misusing the Confederate Flag as their tool for racism. I resent the school system, Hollywood, and the news media for perpetuating myths about the South. But mostly, I resent the educated people who flip-pantly say the Confederate Flag is racist, so we must be rid of it. It is a sad state of affairs that surrounds this country when people follow

the politically correct path because it is easier than educating the ignorant.

Are we as a nation going to say that anytime a racist group distorts a symbol, that symbol has to be dissolved? What’s next? Will churches

Republican Alan Keyes, the first serious black candidate for president in American history, told Chris Matthews, ("Hardball," Jan. 8) "You know the flag that was the symbol of slavery on the high seas for a long time was not the Confederate battle flag, it was sadly the stars and stripes."

remove the crucifixes because the KKK ignites crosses as symbols of white supremacy? Will the military change its hairstyle because skin-heads have an affinity for it? Shall we rewrite the King James Bible because people misinterpret Genesis as referring to Blacks as the servants of ser-

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The Right to Hate

Leah Thomas

Symbols, like words, are tricky because they can mean different things to different people. In Atlanta, almost every street is named “peachtree”; when you think of “fruit”, you think of “peaches”. Billie Holiday sang about southern trees bearing a different kind of “strange fruit”. To Billie, “fruit” represented lynchings – Black men, women and children hanging from trees, swinging in the southern breeze. Just as the Confederate flag is a symbol of pride to some, to many African-Americans it resurrects the terror of lynchings, church burnings, and other acts of hatred and oppression systematically waged against an entire race of people.

South Carolina flies the Confederate flag atop the statehouse dome, just below the American and state flags. It was raised in celebration of the Civil War Centennial during the 1960’s. Critics say it was actually raised in protest of the Civil Rights Movement, which gained momentum during the 1960’s. Georgia’s legislature added the Confederate battle emblem to their state flag in 1956. Brown v. Board of Education was decided in 1954. Critics says that the flag is not about pride, it’s about hatred.

On January 17, the day set aside to celebrate the life of Martin Luther King, and again on April 6, thousands of people marched on South

Carolina’s capital to protest the Confederate flag’s place atop the dome. Supporters view the flag as a symbol of southern pride, and as a way to honor dead Confederate war soldiers. Protestors too are reminded of the war, but unlike flag supporters, the flag is a reminder that Confederate soldiers died to keep slavery alive. Indeed, for protestors, the Confederate flag is a bold reminder that racism, hatred and other vestiges of slavery are still very much alive.

To many African-Americans, the Confederate flag is a reminder that the centuries of oppression did not end with the Civil War. The vestiges of slavery are pervasive, even today. Something as simple

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Symbol of Hate, cont'd

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principle, while opponents have stated that the flag symbolizes what is wrong in our society. The 11th Circuit, has in the recent past admonished both Georgia and Alabama in dicta while still upholding the actions of the states as Constitutional. This position is intellectually sound. The courts are not the appropriate venue to deal with South Carolina's action. Although the state legislature and the state as a sovereign power are the entities to properly handle the "flag debate", it is a sad commentary that SC Legislature ignores this public outrage by its continued flying of the flag. In doing so, they reflect how little we have learned from the mistakes of our past. Until states are willing to balance the ideologies and freedoms of all of their citizens, controversies such as the flag debate will permeate our society. There are no easy or quickly imparted solutions to this problem. The confederate flag debate is symptomatic of deeper and more divisive social behaviors, beliefs and practices. Taking down the flag from South Carolina's Capital building may not be the solution but at least it is one step towards recognizing that times change and people change but one thing is certain: that we as a nation are still struggling to embrace and define what we mean when we assert that all men are created equal.

We are determined to bring that flag down. It represents one of the most reprehensible aspects of American history not only for the people of African Ancestry but for people from every background who know and understand the destructive horrors created by slavery in this country
-Kweisi Mfume

Heritage, Not Hate, cont'd.

(Continued from page 3)

vants? Will Washington, DC remove the Stars and Stripes because it offends A) the Native-Americans whose ancestors were slaughtered under this flag's name; or B) the Japanese-Americans who were taken from their homes and imprisoned during WWII?

Unconscionable events have occurred in both the North and the South. That fact is irrefutable. But to forget about what the Confederate Flag means to so many people is a violation of their rights. It is also an insult to the thousands of Southerners who gave their lives to fight the inalienable rights to be free from what they believed was an oppressive Northern government. The fight for freedom, for a true and responsive republican democracy is the cornerstone of our present government and our present Constitution.

There are those people who pervert this glorious and noble history by using it to promote racist

doctrine. As a southerner, my response to this contortion of history, heritage and pride, into a symbol of hate is simple. I can only hope that you do not realize the error of your ways by finding your own heritage attacked by popular yet irrational ignorance.

I can't help but notice the irony inherent in that if I fly the Flag of a defunct government, I may be ridiculed and even physically assaulted; but should I decide to burn the Flag of our existing government, I will be exalted as a pioneer for free-speech. Both rights should be respected.

My colleague Ms. Ring notes that those who forget history are destined to repeat it. Removing the Confederate Flag will not erase the atrocities that occurred in the South or the North. However, it will be a great disservice to the spirit that made this Country the land of the free and the home of the brave.

Heritage, Not Hate; is the true meaning of The Confederate Battle Flag. Keep it flying.

THE FABRICS OF SOCIETY

This is a semesterly column dedicated to defining, analyzing, and critiquing those unwritten, uncodified, rules that govern our dramatic lives by binding together or tearing apart the fabrics of society.

Chris Frank...A regular guy doing irregular things...That's not what I mean.

BUYING TIME

Time is money. The question is, exactly how much money is your time worth? I am not talking about your salary as a lawyer, since you will be billed out at \$200 an hour once you pass the bar. And you are worth it right? What I am talking about is how much are you willing to pay for your FREE time.

If you are like me, most of your free time is spent spending money. And when you need cash it is most convenient to go the nearest ATM machine. So convenient that when you withdraw from another bank's ATM you must pay a "convenience"

fee. Assuming that your convenience charge is \$2 and the nearest ATM from your own bank is approximately ten minutes away, you paid a total of \$2.00 to save ten minutes of free time. Essentially, you pay money to save time. The trade-off of time for money is perfectly balanced. Or is it? I seem to recall nightmares from Contracts finals, terms such as "adhesion contract" and "unconscionable". The bank charges you just enough that it isn't worth your time to complain or actually do something about it. How convenient. Not for you, but for your bank. Is there anything we can do? Since I

Right to Hate, cont'd

(Continued from page 3)

as planning a vacation can be challenging for African-Americans. We have to ask questions like, "how far can I drive before I get stopped for DWB", or "will this bed and breakfast turn me away once they see the color of my skin?" Even when we send our children to college, we must consider not only for curriculum and cost, but we must also concern for their safety. Every time I walk into a courtroom, I have to ask if my race will come into play. To many African-Americans, the Confederate flag is a reminder that we should stay in our place. While some people consider flying the flag a symbol of pride, others view it as an act of terrorism, much like a cross-burning.

However, despite opposing views, under the First Amendment, South Carolina probably has the right to continue to fly the flag. In R.A.V. v. City of St. Paul, 505 U.S.377 (1992), a teenager was charged with burning a cross in a Black family's yard. This violated St. Paul's "hate speech" ordinance which criminalized any communicative act if the speaker "knows or has reasonable grounds to know" the action "arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender." As written, the ordinance was vague and overbroad, so the Minnesota Supreme Court tried to narrow the scope. By holding the ordinance applied only to "fighting words" or "incitement of imminent lawless action", the Court tried to place it outside the protection of the First Amendment. On review by the United States Supreme Court, Justice Scalia stated that some "fighting words" are protected by the First Amendment; that although fighting words have unprotected features, the government still cannot regulate their use "based on hostility – or favoritism— towards the underlying message expressed." In other words, the state cannot restrict racist expression merely because it pisses some people off.

R.A.V. also tells us that the state cannot restrict speech solely upon viewpoint. The law cannot draw a distinction between "racist" hate speech and other forms of hate speech, nor can it permit expression of one viewpoint over another. As such, it seems that South Carolina is under no legal obligation to remove the Confederate Flag from the Statehouse dome. Since the state contends that the flag is about pride, I wonder if they would consider flying red, black and green flag to symbolize Black pride. Or perhaps they would agree to fly a black and white flag with a raised fist, with the words "Black Power" alongside of the Confederate flag. Nah, probably not.

don't even take the 10 minutes to drive to my banks ATM machine what makes me think I can do anything to stop this outrage? The problem is worth 10 minutes of time and \$2 of damages. I'll see what I can do.

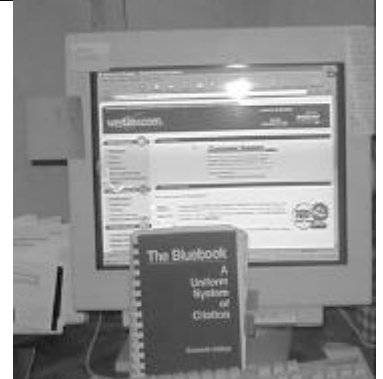
First, lets get the facts. As you already know, there are two types of convenience charges. First, there is what is known as the "foreign" or "off-us" fee. This is what your bank charges you for using another banks ATM. The second charge is the surcharge. This is a location charge from the

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You Might've Missed it...

Jennifer Henderson

Welcome to what you might've missed, and for that matter probably did. Scholarly pursuits, particularly (in this Editor's opinion) legal pursuits seem to make social hermits out of the most socially adept of its devotees. The Opinion will run this column in order to give the most devoted of scholarly devotees a brief taste of what little tidbits of gossip they might've missed under the circumstances.



You might've missed the Greenacre Dance on April Fool's Day, which was held at the Radisson Plaza Hotel, Downtown Minneapolis. Rumor has it that there was an appellate brief due the following Monday. That would explain the missing 1-L contingent.

And finally...something we've all seen too much of...and in memory of the friends and loved one's we've lost to Appellate Briefs and Law Review...

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Buying Time, Cont'd.

owner of the ATM machine. According to a study by bankrate.com the average "off-us" fee is \$1.31 and the average surcharge is \$1.36. This amounts to a total average trade-off of \$2.67 for 10 minutes of time. According to the Consumer Banking Association, banks earn more than \$2.1 billion annually in ATM fees and surcharges. That equates to almost 8 billion minutes of time banks have conveniently saved for us. Does that make you feel better? Try this, the average on-site ATM machine makes monthly revenues of \$3,250 and the average convenience ATM makes \$1500 per month. Last year Wells-Fargo, owner of Norwest banks had record profits of \$3.75 billion. Not revenues, PROFITS. This is enough to reimburse everyone in America \$10 (we could use that to pay for 40 minutes of free time). TCF had profits of

166.1 million, and US bank 20.3 million. So, I hardly think the financial institutions would be particularly hard hit.

So, what can we do to avoid these fees? One solution is to move to a state that does not allow ATM surcharges. Unfortunately there are only two such states, the nearest being Iowa of all places, and the second being Connecticut. Our other lovely neighbor, Wisconsin, has Tyme machines instead of ATM's. Don't let the cool name fool you, it's just a new name for a regular old ATM machine and you still pay convenience charges.

...when you need cash it is most convenient to go the nearest ATM machine. So convenient that when you withdraw from another bank's ATM you must pay a "convenience" fee

The best solution, be a smart consumer. Find a bank with a lot of ATM's or with a good reimbursement system. Behold my friends, I have found such a

bank. This bank is CompuBank an internet bank located at www.CompuBank.com. CompuBank has no transaction fees regardless of the ATM machine and will reimburse up to 4 surcharges per month of \$1.50 each. A \$100 initial deposit is required to open an account. There is no minimum balance and no monthly fees. No, I do not get a referral fee if you sign up. Go there if it's worth your time. It will take approximately 10 minutes to set up an account or, shall I say, \$2.67 of your time. It's your time and your money paying for it.

Well, now that you have spent your free time reading this article you must decide whether it was worth your time. Using calculations based on the length of this article, the average reading speed, and the average ATM fees, this article was worth your time if you received an entertainment or informational value of at least \$0.53. If not, it's certainly not worth your time to complain.

Music Review

Lisa Needham

I'M NAILED TO THE NIGHTLIFE LIKE CHRIST ON THE CROSS

Lifter Puller's Tour De Fiasco

I'm not entirely sure I like Lifter Puller. Or, perhaps, it's more that I'm not certain I'm very comfortable with Lifter Puller. I took a friend of mine who spends his day teaching and corralling emotionally and behaviorally disturbed children, and he watched the band thoughtfully for awhile before remarking, "Now I know what the autistic kids in my class will grow up to be."

Indeed. The songs start and stop with no apparent reason, lurching clear off the disc. The keyboard player pounds one of those ridiculous Casio keyboards (think: the one Ross from *Friends*

noodles around on) and beats it to a pulp at the end of the show. The lead singer hurls himself around the stage looking for all the world like Michael Douglas' angry white guy in **Falling Down**—complete with spooky glasses. However, sardonic singer Craig Finn is spooky smart, and his chronicles of Minneapolis' seedy underbelly are Lou Reed-esque in their half-horror, half admiration.

Lifter Puller's 2.5 minute slabs of literate punk record a world of after-bars, crack cocaine, random prostitutes, and the desperate attempt to acquire 3.2 beer after bar close. See, e.g., *Lifter Puller vs. the End of the Evening* from the newest disc, **Fiestas and Fiascos**. The 12 songs

clock in at only slightly over 30 minutes, and the tempo changes and mood shifts take you just one step shy of chaos. The **Strib**, never known for its adventurous musical spirit, called their earlier record, **Half Dead and Dynamite**, one of the 15 best records of 1997, and its not hyperbole or payola that's getting these folks all the praise. Quite simply, they don't sound like anyone else. Whether that's good or bad is always up to you.

Visit www.lifterpuller.com to check out some MP3s or just trust me and go to Cheapo for the new disc.



It's the event that everyone looks forward to! Each spring 12,000 people get together on the third Sunday in May (that would be May 21st this year) to take part in the state's largest AIDS-related fundraising event: the Minnesota AIDS Walk. What makes it such a popular event? Could be the fact that the money raised goes directly to the people in need – benefiting the Minnesota AIDS Project (MAP) and 13 Minnesota agencies. Or could be the warming weather, the budding trees in Minnehaha Park, the people to meet, the puppies to pet, the invigorating feeling of walking 10 kilometers – take your pick. It's your chance to get involved, to spend a day outdoors, to get some exercise.

This year, WMCL's team is preparing to challenge the U of M Law School and Hamline Law School's teams to a friendly competition. We're guessing that WMCL's students will probably raise more money than both of our friendly competitors combined! If you're interested in signing up with the WMCL team, contact Jennifer Macaulay (jenmacaulay@uswest.net or 612-870-6138) or Angela Ring (aring@pconline.com) for more information.

The WMCL Calendar

April 2000

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|-------------------------|-------------------------|-------------------------|-----------------------------------|-------------------|-----|
| | | | | | | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 Jewish Passover | 21 Good Friday | 22 |
| 23 Last day of spring semester / Easter Sunday classes | 24 Snow/reading days | 25 Snow/reading days | 26 Snow/reading days | 27 Spring semester exams begin | 28 | 29 |
| 30 | | | | | | |

May 2000

Sun Mon Tue Wed Thu Fri Sat

| | | | | | | |
|--------------------|----------------------------------|----|---------------------------------------|----|----|--------------------------|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 Spring semester exams DONE! | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 GRADUATION MN AIDS |
| 21 | 22 Summer classes begin | 23 | 24 Birthday of Editor-in-chief :-) | 25 | 26 | 27 |
| 28 Memorial Day | 29 | 30 | 31 | | | |

June 2000

Sun Mon Tue Wed Thu Fri Sat

| | | | | | | |
|----|----|----|----|----|----|----|
| | | | | 1 | 2 | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | |

July 2000

Sun Mon Tue Wed Thu Fri Sat

| | | | | | | |
|----|--------------------------------------|------------------------|--------------------|--------------------------|----|----|
| | | | | | | 1 |
| 2 | 3 | 4 Independence Day | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 Makeup classes for 4th of July | 18 Reading days | 19 Reading days | 20 Summer exams begin | 21 | 22 |
| 23 | 24 | 25 Summer exams end | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

August 2000

Sun Mon Tue Wed Thu Fri Sat

| | | | | | | |
|----|-------------------------------|----|----|------------------------------------|---|------------------------------------|
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 Orientation for new students | 18 Orientation for new students (picnic) | 19 Orientation for new students |
| 20 | 21 Fall 2000 classes begin | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 | | |

All Things Considered, Salary Inflation Not so Exciting

Jennifer Henderson

I recently read in *City Business* (Sheryl Jean, "Starting Lawyer Pay Tops 100K", March 13, 2000.) that starting salaries for first-year associates are expected to top \$100,000. What the heck is going on?!

At first glance, I was happy to see that my legal education is leading to an apparent pot-of-gold at the end of the rainbow. (Although you can't really call four years of night school at William Mitchell a rainbow!) But then I started to wonder where this money is coming from. A recent visit to the Internet site Infirmation.com and a review of the *City Business* article verifies that the "extra" money will be coming from the sweat of our collective brows.

The *City Business* article says several local firms are raising salaries here to match salaries on the coasts. The problem is that midwestern clients will not pay the fees that East and West Coast clients are paying. And if you think salaries are going up because partners in these firms are feeling particularly generous this year, think again.

Merchant & Gould is an example one of the firms which will raise its salaries this year. However, Merchant & Gould is also cited as a firm which will raise its annual billing goal for first-

year associates by 100 hours.

Fish & Richardson is another example of a firm purportedly raising its salary for first year associates to \$105,000, and Infirmation.com lists Fish & Richardson as offering four weeks of vacation as part of its benefits package. Infirmation.com also lists Fish & Richardson as expecting *minimum* billable hours from their first-year associates of between 1,900 and 2,000 hours.

I tried to figure out how much I would have to work if I wanted to shoot for that \$105,000 salary at Fish & Richardson. (In this hypothetical, my grades and grasp of chemical engineering are much better than they are in real life.)

In my first year I estimate I will work a total of 48 weeks because I want to use my four weeks of vacation. (I'm not taking any holidays or sick days.) I only want to work five days a week so I can have my weekends free for recreation. After all, I have been a William Mitchell slave for the past four years.

It turns out that, in order to bill my minimum 2,000 hours, I need to bill approximately 8½ hours per day. If I want to do anything non-billable like take lunch, a few bathroom breaks or schmooze a bit with the partners who pass by my office

(mandatory for success), I am working a minimum of 10 hours per day, every day.

Ok, I can do 7:00 a.m. to 7:00 p.m. and grind out those billable hours. But for how long? One year? Five years? Twenty?

Don't get me wrong. I've worked in law firms and I enjoy the environment. Moreover, I am not averse to making money. But, according to *City Business*, "the [current] average starting salary at the Twin Cities' top 25 firms is \$75,000." That sounds like a lot of money to me - even enough to make my student loan payments. And if paying me more means that I have to pass up one more of those rare, beautiful summer evenings - when the air is warm and humid, and all you want to do is get outside to walk with your husband around the lake and then get an ice cream cone - I don't think it's worth \$25,000.

But that's just my naive second-year attitude. According to everyone around me, I will get over it.



"Let's for a moment, think how we, as attorneys, as parents, as socially aware citizens living in a highly complex environment, can double our incomes."

Mitchell.

Jerry and I pondered the meaning of this coincidence as we sat in Hachey Commons. Perhaps the duplex is a house of destiny. Maybe there was something in the water. We wondered how many other residents of 3720 have attended (or will attend) William Mitchell. Most importantly, we want to know what the future as licensed attorney's holds for us. The answer may lie with Mike Brandt, the trailblazer. Is Mike's current situation our destiny?

If you have any thoughts on how to explain this coincidence, please e-mail me at dgilchri@wmitchell.edu.

From Bloomington Avenue to Summit Avenue

Dan Gilchrist

I was amazed when I found out Jerry Midgett was also a William Mitchell student. I recognized Jerry as he walked thru Hachey Commons last February. I asked him if he remembered me from the one time we had met 11 years ago. Jerry did not remember me until I reminded him of the day he moved out of the lower duplex unit on Bloomington Avenue in Minneapolis. June 29, 1989 was the same day that I moved in. The reason I was amazed that Jerry was also a William Mitchell student was because I knew that the man who lived in the duplex just before Jerry also attended William Mitchell. Is it probable for three consecutive residents of 3720 Bloomington Avenue in the 80's to become law students at William Mitchell in the 90's - in the same order in which they lived in the house? Improbable, but it is true.

This is the story of three men, not directly

associated with one another, whose lives have run on parallel tracks. Mike Brandt (94), Jerry Midgett (3L), and Dan Gilchrist (1L) all lived in the lower unit of 3720 Bloomington Avenue. When Mike moved out, Jerry moved in. When Jerry moved out, I moved in. We then each individually decided to make career changes while in our 30's by enrolling in William Mitchell's evening program. First went Mike, then Jerry, then me.

Jerry and I continued our conversation in Hachey Commons that February day. We went on to discuss the previous resident, Mike Brandt, from whom I had bought the house. In 1989, Mike was a window glazier. Four years later, when I met with Mike to pay off the contract-for-deed, he was a newly minted lawyer. I remember being impressed with Mike's career change. However, Mike's transition did not lead Jerry or I to enroll at William

Diversity Task Force Meets All Semester

Eric S. Janus

A task force of students, faculty and staff has met weekly during spring semester to discuss issues of diversity at William Mitchell. The task force was appointed last November by Dean Harry Haynsworth. The appointment was in response to various concerns raised by students, staff and faculty about the environment for minorities at William Mitchell. The task force was charged with exploring issues relating to the academic program and the environment for students. The dean retained an outside consultant to study issues relating to staff employment at William Mitchell.

The task force comprised representatives from the student bar association and each of the

minority law student groups, two staff members and three faculty.

In addition to collecting anecdotal information, the task force designed a student life questionnaire. The questionnaire was distributed to all students in March. About one-third of the students filled out the questionnaire.

Preliminary results from the questionnaire indicate that there are important differences between the perceptions of minority and non-minority students in some, but not all, areas of college life. For example, students who self-identified as racial minorities were less likely than non-minorities to agree that the college, or its student

body, were equally welcoming of all persons. Minorities were somewhat more likely than non-minorities to indicate that they felt isolated and alienated at the college. However, members of both groups indicated approximately equal satisfaction with faculty teaching and library reference services.

The task force plans to issue a report this spring. The report will contain a more complete analysis of the questionnaire results. In addition, it will contain a set of recommendations. The central recommendation will be that the college take several steps to insure that diversity and minority issues get consistent attention from college administrators and faculty.

WMCL Reference Librarians Contribute to 1-L Nightmare

Lisa Needham

So, I'm in the Mitchell library at the start of a sometimes-sunny April. I've been avoiding the place for a few days because freaked-out-appellate-brief 1Ls hurt my head. But today, this night before the appellate brief deadline, I'm stuck in the Westlaw lab. A pair of 1ls wander in, one of whom is far too calm for NOT HAVING STARTED HIS PAPER YET. How does that work? Aren't there drafts anymore? But, I digress. The other 1L is triumphantly done with the hell that is an appellate brief, and needs only complete the dreaded table of authorities.

Now, Lexis has a snappy little bit o' software that...hang on...will do your table of authorities for you! 2Ls and up: Either you made this work for you last year, or the last sentence is like manna from heaven. Yup. It takes away the tedium of stupid page matching.

Only one little problem. Thanks to some IT nightmare, our logins don't work so well with the Lexis software. The same "path error" that I got last year still shows up this year and stops you cold.

Revisiting my calmly triumphant 1L, she obviously knew the software because she maneuvered around it quite nicely. Do we actually teach

1Ls this, or was she just savvy? Beside the point, really. She gets the same stupid path error, and starts trying to figure out if someone's laptop and West software will work instead.

In a flash of supercompetent 2L brilliance, I remember that what solved this problem for me, not just last year, but a scant two weeks ago, was a generic student login. The reference librarians keep them, and they are for just this sort of thing. So, I send the 1L packing to the reference desk. She comes back a few moments later, completely sans reference librarian or login. We gather around. "Well?"

"They said 'no'." [They, gentle reader, is key. There were two reference librarians on that night precisely because this is the most frenzied night of the law school career.] The assembled masses are incredulous. "What do you mean, they said no???" "Well," says the 1L, who is still way too calm, "they told me I shouldn't have waited until the last minute."

Now, you can imagine that those of us who did not have an appellate brief due wanted desperately to deconstruct this little sentence and quiz the calm 1L repeatedly. She, however, had more important things to do, like that pesky table of au-

thorities...by hand...for no good reason.

Gentle readers, I submit to you several questions: Why couldn't our calm 1L get a login to use the much touted Lexis software? (It's there, on your desktop, mocking you, calling to you...) When did it become the province of reference librarians to lecture students about their assignment timelines? (And, let us be very frank. Who among us would not have been THRILLED to ONLY have the table of authorities left at 6 p.m. the day before the appellate brief was due?) What was the purpose of having two reference librarians on if not to increase student assistance? Why was I able to get the very same precious login a few weeks before? My wit? My charm? My bullying?

Reference librarians are there for the community, and students are part of that community. To be treated cavalierly by the very people that are supposed to make this process easier is a damn shame.

I've got a 100-plus page research project going this summer. Me? If I can't figure something out, I'm going to the U.

Students Concerned About Confidentiality of Confidential Information

Recently, there has been a great deal of concern over the use of and accessibility of students' confidential information, such as grades and exam numbers, by a small number of work study staff members working for the college. These concerns were recently brought to the attention of the SBA and the matter was investigated at length.

No specific allegations have been made against any particular individuals. However, many students are very concerned that their confidential information can be viewed and potentially shared inappropriately by student staff members.

Departments within the college enforce policies for their student staff that restrict most confidential information from them and safeguard the information that is available to them. For ex-

ample, a work study student in the Student Services office is not permitted to view the confidential information of students in his or her own section. In addition, student employees are required to sign a Confidentiality Agreement when they are hired. The student must agree that "*under no circumstances will I release this information, by statement or innuendo, nor will I discuss it with other students working in Student Services, nor will I reveal to any other student that I have access to that information...If it is determined that I have violated this agreement, I will be subject to dismissal from my job...and that I will be subject to discipline under the WMCL Student Code.*"

In response to students' concerns, the SBA published a memorandum which was inserted into the April 3 Docket. In the memo authored by

Justin Weinberg and Vanessa Villareal, the SBA posited several recommendations on how the "confidentiality problem" might be alleviated. Among these suggestions were: (1) that students "must promise not to share confidential student information"; (2) that staff and faculty members should "acknowledge the need to protect the privacy of the student"; (3) that the Student Handbook should advise students that their confidential information might be viewed by a student worker.

Regardless, this issue remains a concern for many WMCL students. The matter will continue to be monitored by *The Opinion* staff as well as by the SBA Board and the WMCL administration.

Student Bar Association Update

—Elections—

A few weeks ago, from April 3rd through April 6th, the Student Bar Association (WMCL's Student Government) held their annual elections. SBA elections are held every spring to select the Board for the upcoming academic year, and then again in the fall to select first-year representatives.

The election results were tabulated on the evening of April 6th and the following individuals were selected to represent the student body on the SBA Board:

2L Evening: Scott Forbes, Patrick Ostegren

2L Day: Suzi Kuznierek, Andre LaMere

3L Evening: Jim McGeeney, Annita Smythe

3L Day: Justin Weinberg, Lisa Haster

At Large: Jen Macaulay, Nicole Anderson

ABA/LSD: Jamie Habeck

On April 15th the new Board was ratified and elected its officers for the upcoming academic year. Justin Weinberg was selected to serve as

Chair, Kim Kantorowicz as Vice-Chair, Annita Smythe as Treasurer, and Suzi Kuznierek as Secretary. The Board also ratified the *Opinion* editors as ex officio members.

For more information, check out the SBA website at: http://www.wmitchell.edu/current/nonacademic/student_orgs/sba/index.html

Or, e-mail the SBA at "sba@wmitchell.edu"

The Law Review Review

This editor has never been starved for the pursuit of things-intellectual, however she has yet to be so starved as to dedicate her boundless energy and tireless motivation to the highest and possibly most pretentious of all academic activities; The Law Review. Yet, as I remain imbued with a salient curiosity about what all of the fuss is about, I subscribe to, and read the William Mitchell Law Review. At times, I have enjoyed it. At times, I have been so overwhelmed with boredom that I would need to take a break and read a little of Lawrence Tribe's Treatise on Constitutional Law or Posner's "Economic Analysis of Law"...just to stay awake. But this is just one editorial perspective. The William Mitchell Law Review continues to stand tall as a specter of the unabiding love-hate relationship that all beleaguered law students share in our pursuit of useless but commercially valuable knowledge.

This year, the William Mitchell Law Review turned twenty-five years old, as the school turned 100. This might have been of little significance in the grand scheme of things, as *The Opinion's* birth predated the Law Review by many years, despite a spotty history of regular publications. However, Volume 25 of the Law Review published articles by Mike Steenson, Donald Gjerdingen and Marcy Wallace in celebration of the event. In so doing, the accomplishments and triumphs of the first Law Review editors were brought to this editor's attention. I found myself oddly inspired.

I've never met Marcy Wallace, Donald Gjerdingen, but I've learned that they were the first Editors of the William Mitchell Law Review. Besides the odd, voyeuristic curiosity that I've always had about the people of the Law Review, I also would be curious to know what made Marcy and Donald tick. I'd like to know what it is about some individuals that convinces them to make a singular intellectual pursuit a priority above and beyond the pursuit of any other sort of human sustenance. (But I don't want to know badly enough to be a part of the Law Review. I reserve those sorts of sacrifices for wholly different activities like resurrecting *The Opinion*.)

Marcy Wallace (now a partner at Cox, Goudy, McNulty & Wallace; then Editor-in-Chief of the Law Review) wrote an inspirational article entitled "The Beginning" about the humble but significant triumph of a young woman over the predictions of doom presaged by the wise old soothsayers of Wallace's days at William Mitchell. One is left wondering if then Dean Heidenreich reserved the complement of his prediction of failure to those individuals whom he knew would take his doomsday predictions as a challenge, or even a complement. In that case, many of us have received such a complement in our days at William Mitchell.

Donald Djerdingen (now Professor of Law at Indiana University, Bloomington; then research editor of Volume One and later Editor-in-Chief of Volume Two of the Law Review) also wrote a

charming article entitled "Law Review at 25, Editors at 50" enlightening the masses to the empassioned humility of the job of an editor: "Editing is about power. I understand that now. Editing often is the tangy first taste law students get of real-world power. ... You don't have to be fair, principled, or even polite. ... You can do just what you want." Again, one cannot help but be deeply inspired.

Having been amply inspired, this editor was only left with the time to practice her speed-reading skills through the rest of the Volume. This allowed me the opportunity to see the Law Review from a completely practical perspective. Although speed-reading does not allow one to critically analyze the material one is reading, it is a valuable skill for law students to master. In the spirit of fairness, I will share the secret of legal scholarly "reading" with the masses: It looks like a lot more than it is. Most of it is footnotes, and if you're lucky there are graphs. However, it is unlikely that you will ever find a cartoon. And the editors are kind enough to provide you with an outline of the material (Table of Contents) if you don't have time to read it all.

In the future, this column will provide a more probing, critical and daring review of the scholarly pursuit of Law Review. Or perhaps we will take a deeper look into the art of speed reading scholarly works. Stay-tuned.

"Everybody Has a Right to At Least One Phone Call"...or Maybe Not In MN

Peter Erlinder

Although most of us never dream that we will be arrested, most of us do have a pretty clear idea that if it ever *did* happen to us. The words "I want to call my lawyer" are embedded in the legal lore of America, in thousands of books, magazines, movies and TV shows. But, how would you feel if the government jailer told you that you couldn't make the call? Who would you complain to?

Preventing people from having regular, unmonitored contact with lawyers when the government locks them up is the hallmark of repressive governments. A call to a lawyer is often the only protection from mistreatment and abuse afforded a vulnerable individual. In 1887, the Minnesota Legislature thought it was so important for people under government lock and key to have access to lawyers that it passed a "Jailer Malpractice Law". The 1887 law guarantees people in custody an absolute right to contact a lawyer and creates a way for citizens to hold government accountable for violating the right to call a lawyer.

However, unless something changes soon, the right to call a lawyer will no longer be honored by the Minnesota Department of Corrections. The 1887 law says that jailers cannot refuse a request to speak with a lawyer, except for security reasons, and that reasonable telephone access to attorneys must be available any time. Under the Jailer Malpractice Law, jailers who don't allow access to a lawyer can be criminally prosecuted, and people who are prevented from contacting a lawyer can sue in civil court for \$100.00.

The Commissioner of the Department of corrections has launched a legislative attack on the right to call a lawyer by trying to repeal the \$100 civil penalty. The DOC is trying to repeal the penalty because, recently...the Jailer Malpractice law worked.

Last June, Ron Lignons, a (self-taught) jail-

house lawyer, in DOC custody, did exactly what the Jailer Malpractice Law provides for. He filed a lawsuit for \$100 against written DOC policies that: "destroyed attorney confidentiality by forcing people to tell their jailers the substance of their "confidential" attorney phone calls, in writing, to get permission to actually use the phone, and (2) gave DOC employees complete discretion to refuse attorney phone calls for any reason, or for none at all. The DOC policy provides for no appeal when a jailer refuses an inmate's request. A judge ruled that the DOC policies violated the Jailer Malpractice Law and ordered the DOC to pay Lignons \$100. The MCLU took his case, and this is what was learned about the DOC telephone policy through Lignons' \$100 lawsuit.

First, we learned that many Minnesota counties are already complying with the Jailer Malpractice Law by using pre-programmed phone systems that allow each person access to a dial tone with a card. The card only allows calls to certain pre-programmed attorney numbers, so the phone can't be misused and calls can be made without permission from anyone. The phones can be placed anywhere in the secure areas of the institution and require no staff time to make decisions about who can call whom; to arrange time for the call; or to monitor calls.

This system could save millions of taxpayer dollars by reducing attorney phone call administrative costs to near zero, while allowing the access to attorney phone calls as required under the law. It also eliminates the constitutional problems involved with forcing people to speak to staff about the content of their privileged phone calls. The pre-programmed system also eliminates all security concerns in arranging calls. Unlike now, people don't have to be brought to the phone in chains.

Second, we learned that the current phone policy, and its antiquated phone system is unnecessarily adding huge costs to county budgets. Policies creating unnecessary costs precipitated the 1991 Legislature to amend the Jailer Malpractice Law to include a "reasonable [free] telephone access" clause. In hearings at the time, Judge Burke testified that the DOC had installed pay phones that were keeping indigent people from calling their lawyers. Moreover, the resulting collect calls were breaking the budgets of the county public defender offices.

It doesn't take a corrections expert to figure out that in-person attorney visits are also less secure and require more staff time to arrange and monitor. A pre-programmed telephone system would eliminate these hidden costs as well.

Now, the DOC commissioner is sponsoring a bill in the Legislature that would exempt the DOC from the \$100 fine. The result will be a system in which the DOC will have no civil liability for violating the "right to a phone call" and no incentive to follow the law, or to change policies that violate the law.

The point is, without Lignons' \$100 lawsuit, even the State Public Defender might never have learned about what the DOC was doing to his own clients! This lack of understanding on the part of legislators and other public officials regarding what actually happens in DOC facilities makes clear why the \$100 penalty must be retained, and the DOC held accountable if the "right to call a lawyer" is to have any meaning.

Calling a lawyer won't stop this bill, but calling your legislator might. You still have a right to make that call. Use it!

(Peter Erlinder is the MCLU Attorney for Ron Lignons on appeal.)

It's Time to Make WMCL Faculty Less Monochromatic

Professor Ann Juergens

Should William Mitchell add more women and minority men to its faculty? Yes. In fact, I believe the future health and success of William Mitchell depend in no small part upon our accomplishing this task. In response to a student request, I agreed to write briefly about this question for *The Opinion*, focusing primarily on the hiring of women of all colors. **Why** should Mitchell hire more women and minority men?

1. It is the right thing to do.

In a nation where half of all law school graduates have been female for about the past decade, we should be hiring women on to law school faculties at at least the same rate as we are hiring men. At most law schools, that is not yet happening. But since 1989, William Mitchell has hired women on to the tenure track or tenured faculty at a rate only slightly lower than the rate for men (nine men and seven women hired, or 56% and 44%). Still, our hires before 1989 mean that we have 17 other men and only four other women (five if Marcia Gelpe returns) on the full-time faculty (for totals of 70% and 30%). Given this past, it is likely to be decades before Mitchell will have a faculty that even roughly reflects the gender composition of the student body. That is why we should begin to hire women and minority men at a higher rate than that at which they are graduating from law schools, at a higher rate than that rate at which we have hired them over the past ten years. Based on my experience on the Appointments Committee

(the group that chooses whom to bring before the full faculty for consideration for a professor 's slot), there is no question of compromising quality in order to do so. These are desirable jobs and women and minority men want them too. Final candidates are often very close to each other in terms of merit. The decision on whom to hire almost always boils down to close judgments on which qualities in each candidate we value most, of predicting which candidate will do the best work for our students and institution. When we make those value judgments and predictions, it is wise to consider our past and future—not only the present moment.

In sum, when choosing between candidates of virtually equal excellence, the right thing to do is to pick the one each time who will contribute to equality, who will help to correct past disadvantage and lead us into the future. (Justice Albie Sachs from South Africa made the same point when he spoke at Mitchell last fall.) This won't be easy, as the traditional script for our recruiting and hiring system (not unique to Mitchell—it reflects the national system) in my observation still tends to writes some disadvantage into being female or a minority male. During the last two years we have succeeded in hiring three white men and one white woman on to the full time faculty. In the future, we need to do better than that.

2. It is the expedient thing to do, i.e. the outside world will regard us more highly if we increase our proportions of women and minor-

ity male professors. As we prepare for the opening of another law school in the Twin Cities, William Mitchell must do all it can to attract and enroll good students. We must find ways to convince potential students to choose us over St. Thomas and Hemline and the University of Minnesota. Mitchell will never be able to compete on the basis of tuition levels against the state-subsidized tuition of the University. But we can build on our reputation for excellent teaching by pointing to an integrated faculty as another piece of our tradition of putting students and teaching first. One of each faculty member's responsibilities is to be a model of values and of good lawyering skills for our students. Students need models of all kinds that they can measure themselves against. In a world with increasing numbers of women and minority men clients and client constituents and judges and adversaries, it is just as important for our white male students to learn from women and minority men role models as it is for the women and minority men students to do so.

Having just returned from a trip to see family in Philadelphia, I was reminded that Minnesotans often seem to forget that white people will become a minority in much of the United States during the 21st century. National ethnic demographics are changing, while gender demographics remain roughly the same. On both counts, Mitchell's reputation for being in touch with and

(Continued on page 11)

Thoughts on the Call for Faculty Diversity

Professor Peter Erlinder

When Sandra Day O'Connor and Ruth Bader Ginsburg were law students, not so very long ago, it was highly unusual to find a woman in a law school class anywhere in the country. With a few notable exceptions, women could not be found on any law school faculties and even Justice Ginsberg was rejected from several faculty positions because she is a woman. As recently as the early 1980's the Dean at a major American law school was heard to defend the absence of women on that faculty on the grounds that "women just don't think the way we do."

Within the life time of even the youngest students at William Mitchell, the law, and law school faculties, in particular, were understood to be the exclusive province of the white, usually upper-middle class males of northern European heritage. As recently as 20 years ago, William Mitchell Prof. Rosalie Wahl was one of a very few women faculty members in the state when she became the first female Justice of the Supreme Court of Minnesota. The idea that one day almost one-half of law school classes at William Mitchell, and other law schools, might one day consist of women was unheard of, as recently as 20 years ago.

Of course, since women make up more than half the population, the exclusion of women from faculty positions created an obviously distorted educational atmosphere in American law schools that did not reflect the world in which the law would be applied and developed. Even though the percentage of women students in each entering class has changed dramatically, the representation of women on law school faculties has been slow to reflect the changes in the student body.

This "educational distortion" can be best understood by imagining what legal education at William Mitchell would be like if we were to re-

create the all-male faculty of the recent past. Imagine a law school experience in which no male law student would EVER learn from a woman professor, and women students would be able to interact ONLY with male professors. Quite apart from the message that males are the only lawyers competent to teach the law, and the alienation that female "outsiders" would experience without role models or mentors, how would that experience prepare those students entering the "real world" outside the College?

In the case of women, who make up more than half the population and almost half of entering law school classes, the necessity of increasing the number of women faculty members for sound educational purposes may be relatively easy to understand. However, in a state that is more than 90% white, it might not be as easy to understand that learning from faculty with non-European racial and ethnic backgrounds is *no less important* to the educational experience of *all* students than learning from BOTH men and women lawyers. In our increasingly globalized society, the almost all-white faculty at William Mitchell is providing our students with a distorted, very limited exposure to viewpoints and experiences that will they will need to understand to function in their careers.

Increasingly the careers of all of our students will involve work that has an international dimension; it will include working with people from different cultures and racial backgrounds, not only in Mexico City, Lagos and Shanghai, but in New York, California, Chicago, Atlanta, and elsewhere. Can we really pretend to be preparing our students for this multi-racial, multi-cultural future without giving them the experience of learning from those who have perspectives on the law and society that the majority of our faculty can never fully experi-

ence?

As the example of the all-male faculty demonstrated above, there is more than the loss of valuable perspectives and insights at stake. An *all white* faculty, no less than an *all male* faculty, creates an educational environment that hurts everyone by distorting the present reality, and reinforcing our society's exclusionary recent past. This is a serious issue in a state in which the arrest rates for minorities is 25 times that of whites, and so far above the national average that Judge Kevin Burke was moved to state in the *Strib* that racism in Minnesota is just a virulent as in the Deep South, but much less acknowledged.

In this general atmosphere, an almost all white faculty feeds racial stereo-typing and makes the College a safe haven for ideas and statements that would not be acceptable in a place where authority figures are black and brown. The composition of our faculty teaches our students who the is competent to teach the them the law, and who this College values as contributors to the profession. Is it any wonder that, like the hypothetical women law students confronting an all male faculty, many minority students speak of feeling like outsiders at the College and also have to endure crude questions about their competence?

Fortunately, our faculty has made strides since the days of Rosalie Wahl 20 years ago when there was one woman; one African American; and no openly gay or Lesbian faculty members. The number of women, gay and Lesbian on our faculty has increased, although number of women has not increased in recent years and the percentage of female faculty members remains far less than the percentage of women in the student body. We still have *one* African-American and no Chicano-Latino

(Continued on page 11)

Juergens, cont'd.

(Continued from page 10)

ready for the 21st century will be enhanced if we increase the race and gender variety on our faculty. We have already been recognized as having some of the most creative teaching of any law school in the region—at least according to the criteria of *US News and World Report*, which earlier this month ranked Mitchell tied for 11th in skills training and tied for 20th in clinical teaching. Creativity in 21st century teaching methods combined with a faculty that reflects the demographics of the 21st century would be a dynamic package for our recruiters and fundraisers to spotlight.

3. **We will become a better place if we succeed at incorporating faculty with a variety of gender and ethnic experiences into our teaching body.**

This reason for hiring more women and minority men is related to doing the right thing, but has a more selfish quality to it. We should aspire to be the wisest, best institution for our students that we can become. Just as a species thrives best when it is able to draw from a wide genetic pool for each of its members, this reason assumes that our knowledge is more rich and resilient when a wider pool of voices is in the faculty body. How can we understand the justice issues of the future without including many voices of those disproportionately affected by the justice system? Headlines in the newspaper recently trumpeted the disheartening news that racial disparities in Min-

nesota's criminal justice system are getting worse, not better, and are much worse than the disparity observed nationally. How can we create a multitude of effective lawyering approaches when social science tells us that conversation and persuasion patterns of men and women still vary dramatically? These are two examples in a list that could go on for pages of why we need to include more women and minority men at the table of the faculty if we are to make this a wiser place.

4. **We will have more fun.**

I am serious about this. Variety is the spice of life. A faculty full of multi-colored women and men will be more lively, more surprising, more likely to be ahead of the curve on breaking ideas in the law. Some members of the faculty will not be as comfortable, as safe and easy with one another when we come from different experiences, but others of us will be more comfortable. And, as mentioned in 3. above, the potential for greater insight, for experimentation or cross pollination, will increase. This prediction is based on my life experience, of course, not on science. But science has not yet figured out how to measure the pleasure of a deep smile or the delight in a moment of insight and harmony. More of both is my hope for Mitchell's future.

Erlinder, cont'd.

faculty member, after 20 years of "equal opportunity/affirmative action" hiring.

Four highly qualified new faculty members will be joining us in the next year: one is a woman, three are men....all are white.

This sort of hiring pattern tells women and non-white students that they are not priorities for this College and it does little to prepare our students for the reality of a "globalized" legal environment. In the very near future the "white faculty" educational model that has been perpetuated at William Mitchell College of Law will soon be the same kind of embarrassing and ludicrous anachronism than the "all male faculty" is today. It is time for serious efforts to have WMCL catch up to the last half of the 20th Century. Our students deserve a 21st Century education and they are not getting it now.

Variety is the spice of life. A faculty full of multi-colored women and men will be more lively, more surprising, more likely to be ahead of the curve on breaking ideas in the law"

PERSPECTIVES, RETROSPECTIVES AND ANECDOTES

The following is an excerpt from a speech made by 2-1 Susana DeLeon at the WMCL Honors Dinner a few weeks ago. Thanks to Susana for allowing us to reprint your speech. Your perspective is valuable to the Opinion as we venture to try to illuminate the diversity of perspectives on this campus, and your contributions to our student community and our larger local community are priceless.

I feel honored to be part of this dinner. It affirms for me how important it is that everyone supports social change through sponsorship and active involvement in education.

I want to thank Connie Otis for having made that commitment through the Justice J. Otis scholarship. The Otis' family contribution to my education is invaluable to the greater community because there are not enough brown women lawyers to serve an ever-growing community. Thus, when I graduate, I will be part of a small number of lawyers who provide services to underrepresented communities.

My experience at WMCL has taught me a lot about affirmative privilege and power. I attend

school with people whose grandfathers and fathers went to WMCL. I sit next to students who have become so accustomed to the privilege of wealth and race that it has become invisible to them. It is these individuals who wonder if my privilege or even advantage is affirmative action. In contrast, I am ever aware of the road I traveled to come to this place and the challenges remaining in my path.

Like the great Chicana writer Ana Castillo once said: "I am a brown woman from the Mexican part of town, torn between my immigrant working class roots and my desire for higher education". I leave my community to attend school at WMCL and I enter a different world. One that has traditionally excluded people like me based on a general viewpoint that we are not "qualified" to participate fully in this society. This attitude is reflected in the lack of attention to services geared to promoting a harmonious learning environment for brown students in a largely white school. Such an environment affirmatively condones personal attacks on brown student's "qualifications". Thus is no surprise that the same attitude is wide spread in the

legal profession as well.

Because I want an education, I walk through the halls of privilege that are so far removed from the working class Mexicans across the river. I bring this brown woman into an alienating environment that questions my mere presence. I am painfully aware of the separation that exists between my community and the legal profession. Where most brown people can not afford a legal advice, I can knock on a door, ask about complicated matters and get an answer. Thus it is in this place, that I clearly understand the intimacy of power and privilege, and my general exclusion from it all.

I want to reiterate my gratitude to those who understood the need for changing those structures and who pledged their commitment to make it happen. In memory of Justice Otis and other donors who have helped me along the way I want to say thank you all for your support, you have inspired me as a student to follow in your example as caring individuals investing in our future.

Comments on "Perspectives, Retrospectives and Anecdotes"

In issues to follow, the *Opinion* editorial staff will run a serial "Perspectives, Retrospectives and Anecdotes" Column. It is our intent to ensure that this student newspaper truly reflects the perspectives of our diverse and multi-faceted student community. This will be an effort to celebrate the diversity of perspectives represented by our students, faculty, staff, and administration.

While the academic exercise of this par-

ticular professional program is on one hand a rigorous intellectual calisthenics, it simultaneously reinforces an enmeshed ideal of commonality. We are encouraged to move toward a common goal, and toward a common body of skills and understanding.

The *Opinion* would like to encourage WMCL to divorce themselves from this notion of commonality and to celebrate the unique backgrounds, heritages, beliefs and understandings of

students as individuals, and to celebrate the contributions of this individuality to our community and eventually to our profession.

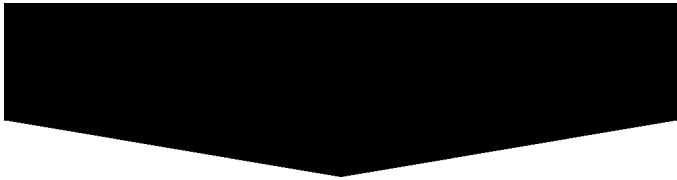
We will look forward to your contributions. We believe that your individual "perspectives, retrospectives and anecdotes" will enrich us all.
-Eds.

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The Student Newspaper of the William Mitchell College of Law



Why we need *The Opinion*

Stephanie Zeman

There are many pressing issues that demand attention and receive it, but what about the small ones? Where else but a student newspaper can important issues such as the following three be covered in depth?

- (1) The automatic flushers. Yep, during last year, these things just magically appeared in some of the female restrooms. They are plain obnoxious. They might be in the guys restrooms to, but I didn't think it was appropriate to investigate. Also, it didn't seem right to bring up the subject to a fellow male student: "So, do you have automatic toilet flushers too?" Sounds like a bad pickup line. Nevertheless, who ordered these things? What happens if the power were to go off for a long time? I want answers!
- (2) The Coke machine. You know the one in Hachey, the most picky pop machine this side of the Mississippi. If your quarter is too new, it gets spit back out. If your quarter is too old, it gets spit back out. If your quarter has a speck on Washington's

eye, it gets spit back out. You put three quarters it likes into it, and then it decides to say, "exact change only." ARGH!

- (3) Martians. At first I thought it was just me. I am a person of reasonable intelligence, but once I got to law school I realized that I needed at least 20 more IQ points and the ability to thrive on four hours of sleep a night to compete with some of the very outstanding students. You know the ones. All "A's", law review member, part-time job, member of at least five different service clubs, world ranking athlete, visits their grandparents every weekend, and has never had a Homer Simpson moment of stupidity. Then, I remembered. 1947. Roswell, New Mexico. These are those special Plutonium People that were left here to take over the earth. Now I have proof!

My ticket is written. I am going to tell my story to a tabloid, retire on the profits, and give some money to my forthcoming alma mater so automatic flushers can be installed in every bathroom.

