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SCHOOL OF LAW University of Maine

The Third Year Program: Ethics and Class Action Suits



Dan McIntyre '76, holding can made by Continental Can Corporation. On the left is co-counsel Roslyn Litman, on the right, panelists Stuart Tisdale '88 and Professor David Gregory '68.

"The Greatest Good for the Greatest Number: Representing the Disadvantaged in Class Action Litigation," was the title of the Third Year Program held on March 18 at the Sheraton Tara. Made possible by an anonymous donation from an alumnus, the annual Program deals with ethics. This year's focus was on ethical considerations encountered in class action suits.

Keynote speakers were Dan McIntyre '76, Assistant General Counsel to the United Steelworkers of America from 1976-84, and Roslyn Litman, of Litman, Litman, Harris, Brown & Watzman, Pittsburgh. They were part of the team of attorneys who represented a class of 3,900 employees in litigation against the Continental Can

Company over union-negotiated pension benefits. They claimed that Continental had violated the Employment Retirement Income Security Act (ERISA) by cheating workers out of their pensions. After a ten-year battle, they won what appears to be the largest recovery ever for workers from a single case—\$415 million for the 3,900 workers.

Dan McIntyre explained that Continental Can created a secret "cap and shrink plan," which red-flagged for layoff those workers whose pensions were about to become vested, thus enabling Continental to avoid their liability for union-negotiated pensions for those workers.

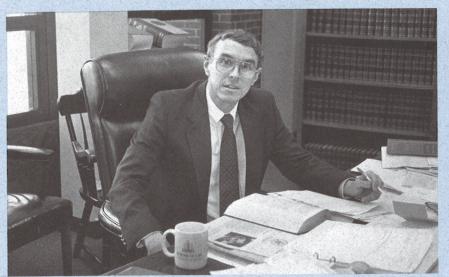
Roslyn Litman said that it was just by chance that the attorneys for the workers discovered "smoking gun" documents, describing the cap and shrink plan in detail. The documents proved that layoffs were not the result of market forces but of a calculated plan to avoid paying pensions. Continental Can, Litman said, used questionable ethics to try to prevent the use of these documents as evidence. She also questioned the ethics of the Company's voluminously detailed pre-trial narratives, spelling out the marketplace causes of the layoffs.

McIntyre and Litman also addressed some ethical problems unique to class action suits. For example, they pointed out that everyone in the suit does not have exactly the same kind of loss, which means members of the class have potentially divergent interests. In addition, the aim of a settlement in a class action suit is to reach a just judgment for the majority of the class, which always carries the risk that the ultimate judgment may not be just for every member of the class. Class action settlements allow individuals to opt out and bring separate suits, but, they pointed out, that almost never occurs.

The panelists commented on the keynote presentation and offered their own perspectives. Stuart Tisdale '88, a Portland solo practitioner, spoke about his class action litigation on behalf of prisoners, and Professor David Gregory talked about his role as Special Master in the settlement of a class action suit on behalf of residents of the Pineland Center. Students, panelists and faculty continued the discussion informally at a Reception following the Program.



Number 44 Summer 1992 Portland, Maine



Dean Donald N. Zillman

Dean's Column

I write three days after Law School Graduation ceremonies marked an end to a fascinating and troubled academic year. We feel pleased with our accomplishments. The creation of the Coffin Lectureship, the inaugural meeting of the Board of Visitors, and the appointment of Bob Hamilton as the first Godfrey Distinguished Visitor provide a sense of achievement. We take enormous pride in the success of our students. Tom Diebold, David Herzer, and Damon Stewart are the winners of the National Environmental Moot Court competition. Pam Prodan is the winner of Tulsa University's competition for the best student scholarly paper in energy law. Our Feminist Jurisprudence Conference drew praise in the national student lawyer magazine. It is good to receive outside validation of what we know how strong our students are.

These have been some of the good moments in a year that has had many. The same year has also been a series of seemingly endless meetings, memos, and mutterings on budgetary matters. The news from the State of Maine is little different from that around the country. Tax revenues are down. Demands for all State services are up. Costs of higher education continue to rise. The problem is not limited to small states or relatively less affluent ones. Nor is it limited to public universities. The article on budget cutting in the latest journal is as likely to feature Yale as Southwest Missouri State.

The Maine Law School faces several realities of the '90's. Quite possibly, they are realities of the 21st Century as well. The most important is that we start to resemble a private law school in many aspects of our funding. The most visible is tuition. During the second semester of 1991-92 Maine residents paid about \$5,900

for a full course load. Non-Mainers paid double that amount. I always get a gasp from alumni groups when I ask them to compare their tuitions. Veterans of the early '70's remember the several hundred dollar tuition bills. Even those of the mid-80's recall thinking \$2,500 was a bargain. Tuition for the Mainer in 1992 remains far less than private law school tuition. But the margin is shrinking and will continue to shrink. For many non-residents we may be only a few thousand dollars cheaper than private schools.

The tuition reality challenges us in profound ways. We are at risk of pricing qualified (often superbly qualified) Mainers out of a legal education. We can provide some scholarship help, but not much. We are also at risk of forcing those students who can afford law school to pursue careers that allow them to pay off considerable educational debt. Government service or low-income practice may be impossible for a graduate with \$40,000 in educational debt accompanying her Law School diploma.

Law School costs also increase. We continue to be "graduate education on the cheap." No massive laboratories or two to one student faculty ratios here. But library acquisitions increase in cost. The proliferation of "law" forces a larger teaching staff and existing faculty will not be satisfied with salary cuts and a ranking in the bottom 10% nationally in faculty pay forever.

In short, it is a time for creative thinking and questioning long-held assumptions. I'll be sharing our thoughts with you in this column and in our meetings around the state and the country. Your good ideas are most welcome.



Carol Ford and Tom Diebold, both '92, present awards at the Moot Court Banquet.



The Moot Court Board at the Moot Court Banquet, April 15: Carol Ford and Tom Diebold, Co-Chairs, seated; Damon Stewart, Laura O'Hanlon, Maura Keaveney, Harry Kelly, Johanne Hawk, David Herzer, Deb Gotlib, Ted Coxe, Tracey Geary, Stephanie Perkins and Liz Eddy. Jeff Ashby was missing.

Scholarship Reception Honors Donors and Recipients

On March 20, the second annual Scholarship Reception was held, to honor both the students who received scholarships and the people who make the scholarships possible. The Reception gave the Law School the opportunity to thank donors personally, gave the recipients the same opportunity, and gave the donors a chance to meet and talk with these students.

As tuition has increased—it now costs \$6,000 annually for a Maine resident to attend—the Law School's scholarship program has become even more important to the strength of the School. During the 1991-92 academic year, scholarships totalling \$41,000 were awarded: 22 through the Alumni Association, 16 through endowed scholarship funds, and four from scholarships supported by donors annually.

Craig Nelson '69, Alumni Association President, talked about the importance to the Alumni Association of raising funds targeted for scholarship assistance. Laura O'Hanlon '92, recipient of the Women's Law Association Scholarship, spoke about the impact of scholarship assistance on students.



David Brenningmeyer '93, recipient of the Israel Bernstein Scholarship, with Andy Bernstein '80, grandson of Israel Bernstein



Peter Wiley '89 with Wiley Family Scholarship recipient Tracey Geary '92 and daughter Alison



Tom Diebold and Yiping Yang, both '92, Alumni Association Scholarship recipients, with Alumni Association President Craig Nelson '69



Marjorie Baird and her son with Campbell Badger '92 and Pam Spaccarotella '93, recipients of the Kenneth and Marjorie Baird Scholarship

Board of Visitors Meets

The newly formed Board of Visitors met for the first time on March 26-27, 1992. They began the meeting with a dinner with faculty and a "State of the Law School" address from Dean Donald Zillman. A wide-ranging discussion of legal and educational issues followed.

On Friday, faculty and staff reported on curricular issues, the bar and community relations, and placement activity. Members of the Board also had a chance to visit Professor Thomas Ward's class in Contracts, to tour the Cumberland Legal Aid Clinic, and to meet for discussion with the faculty.

At noon groups of two members of the Board were joined by five students for lunch. In all approximately 50 students and 20 Board members participated in the lunch discussions.

The meeting concluded with a further report from the Dean, the elec-

tion of Ralph Lancaster as the first Chairman of the Board, and a candid one hour discussion among the Board members. At the conclusion of the meeting, the Board presented its observations to Deans Zillman, Khoury and Gauditz. Their report focused on curricular issues, the need for a full-time placement director, the establishment of a mentoring program, the need for improvement in the physical facilities, and development of support for the institution.

Those attending the first meeting included Charles Abbott, Charles Allen, Rosalyne Bernstein, Sumner Bernstein, John Bride, Hon. Gene Carter, Hon. Frank Coffin, Madeleine Corson, William Cotter, Phyllis Givertz, Hon. Caroline Glassman, Donald Harward, Hon. Brock Hornby, David Hawkes, Ralph Lancaster, David Morse, Hon. Edmund Muskie, Harold Pachios, Roger Putnam, Dr. Joseph Sataloff, Benjamin Thompson, Lewis Vafiades, Hon. Elmer Violette, Hon. Daniel Wathen and Richard Wolfe.

Faculty News

Professors David P. Cluchey and Melvyn Zarr, who had been serving as Special Investigatory Counsel, delivered their report on the BIDE investigation of District Attorney Janet Mills '76 to Attorney General Michael Carpenter '83 on April 30. Cluchey and Zarr were appointed by Carpenter on January 23. They assembled a small independent investigative team and reviewed all aspects of the BIDE investigation. They concluded that the BIDE investigation had been conducted aggressively, but not improperly. They also concluded that District Attorney Mills had been unnecessarily harmed by the leak of the existence of a Grand Jury investigation that resulted in no charges being filed and by the length of the investigation. Attorney General Carpenter thanked and commended "Professors Cluchey and Zarr for their extraordinary efforts and for successfully completing this difficult, sensitive, and complex task." He also expressed his appreciation to the University of Maine School of Law for permitting the two faculty members to assist with the issue.

On April 10, Professor Cluchey was the chair of the Maine State Bar Association's CLE program, "Furnishing Legal Assistance to Those in Financial Need," held in Augusta.

Dean and Professor Emeritus Edward S. Godfrey spent spring semester 1992 as Visiting Professor at the University of New Mexico Law School, where he taught Conflicts of Law with a Native American emphasis.

Professor Ellen Kandoian served on a panel discussing crises of early childhood at the Early Childhood Conference of The European Council of International Schools, held in Geneva, Switzerland from April 3 to 5. She served a dual role as attorney and author of children's books. Professor Kandoian also spoke on "Re-Encountering Children's Literature as an Adult," at the Southern Maine Library District's 3rd Annual Reading Roundup, held at the Portland Public Library on April 8.

Associate Professor and Director of the Marine Law Institute Alison Rieser's article "Ecological Preservation as a Public Property Right: An Emerging Doctrine in Search of a Theory," published in 15 Harvard Environmental Law Review, 393-433 (1991), has been selected for inclusion in volume 23 of the Land Use and Environment Law Review, published by Chicago-Kent

College of Law, Chicago. The article was reviewed by two boards made up of law professors and practicing attorneys and selected, from over 200 articles, as one of 15 best articles published within the past year.

Professor Michael B. Lang has compiled materials on behalf of the Committee on Low Income Taxpayers of the American Bar Association's Section on Taxation. The materials, for use in non-tax courses in which tax issues affecting low income taxpayers are significant, are titled "Selected Materials on Federal Tax Issues Relating to Welfare/Poverty Law."

Associate Professor and Director of the Law Library William W. Wells is the editor of "John Appleton: Through His Own Words," in *Maine Historical* Society Quarterly, Vol. 31, No. 2, 1991.

On March 26, Professor L. Kinvin Wroth spoke on current issues confronting the Maine Supreme Judicial Court on the Mainewatch program on WCBB-TV highlighting the appointment of Hon. Daniel E. Wathen '65 as Chief Justice of Maine. On April 27, he presented a brief historical summary of the Supreme Judicial Court and the office of Chief Justice at the ceremonies at the Cumberland County Court House marking the opening of Chief Justice Wathen's first Law Court term in his new capacity.

Professor Wroth has resumed an active role as Reporter to the Vermont Supreme Court's rules committees; he is currently working with the Advisory Committee on Family Rules to prepare amendments to the newly adopted Vermont Rules for Family Proceedings and with the Advisory Committee on Civil Rules to prepare amendments bringing the Vermont Code of Judicial Conduct in line with the new Model Code of Judicial Conduct adopted by the American Bar Association in 1990.

Professors Wroth and Zarr participated in a public forum sponsored by the Maine Chapter of the Society of Professional Journalists and the Maine Association of Broadcasters, to discuss the impact of broadcast and camera coverage on the Deborah Wolfenden trial, the first significant proceeding covered under the Maine Supreme Judicial Court's experiment with the use of TV and still camera coverage in the court room. The forum was held at the Law School on May 27.

Professors Zarr and Wroth, with Professor David Gregory, attended the annual meeting of the American Law Institute in Washington, D.C., May 13-15.

Dean and Godfrey Professor Donald N. Zillman presented a paper on "Environmental Reclamation of Energy Projects" to the Biennial Seminar of the International Bar Association Section on Energy and Natural Resources Law in Washington, D.C. on April 7. His coauthor was Ms. Catherine Redgwell of the University of Nottingham in the United Kingdom. The Conference was attended by 240 attorneys, corporate officials, and government officers from 44 nations including China and Russia. Dean Zillman was reappointed to the International Bar Association Academic Advisory Group. He was also reappointed to the Editorial Board of the Journal of Energy and Natural Resources Law and elected to membership on the Executive Board of the Association of American Law Schools Section on Environmental Law.

With co-authors Noone, Hunt and Capofari, Dean Zillman is the author and editor of Constitutional Law for the Citizen Soldier, which will be published by McGraw-Hill in Summer 1992. He has recently been elected to the Boards of Greater Portland Landmarks and the Maine Audubon Society. On April 30, he moderated a panel discussion following Hon. Donald G. Alexander's presentation, "Lawyers and the Media: Are There Ethical Limits?," a Law Day Forum held in Portland, sponsored by the Maine Council of Churches in cooperation with the Maine State Bar Association.

Three faculty were awarded summer research grants. Professor David P. Cluchey will research and write an article on the strengths and weaknesses of the binational dispute resolution process established under Chapter 19 of the Canada-U.S. Free Trade Agreement. Professor Merle W. Loper will research and write two articles, one tentatively titled "Adverse Possession and the Maine Rule in Boundary Disputes: The Intent to Possess What You Don't Think You Own," and the second exploring the Maine law concerning promises respecting the use of land that are enforceable against persons who are not parties to the contract. Professor Thomas M. Ward will research and write on various aspects of the commercial law of intellectual property, particularly the way in which the concepts of "consideration" and "estoppel" have been adapted to contracts involving intellectual property such as patents and trade secrets.

Summer Public Interest Fellowships Awarded

For the fourth year, fellowships were awarded to students working in public jobs during the summer, enabling the students to accept jobs they otherwise could not afford to accept and enabling public interest organizations to employ students they might otherwise not be able to afford to hire. The fellowships are awarded by the student organization, the Maine Association for Public Interest Law. MAPIL raises funds for the fellowships through an annual student, faculty and staff pledge drive and through an auction. Additional funds are raised for the fellowships through the Annual Fund.

This year's selection committee awarded a total of \$19,500 to the following students: Louise Arkel '94. Legal Services for the Elderly, Portland; Jennifer Carter '94, Island Heritage Trust, Stonington; Jodie Caruolo '94, York County District Attorney's Office, Victim Assistance Program; Carlos Diaz '94, Texas Civil Rights Project, Austin, Texas; Ronnee Hoffman '94, Maine Pretrial Services, Portland; Virginia Holt '93, Maine Audubon Society, Falmouth; Elizabeth Johnson '93, Appalachian Research and Defense Fund, Inc., Welch, West Virginia; Deborah Potter '94, Maine Pretrial Services, Portland; Barry Putterman '94, Neighborhood Legal Services, Ithaca, New York; Sarah Smith '94, Multnomah County Legal Aid Services, Portland, Oregon; Deirdre Smith '94, Pine Tree Legal Services, Inc., Portland; John Zane '93, Pine Tree Legal Assistance, Inc., Bangor; and Shanshan Zhou '93, Legal Aid Society of Santa Clara County, San Jose, California.

Murray Serves as Visiting Professor

The spring semester 1992 faculty included Peter L. Murray as Visiting Associate Professor teaching Trial Practice and Commercial Paper. Murray founded the Portland law firm Murray, Plumb & Murray in 1973. A graduate of Harvard Law School, he clerked for the Hon. Edward T. Gignoux and, before founding his own firm, was a member of the law firm Pierce, Atwood, Scribner, Allen & Lancaster.

While this is the first year Murray has taught at the Law School, he is not new to law teaching. From 1978-1980 he was the Ezra Ripley Thayer Teaching Fellow at Harvard Law School, where he taught Trial Advocacy, Commercial Law, Evidence and Legal Profession, and published in commercial law and evidence. He liked teaching, but decided at that time that living in Maine and helping to raise his family was his first priority.

Murray has continued to teach at Harvard on a part-time basis; in most years since 1978, he has served as Director of Harvard's winter semester trial advocacy program. This year he increased his commitment to academics, as a full-time Visiting Professor at Harvard during the fall semester, and at the University of Maine School of Law during the spring semester. "Teaching offers an almost unlimited amount of intellectual challenge. And during the last few years, it has become more important to me to work on things which seem to have more defined social worth."

"In the past, the potential of teaching here raised the concern that I might be the kind of part-time teacher who would rush partly prepared from office to classroom and then back again. I worried that I was almost too close to the Law School for me to be an effective part-time teacher here."

Teaching full-time eliminated that concern. "Teaching here has been challenging, rewarding and fun. The quality of our students and faculty is really first-rate, and the small size and supportive atmosphere are real pluses. The Law School makes an important



Peter L. Murray

contribution to our state. It provides us with better educated lawyers than we would otherwise have. It is a center of scholarly leadership for Maine's legal community."

The third edition of Field and Murray, *Maine Evidence*, will be out this fall. Murray is currently working on a book on trial advocacy. He will continue as Visiting Associate Professor during the fall 1992 semester, teaching Secured Transactions and Family Law.

Alumni Named Fellows

Eighteen graduates of the Law School were elected Fellows of the Maine Bar Foundation in April. Invitations to membership are extended to a small percentage of the professional Bar each year by the Board of Directors. The Bar Foundation both honors attorneys, judges and professors of law who have distinguished themselves in the profession and administers a program to support and enhance the delivery of legal services to Maine's poor.

Alumni honored are: Superior Court Justices Carl O. Bradford '62, Paul A. Fritzsche '75, Margaret J. Kravchuk '76, Stephen L. Perkins '61 and Paul T. Pierson '72; and attorneys Kathryn Monahan Ainsworth '76, Vernon I. Arey '71, Peter J. DeTroy '72, Jon R. Doyle '71, Linda Smith Dyer '80, Rebecca H. Farnum '77, David J. Fletcher '71, Phyllis G. Givertz '74, Joseph M. Jabar '71, Malcolm L. Lyons '70, Paul F. Macri '76, Peggy L. McGehee '80 and Peter R. Roy '73.

Commence

The Class of 1992 graduated from Law School on May 9, "the finest class in the history of the Law School, a class that will be remembered fondly for many things," said Dean Donald Zillman. Among those memories, he cited the "remarkable" Gender and Justice Conference held last fall; the National Environmental Moot Court winners, first among 65 law schools; the winner of the National Energy Law Essay contest; "your remarkable dedication to the public interest - in your work in the Clinic and your role in the creation of the Maine Association for Public Interest Law"; the spirit of community with which difficult issues were faced: and the fact that 12 members of the class have chosen to be each other's spouses.

Owen Wells congratulated the students on behalf of the Trustees. Awards were presented by Deans Colleen A. Khoury and Barbara E. Gauditz; Alumni Association President Craig H. Nelson '69; and Elizabeth Beard '93, President of the Student Bar Association. Professor Orlando E. Delogu presented the graduates, and Registrar Frances M. Tucker and Dean Zillman presented the diplomas. Graduation ceremonies were held in the USM gym.

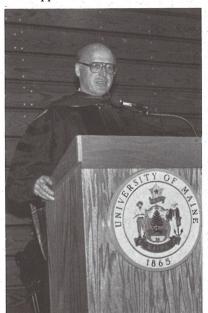
Hon. Daniel E. Wathen '65: Graduation Remarks

"I feel a certain kinship with the Class of 1992," Chief Justice Dan Wathen '65 said to the graduates. "I have presided over your battles in Moot Court and mock trials. I even took off my robe and joined the fray, losing a mock case against three of you before the fearsome Judge Mullane. I visited with you during this school year as a member of the Board of Visitors. I competed against some of you in athletic events...I delivered defeat to one of you right at the finish line of the Law School's four mile race (some uncharitable soul will undoubtedly recall that the vanquished was four months pregnant). Two of your members will serve as my law clerks in the coming year and will be charged with keeping me out of trouble."

The strongest relationship with the class, however, he said, comes from having sat where the Class of 1992 now sits, having shared an identical experience. "What was it that happened to me in those three years between 1962 and 1965 that entitled me to give up picking potatoes and become a Chief Justice? Has something similar happened to you?"

Wathen cited three things he believes he and the Class of 1992 received at the Law School, besides learning in the law. Good legal instinct is one important quality acquired at the Law School, he said, and, "on many significant occasions in your professional life, there won't be time for anything else."

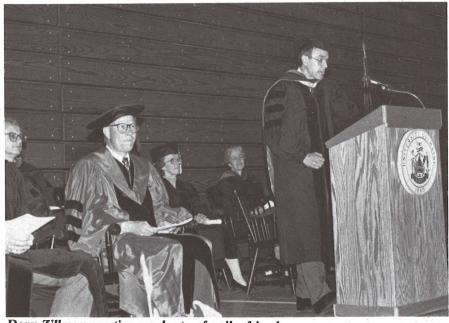
It is also important to understand your own limitations, he advised, and to understand that the law is limited. "The law through which we attempt to achieve justice is a human enterprise and is sometimes partial, incomplete, one-sided and occasionally wrong." You need commitment and devotion, he said, and a sense of humor. "Take the time to get to know your clients as people," he said. "If you don't care for your clients, if you don't feel their pain, and if you can't laugh at yourself, your legal career and happiness will indeed be limited."



Hon. Daniel E. Wathen '65

The final quality acquired at the Law School, Wathen said, is indebtedness. "You leave here today with both a privilege and a debt. The debt can only be repaid by service."

Twenty-seven years ago, Wathen said, he began his career with a job as a private practitioner. Twelve years later he was asked to serve on the Superior Court. Four years later, he became a justice on the Supreme Judicial Court, and now faces a new challenge as its Chief Justice. "I know that whatever talents I bring to this task, I got them here and so did you... That's my story so far... I am anxious to watch your stories unfold."



Dean Zillman greeting graduates, family, friends

ment 1992-

Awards

Faculty Scholastic Achievement, for highest academic average: **Michael A. Duddy**

Cumberland Bar Association, for greatest contribution in scholarship, work on Law Review and other activities: John P. March

Law Alumni Association Award, to an outstanding class member: Jessica L. Maurer, Laura M. O'Hanlon

Faculty Significant Achievement Awards, for academic performance and overall contribution: Jonathan A. Block, Mary Kellett, Thomas Kelly, Marcia Metcalf, Heidi E. Shealy, Laura E. Klein Tobin

Gignoux Award for Appellate Advocacy, for excellence in advocacy skills: Thomas G. Diebold, David L. Herzer, Damon J. Stewart

Faculty Award for Clinical Advocacy, for outstanding performance in Civil Practice and Criminal Defense Clinic: Blaine R. Hawkes

West Scholastic Achievement Awards, in Evidence: Jennifer A. Holbrook, Howard F. O'Brien and in Securities Regulation: Laura E. Klein Tobin, Elizabeth A. Prather

Independent Writing Project Award, for best independent writing project: Pamela Prodan, Jeffrey P. Russell

BNA Student Award, for sustained academic improvement: William J. Milliken

Maine State Bar Association Pro Bono Student Award, for exemplary legal service to community, without compensation: **Dina A. Jellison**

Student Bar Association, for dedication to service to the School and community: Jessica L. Maurer



Blaine R. Hawkes

Appreciation for Classmates and the Law School

Blaine R. Hawkes, selected by his peers as class speaker, looked back on three "demanding and rewarding years," made into a "rather pleasurable experience" by classmates, faculty and staff.

He remembered recognizing immediately "that I was surrounded by men and women of intelligence, talent,

charm, humor and compassion. I felt lucky then, and I feel even more so now, to have gone through law school with a group of such wonderful companions ... good for both consolation and inspiration."

The first days were filled with uncertainty, he said, but "it wasn't long before we all became a little more comfortable with the law and a lot more comfortable with each other. I am already nostalgic for the class as a whole. The diversity of attitude and ideas was inestimably important to us as a component of the overall experience."

He extended his gratitude to the faculty. "It's difficult to be continuously scintillating when there is so much prosaic gound to cover. But there were times when a professor would crystallize whole constellations of ideas that had never turned in our heads. There is not a single graduate who leaves untouched by a personal experience."

Along the way, he said, we were not cut off from our common sense or intuitions of justice. "And as we go our separate ways we take with us a shared sensitivity ... a heightened awareness of the manifold human contexts in which the law can so forcefully intervene; and a commitment to acquit ourselves admirably in the profession and thereby prove deserving of the privilege."

(more on graduation on next page)



Association President Craig H. Nelson '69 with recipients of the Alumni Award, Laura O'Hanlon and Jessica Maurer

Honor Graduates

Summa Cum Laude

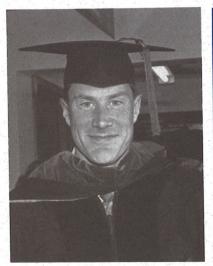
Michael Duddy Laura Klein Tobin Marcia Metcalf

Magna Cum Laude

Jonathan Block Patricia Donahue John March Wendy Rau

Cum Laude

S. Campbell Badger Charlotte Bates Elizabeth Eddy Robert Fisher David Herzer Jennifer Holbrook June Jackson Mary Kellett Thomas Kelly Adrian Kendall William Milliken **Bruce Nicholson** Howard O'Brien Batur Oktay Roy Pierce Elizabeth Prather John Rohde Jeffrey Russell Heidi Shealy **Bradley Stolzer** Mark Swanson John Wall



Michael Duddy, summa cum laude, first in class; simultaneously, first in class, Masters in Public Policy



Pamela Prodan

Prodan Wins National Award

Pamela Prodan, a 1992 graduate of the Law School, won a national award for her paper, "The Legal Framework for Hydro-Quebec Imports." This is the sixteenth year The National Law and Policy Institute of The University of Tulsa's College of Law has sponsored a competition for the best essay on energy law. Ms. Prodan received \$300 and the Law School received \$200.

The competition is for papers on any legal subject related to energy, including traditional subjects in oil and gas law; federal/state regulation of natural resources; development of energy resources on state, federal, or private lands; nuclear power; utilities; solar energy; international aspects of energy; or similar topics.

Ms. Prodan's paper examines current state, national and international policies and laws, as they treat the James Bay hydroelectric energy development projects in northern Quebec. The policies and laws are scrutinized in light of growing concern for the environment and the need to take responsibility not just for environmental destruction, but for the policies that cause the destruction.

In congratulating her on the award, Kent Frizzell, Director of the National Energy Law and Policy Institute at the University of Tulsa College of Law, said, "In a field of outstanding entries, your paper is exceptional. It is also a tribute to your school's reputation in the field of energy/natural resources law." Dean Donald Zillman commented, "We are very proud of Pam for receiving this well-deserved honor. It is an example of a first-class scholarly endeavor."

Professor Alison Rieser served as advisor to Ms. Prodan on her paper, written as an Independent Writing Project.

Graduate Honored by Friends of Casco Bay

Gail Peabody '92 was recognized as a catalyst for creation of the Casco Bay baykeeper and was honored by the Friends of Casco Bay for her role in making that job a reality. The Friends of Casco Bay Awards are given to private citizens, public servants and corporations doing the most to help the bay.



Yiping Yang

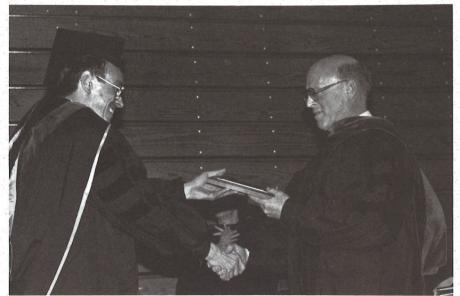


Roy Pierce, Mike Stoddard, Andrew Strongin



Liz Eddy and Adrian Kendall

Wathen Receives First Distinguished Alumnus Award



Dean Zillman presenting Distinguished Alumnus Award to Hon. Dan Wathen '65

The "Distinguished Alumnus Award" was awarded for the first time this year to Hon. Daniel E. Wathen '65. "This year's selection was easy," said Don Zillman in presenting the award to Chief Justice Wathen.

At its April meeting, the Faculty voted to establish this award and to select one or more graduates to be the recipient. The award will be presented annually at Graduation. To be eligible, the recipient must have 1) attained distinction in her or his post-Law School career; 2) demonstrated a commitment to public service in his or her community and State; and 3) demonstrated a continuing and supportive interest in the work of the Law School.

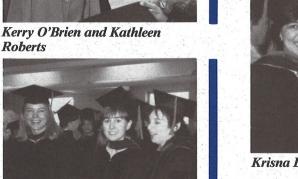


Erik Laurenz and Jessica Jensen, who were married earlier on Graduation day

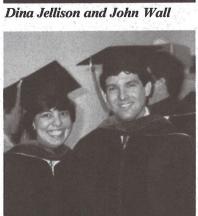




Roberts



Stephanie Perkins, Shelley Raber, Deb Gotlib



Krisna Basu and Josh Krell



John Barr and Marion Hylan Barr



Brad Coffey, Zhengyu Tang, Mark Swanson



Mary Bradley Hawkes and Randy Hawkes



With spouses, families, or friends: Tom Kelly, Chuck Hazzard, David Leach, John March, Heidi Shealy, Natalie Selleck, Donna Chapman, June Jackson, Melissa Martin ...



Pat Donahue, Johanne Hawk, Gail Peabody, Mike Stovall, Campbell Badger, Laura Klein Tobin, Beth Connellan



Craig H. Nelson '69

President's Column

It was my pleasure to congratulate and welcome the newest members of the Alumni Association at the May 9th graduation of the 95 members of the Class of 1992 from the Law School.

In my remarks to the graduating class I expressed the hope that, once the dreaded bar exams were behind them and they had started their professional careers, the Law School would continue to be an important and regular part of both their professional and their private lives.

As you know from my first column as President of the Alumni Association, the members of the Board of the Association are continuing the efforts started under David Hawkes' presidency last year to diversify and expand the role and functions of the Alumni Association and, in doing so, to develop new ways in which alumni may take a more active and expanded role in the special and day-to-day activities of the Law School. I am pleased to report to you that the two Ad Hoc committees that were formed as a result of the special extended

meeting in March of the Alumni Board are already actively working on the subject matters that were assigned to them. One of the committees, cochaired by Mark Terison '78 and Arlyn Weeks '81, is already working on organizing the second alumni firstyear orientation panel. They are also working on the development of a student-alumni mentor program. The second committee, co-chaired by Libby Butler '79 and June Zellers '86, is actively at work in developing an overview of past, present and possible future fund-raising activities by the Alumni Association and the possible establishment of a planned giving program. Once these two committees have made sufficient progress on their work, we plan to have reports published in the Alumni Quarterly, in order to keep you advised of their progress.

Prior to the publication of my next President's Column, you will be receiving material on the 1992 Annual Fund Campaign from this year's chair, Association Vice President David Corson '69, and from your class agents concerning the details and goals of this year's campaign. As you know, from the report which I gave at the beginning of my first President's Column, despite the difficult economic times that we all have been facing recently, we were able to achieve the 1991 Annual Fund goal. Thanks go to the continued generosity and support of alumni and friends of the Law School as well as to students, faculty, staff and the dedication of class agents and Alumni Director, Joan Amerling during that Annual Fund Campaign. It is my hope that we will, once again, witness a similar level of financial support for the Law School for the 1992 Annual Fund Campaign.



Elizabeth Wallace '92, Editor-in-Chief of Volume 45 of the Maine Law Review



Hon. Susan Calkins '70, Chief Judge of Maine District Court, speaking at the Maine Law Review Banquet, April 8, 1992.

Alumni News

'70 Hon. Susan W. Calkins was the speaker at the 1992 Maine Law Review Banquet, held on April 8 at the Channel Crossing in South Portland. Philip P. Houle was elected Chair of the American Bar Association Committee on Rights of the Underrepresented in October, 1991. This Committee has commented on proposed amendments to the Federal Rules of Civil, Criminal, Appellate and Bankruptcy Procedure, analyzed proposals for the ABA House of Delegates and submitted a Supreme Court amicus brief for the ABA on whether an award of attorney fees in certain civil rights cases can be limited or denied if little or no monetary damages were ordered under the underlying judgment on the merits. Phil asks that anyone interested in getting involved with the work of this Committee call him at (202) 898-3718.

72 Peter J. DeTroy, III was a panelist at the Law Day Celebration, "Lawyers and the Media: Are There Ethical Limits?," held on April 30 at The Portland Club. The forum was sponsored by the Maine Council of Churches in co-operation with the Maine State Bar Association.

74 Robert A. Moore was on the faculty of a seminar presented by the Cambridge Institute, "How to Terminate and Lay Off Employees - and Avoid Being Sued," held in Portland on May 14. He recently became a partner in the firm Pierce, Atwood, Scribner, Smith, Allen & Lancaster, Portland, where he will specialize in labor and employment issues; he had been a partner in the firm Verrill & Dana, Portland. Peter C. Fessenden was on the faculty of the Maine State Bar Association's CLE program, "Furnishing Legal Assistance to Those in Financial Need," held in Augusta on April 10. Carol Goodman has become a partner in the Los Angeles office of the St. Louis-based law firm, Bryan, Cave. Previously a partner with the Los Angeles office of Thelen, Marrin, Johnson & Bridges, her practice emphasizes business litigation. Clarke C. Hambley, Jr. was on the faculty of the MSBA's CLE program, "Managing a Family Law Practice," held in Augusta on May 8. Kenneth L. Jordan, Jr. has been elected a Fellow of the American College of Trust and Estate Counsel. The College is an international association of lawyers who have been recognized as outstanding practitioners in the laws of

Robert L. Hazard Jr.

Robert L. Hazard Jr. '65 died on April 30, 1991 at a Portland hospital. A graduate of Boston College, he was an associate editor of the University of Maine Law Review in 1965. He served as a captain in the Army during the Vietnam War. He joined the law firm Richardson & Troubh in Portland, where he practiced until his death. He was also a commissioner with the National Conference on Uniform State Laws from 1978 to 1983, a member of the Maine Trial Lawyers Association and a member of the Association of Insurance Attorneys. He was very active in Little League, Casco Bay Youth Hockey and Youth Hockey of American Hockey Association at the state level.

wills, trusts, estate planning and estate administration. He was on the faculty of the MSBA's CLE program, "Managing a Probate Practice," held in Portland on May 15.

75 Brian M. Dench has been elected a Fellow of the American College of Trust and Estate Counsel. He was nominated for election by the ACTEC Fellows in Maine after a study of his record as a practitioner in the fields of trust and estate law. Hon. Andre Janelle was chosen "Judge of the Year" by the York County Bar Association at its Annual Meeting in April. John V. Romei of Machias has been nominated and confirmed as a District Court Judge.

'76 Christopher S. Beach is the author of "How to Find and Use Maine's Published Law Court Opinions," in *Maine Historical Society Quarterly*, Volume 31, No. 2, Summer, 1991. **John C. Everett, Jr.** has moved from the Long Beach, California Office of Hearings and Appeals of the Social Security Administration to their Office in New Haven, Connecticut. **Mary L. Schendel** has revised *Maine's Practice Guide to Limited Partnerships* for publication in Prentice Hall Law & Business' *State Limited Partnership Law* series. The revisions will appear as part of the first 1992 Supplement to the series.

77 Paul Aranson, former Cumberland County District Attorney, is now practicing law with the firm Scaccia, Lenkowski & Aranson, 153 Route One, Scarborough.

78 Eileen L. Epstein was Program Co-Chairperson and on the faculty of the Maine State Bar Association's CLE program, "Managing a Probate Practice," held in Portland on May 15. Elliott L. Epstein is the co-author, with Rufus E. Brown, of "Reform of the Rules for Attachments," Maine Bar Journal, March, 1992. Thomas N. Masland, formerly a partner in the firm Orr & Reno, Concord, New Hampshire, has become a partner with the firm Ransmeier & Spellman, Concord. Stephen G. Morrell was on the faculty of the MSBA's CLE program, "Exploiting and Preserving Intellectual Property Rights for Your Client," held in Portland on April 30. Jonathan W. Reitman was on the faculty of the MSBA's CLE program, "Managing a Family Law Practice," held in Augusta on May 8. F. Mark Terison was on the Steering Committee of the Law Day Celebration sponsored by the Maine Council of Churches in co-operation with the MSBA, "Lawyers and the Media: Are There Ethical Limits?," held on April 30 in Portland. William S. Wilson, Jr. was on the faculty of a seminar presented by The Cambridge Institute, "How to Terminate and Lay Off Employees - and Avoid Being Sued," held in Portland on May 14.

79 John E. Baker is back at West Point as Deputy Staff Judge Advocate. He writes "Can anyone match nine moves and one invasion (Panama) since graduation?" Wayne R. Douglas was on the faculty of the Maine State Bar Association's CLE program, "Exploiting and Preserving Intellectual Property Rights for Your Client," held in Portland on April 30. Karen G. Kingsley was on the faculty of the MSBA's CLE program, "Managing a Family Law Practice," held in Augusta on May 8. She was also a panelist at the Law Day Celebration, "Lawyers and the Media: Are There Ethical Limits?", held on April 30 at The Portland Club. The Law Day Forum was sponsored by the Maine Council of Churches in cooperation with the MSBA.

Reggy L. McGehee was on the Steering Committee of the Law Day Celebration, "Lawyers and the Media: Are There Ethical Limits?," held on April 30 at The Portland Club, sponsored by the Maine Council of Churches in co-operation with the Maine State Bar Association. William E. Saufley has been appointed senior vice president and general counsel at Fleet Bank. He had been general coun-

sel at Recoll Management Corporation and at Maine Savings Bank. Judith A. Fletcher Woodbury has joined Pierce, Atwood, Scribner, Allen, Smith & Lancaster as a staff attorney in their real estate department.

83 William B. Cote has become associated with the firm, Robert A. Laskoff, P.A., Lewiston. Charles G. Henegar was on the faculty of the Maine State Bar Association's CLE program, "Furnishing Legal Assistance to Those in Financial Need," held in Augusta on April 10. Lawrence C. Walden has become a partner of the firm, Curtis, Thaxter, Stevens, Broder & Micoleau, Portland and Augusta. Daniel R. Warren is the author of "DNA 'Fingerprint' Typing and Testing in Civil and Criminal Litigation; Celebrated Technology Runs into Problems and Sends Lawyers Scurrying to Medical School," Maine Bar Journal, March,

B4 James N. Katsiaficas has become a partner in the firm Jensen, Baird, Gardner & Henry, with offices in Portland, Biddeford and Kennebunk. Patrick J. Scully was on the faculty of the Maine State Bar Association's CLE program, "Furnishing Legal Assistance to Those in Financial Need," held in Augusta on April 10. Kevin R. Smith, who had been working in the Immigration Office of the U.S. Justice Department, is now working as a trial attorney in the European Section of their Office of International Affairs in Washington, D.C.

Richard G. Sawyer

Richard G. Sawyer '66 died April 15 at Nicholson's Nursing Home in Winthrop, Maine. A graduate of Syracuse University, he worked as the federal/state coordinator for Governor Kenneth Curtis after graduation from law school. He later set up a law practice in Augusta and was a member of many civic and political organizations, including the Maine Bar Association. Memorial contributions may be made to the National Multiple Sclerosis Society, Maine Chapter.



Joel B. Russ '74
Russ Elected
Chamber

President

In April, Joel B. Russ '74 became President of the Chamber of Commerce of the Greater Portland Region, a challenging task as the Portland area struggles to recover from a couple of tough years of recession. He talks about the challenge with great enthusiasm. "This community has had a remarkable ability to solve problems, historically, and it is now at a point where leadership from a variety of groups is necessary. I'd like the Chamber of Commerce to be one of those leaders."

He believes "We must regain our optimism about the community. We need to work together to increase our economic vitality. I am a firm believer in coalition building, and I want the Chamber to be a leader among coalitions." One of his first initiatives as President has been to organize a public/private joint venture to provide for results-oriented regional economic development. He expects the venture to be managed by the Chamber of Commerce.

Russ brings public/private, coalition-building credentials to his new job. After graduating from law school, he worked for the Planning Department of the City of Portland and as Executive Director of Greater Portland Landmarks, Inc., before

starting the Russ Company, a commercial real estate firm. From 1989-April, 1992, he served as Vice President and General Counsel for the Maine Chamber of Commerce and Industry in Augusta.

When he decided to go to law school, he said, he was not sure whether he wanted to practice law, but knew the law degree would mean increased opportunities in his areas of interest. "My legal education has served me well," he commented. "It has made me more comfortable with what I do. It has provided me with a certain level of confidence, especially in areas of zoning and public policy, but also in discussions on a wide range of issues."

He now hopes to put his education and experience to use in working to improve "a community I thoroughly enjoy. I grew up here. I've worked here. I care a lot about the area. I want to make a positive contribution in making Greater Portland a livable community which offers a variety of employment opportunities and works well for all its citizens."

85 Kenneth P. Altshuler and Timothy P. Benoit were on the faculty of the Maine State Bar Association's CLE program, "Managing a Family Law Practice," held in Augusta on May 8. Audrey R. Delphendahl is working for Bertelmann, Inc. in New York City, having earned both an M.B.A. from the Wharton School of the University of Pennsylvania and an M.A. with a specialty in German from the Lauder Institute in May, 1990. She and her husband Paul Fillmore '86, who live in Flushing, announce the birth of Andrew Emrys, who weighed 7 pounds 8 ounces, on March 6, 1992. Debra Ferguson, who had been practicing law in Bangor, has moved to Norfolk, Nebraska, where, she writes, she has "retired to travel." John C. Nivison has become a member of the firm Pierce Atwood, Scribner, Smith, Allen & Lancaster, Portland, Augusta and Camden. Dennis N. Perreault has become a stockholder of the firm Cleveland, Waters & Bass, Concord, New Hampshire.

'86 Paul E. Fillmore is working for Financial Security Assurance in New York City. He received his M.B.A. from the Wharton School of the University of Pennsylvania in May, 1990. He and his wife Audrey Delphendahl '85 announce

the arrival of Andrew Emrys, 7 pounds, 8 ounces, on March 6, 1992. James B. Haddow is the author of "The Evolution of the Maine Law of Attachment on Ordinary and Trustee Process,' Maine Bar Journal, March, 1992. Elizabeth Lovejoy, who had been working at Maine Audubon Society. has moved to Northfield, Massachusetts with her husband, Eric Gouvin, who is now a law professor at Western New England School of Law. Beth is teaching English and coaching crew and cross-country skiing at Northfield Mount-Herman School. She writes that they both miss Portland, but "Western Massachusetts is beautiful and we love our teaching jobs." Allie McCormack was on the faculty of the seminar presented by The Cambridge Institute, "How to Terminate and Lay Off Employees—and Avoid Being Sued,' held in Portland on May 14. Mark S. Shuman, previously associated with the firm Lubin & Meyer in Boston, has established his own firm, Mark S. Shuman, Attorney at Law, 10 West Street, Boston 02111. Michael D. Urban has become associated with the firm Cleveland, Waters & Bass, Concord, New Hampshire. June D. Zellers was on the faculty of the Maine State Bar Association's CLE program,

"Furnishing Legal Assistance to Those in Financial Need," held in Augusta on May 14.

'87 Jonathan M. Flagg has become a director and shareholder with the firm Shaines & McEachern, P.A., Portsmouth, New Hampshire and Kittery, Maine. Kristin A. Gustafson, formerly associated with Pierce, Atwood, Scribner, Smith, Allen & Lancaster, Augusta, has opened her own law office at 341 Water Street in Augusta. Her practice is concentrated in criminal defense, domestic relations, personal injury and general litigation. Joyce A. Oreskovich was a panelist for the program sponsored by the Maine State Bar Association's Committee on the Status of Women Attorneys, "Cross Dress or Die? Obstacles and Opportunities for Women Lawyers in the 1990's," held in Portland on April 16. She also gave a presentation on age discrimination at the seminar on litigating discrimination cases, "The Civil Rights Act of 1991," sponsored by the Law School and the Maine Civil Liberties Union," held at the Law School on May 8. Timothy E. Robbins, formerly with Greenberg & Greenberg, Portland, is now associated with Richard B. Romanow, Portland.

****88** Elizabeth A. Germani, formerly associated with Sulloway, Hollis & Soden, Concord, New Hampshire, has become associated with Friedman & Babcock, Portland. Kyle W. Jones was on the faculty of the Maine State Bar Association's CLE program, "Furnishing Legal Assistance to Those in Financial Need," held in Augusta on April 10. Carol L. Mitchell has been promoted to senior vice president of Peoples Heritage Bank. She continues to serve as general counsel.

89 Daniel L. Cummings and his wife Betsey announce the birth of Ross Daniel on April 17. He weighed 7 pounds, 13 ounces and joins his sister Carly, who is three years old. Dan is the author of "Grinding Gears: Meshing Maine Mortgage Foreclosure Law and the Bankruptcy Code," *Maine Law Review*, Vol. 44, No. 1, 1992. William

Alumni Activities

During late winter and spring (or what has passed for spring here in Maine), Don Zillman, often accompanied by Association President Craig Nelson '69 and Association Executive Director Joan Amerling, met with alumni throughout Maine and in other states. The first alumni dinner was in Rockland, Maine, on March 4, at the Navigator Inn. On March 13, alumni met at Kristina's in Bath for lunch. Dinner for Bangor area alumni was held at the Pilot's Grill on March 12, and the following week, on March 19, New Hampshire alumni gathered at The Granite Street Bar & Grille in Manchester.

On April 9, Washington, D.C. graduates met for a Reception at the International Club, and about ten people stayed on for dinner at Gary's Restaurant around the corner from the Reception. On April 29, Don Zillman had lunch with alumni in the Farmington, Skowhegan and Madison area at The Country Manor in Farmington. The York County Bar Association graciously allowed our Alumni Association to coordinate our gathering with their Annual Meeting on April 30 at the Stage Neck Inn.

On May 19, Augusta graduates gathered at the Senator for lunch and to toast Hon. Dan Wathen '65 on his becoming Chief Justice of Maine's L. Dawson and Gretchen L. Jones were on the faculty of the Maine State Bar Association's CLE program, "Furnishing Legal Assistance to Those in Financial Need," held in Augusta on April 10. Jill Shibles spoke at the Law School on "Tribal Courts and Subject Matter Jurisdiction: A Local Perspective," at a meeting sponsored by the Law School's Native American Law Student Association, April 14.

'90 Diane Edgecomb, who was formerly associated with the Law Office of Thomas Malone, has established her own law office at 94 Main Street, Gorham. Mary Beth Fougere, formerly associated with Orr & Reno, Concord, New Hampshire, has become associated with Bernstein, Shur, Sawyer & Nelson, Portland, where she has joined their litigation department. Nathan S. Szanton is the author of "Maine After

Supreme Judicial Court. On May 20, Don Zillman spoke briefly at the ceremony dedicating the new court house in Presque Isle and then joined alumni and others at a Reception at the Northeastland Hotel.

On May 26, on a circuitous trip to West Point, Don had lunch with Hartford alumni Bob Eddy '69, Bob Nagy '72, Paul Ford '78 and Bill Meanix '69, stopped in New Haven to touch base with Stearns Bryant '68, and had dinner in Litchfield with Peter Herbst '73, Brian Barnes '67, Pat Maloney '68 and their spouses. On May 27, he had lunch in Philadelphia with Anne Poulin '73 and Clint Stuntebeck '68. On the 28th, he drove from West Point with Jeb Baker '79 to have dinner with New York City area alumni, including Steve Hammond '77, John Pursel '70 and his wife, Toby Miller '78, Peter Priest '80, Audrey Delphendahl '85, Paul Fillmore '86, Christopher Williams '86 and Juston Kim '91, at Steve's law firm, Hughes, Hubbard &

The Androscoggin County alumni gathering was coordinated with the County Bar Association meeting on June 2 at The Sedgley Place in Greene.

the Americans With Disabilities Act: What's New, What Isn't?," *Maine Bar Journal*, May 1992. He also served on a panel focusing on this legislation for the seminar on litigating discrimination cases, "The Civil Rights Act of 1991," sponsored by the Maine Civil Liberties Union and the Law School, held May 8 at the Law School.

'91 Janet Kantz Dyer became associated with the firm Smith & Elliott, Saco, in May. Henry W. Griffin has opened his own law office at 17 South Street, Portland, 871-0744. Michael C. Kearney is working in the Human Services Division of the Attorney General's Office in Augusta. Juston K. Kim, who passed the New York State Bar examination, is working for the law firm of Siddiqi Associates in Brooklyn Heights. ■



Alumni Association President Craig Nelson '69, Peter Weatherbee '68 and Wakine Tanous '55, at the Bangor dinner



Harold Hamilton '76, Jean Deighan '76, Glen Porter '78 and Hon. Margaret Kravchuk '76



Phil Stiles '79, Chris Wyskiel '80, Professor Tom Ward, Peter Meyer '84, Ignatius MacLellan '85, at the New Hampshire dinner



Do they still look the same? Jim Russell '78 and Andy Eschen '78 as they looked when they were Moot Court partners in Law School. In 1978, they won the Regionals of the Giles Sutherland Rich Patent Law Competition and placed second and won Best Brief in the National Competition. Jim, Chair of the Moot Court Board, was also the first recipient of the Annual Advocacy Award. "Although fairly new," he said, "the Board had already met with substantial success, winning the regional Jessup Competition the year before we came along. My chest swells with pride when I read of the continuing successes of the teams. It makes me feel proud of the School and I'm glad to have been a part of it." Jim is now a Lt. Col. in the U.S. Army, serving as the Chief of the General Law Branch, Administrative Division, Office of the Judge Advocate General, at the Pentagon. Andy worked for more than a decade in the Attorney General's Office in Vermont, After a four-month stint as a Supreme Court Fellow for the National Association of Attorneys General, he accepted an offer from the Justice Department in Washington, D.C. in the General Litigation Section of the Environmental and Natural Resources Division, where he has worked since September 1990. "After all these years," Andy says, "I realized that any federal government good enough for Jim was good enough for me." Jim and Andy appear in a more recent photo (April 9, 1992); do they look the same?



Rob Jones, Ginny Kozak, Anne Lucey, all '92, and Jaye Rooney '88



Martha Casey '82 with Andy Brown '76



Charlie Cragin '70 talks with Ginny Kozak '92 and Steve Cohn, Executive Assistant at the Board of Veterans Appeals which Charlie heads.

SCHOOL OF LAW University of Maine

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