A Winter Matinee To Remember:
December 2003 Graduation Ceremony

By John Fedynsky

It was a daytime event at the Michigan Theater. Dean Evan Caminker even joked that the show would be followed by “The Cooler” - a delightful new film out in theaters. But it was not your typical matinee. No, dear readers, this was a special event, at least for the few dozen December graduates of the Class of 2003.

They gathered with their families, friends and faculty who cared to show up on a moderately snowy Friday, December 19, 2003. A photographer positioned them on the grand staircase near a Christmas tree for a memorable group picture. Playing the crowd of graduates and family, he asked the former to pretend that he was the judge and to do all that he said.

Pictures taken, the lights began to flicker and something sounding like a cowbell was rung. Time to take your seats and watch the Class of 2003 file in, followed by the faculty, and, of course, opportunities to take more pictures.

Dean Caminker welcomed everyone and noted the interesting times surrounding the class - the affirmative action litigation, September 11th, corporate scandals, and other ongoing “challenges” that the graduates will face in whatever career paths they choose.

Maren Norton, 2L and President of the Law School Student Senate, recounted how she spoke with numerous members of the community in her quest to know the essence of the Class of 2003. At bottom, her investigation revealed a general feeling that they will be missed for the people they are. She concluded by thanking the graduates for simply being themselves.

Every year students select a member of the graduating class to give an address. This year, Paul Brar of California was the chosen one. It was clear before he even spoke how much his fellow graduates respected and genuinely liked him. As he approached the podium after Dean Caminker’s introduction, the graduates, most of which matriculated together as summer starters, greeted him with a standing ovation.

Brar borrowed from that common experience, recounting the personal story of the first time he ran up against the Socratic method in Professor Richard Friedman’s civil procedure class. Friedman, by the way, was the featured speaker and would follow Brar. It was the first few weeks of law school and Brar was impressed at how well his classmates...
MLK Panel Highlights
Work Yet To Be Done

By Andy Daly

With an event co-sponsored by BLSA and LLSA, the Law School marked the January 19th Martin Luther King, Jr. holiday by hosting a panel discussion about felony disenfranchisement laws. U.S. Representative John Conyers, Juan Cartagena, General Counsel of Community Service Society of New York, and Marc Mauer, Assistant Director of The Sentencing Project, Washington D.C., were welcomed by Dean Charlotte Johnson to a standing room only audience in Room 250. Professor Ellen Katz moderated the event.

The discussion centered on the history and politics of laws denying current and former felony convicts the right to vote. These laws lie along a spectrum ranging from disenfranchisement during incarceration to disenfranchisement during incarceration plus ensuing probation to permanent disenfranchisement of felons even after serving their terms and completing probation. The last, and most severe, are in effect in states such as Mississippi and Alabama. Consequently, significant portion of the adult black male population of those states are disenfranchised for life irrespective of the type of felony for which they were convicted or plead guilty to.

This effect is not an accident. These laws find their roots in Post-Reconstruction, or Jim Crow, legislation. They were specifically designed, like poll taxes and literacy tests, to discourage blacks from voting. While many such laws were abolished by the Voting Rights Act, which Congress passed 40 years ago this year, felony disenfranchisement laws survive in many states to this day. This discussion was appropriate to the MLK celebration due to how Dr. King saw the Voting Rights Act as a centerpiece of civil rights reform and as an indispensable part of full citizenship.

Congressman Conyers discussed a piece of federal legislation, co-written by Mauer, that Conyers has sponsored that would restore federal voting rights to felons. Such a reform would force states to either fall in line with the federal model, or face the expense of maintaining separate voter rolls for state and federal elections.

The panel also discussed efforts in Michigan to curtail the right of felony convicts to serve on juries or on grand juries. This is a significant development as Michigan otherwise is considered to have a progressive stance on citizenship rights of convicts.

Congressman Conyers also reflected on his nearly 40 years of congressional service, and related stories about walking the halls of the Capitol with outspoken segregationists in the 1960s to today’s more nuanced race politics.

The event was followed by a reception and refreshments for both students and panelists.
Two Federal Judges Share Thoughts on Judicial Selection, Clerking

By John Fedynsky

Two federal judges from the Eastern District of Michigan shared their perspectives on clerking and on how they came to the bench. The Office of Career Services and the American Constitution Society co-sponsored the event, which occurred in Room 150 on Thursday, January 22.

The Honorable Avern Cohn began his remarks with his biography. He noted how he was in the first class of returning veterans at the Law School in 1946. Cohn jokingly mentioned that his father, a graduate of 1917, visited him and remarked that the inscription that once read “Know the Law” changed to “Know the Judge.”

He practiced law privately in Detroit and was politically active in the Democratic Party before President Carter appointed him judge in 1979. The political process slowed his confirmation. “So I spent about a year practicing law while everyone in town knew I’d be a federal judge,” Cohn quipped. He described the experience as both good and bad since lawyers were deferential and respectful but Cohn feared that at any moment he would trip up.

The Honorable Marianne Battani, a 1999 Clinton appointee confirmed in 2000, served for many years as a state judge in Wayne County Circuit Court Department of Justice, Senate Judiciary Committee and American Bar Association. Depending on the number of openings, the merit committee will select about twice as many persons to interview with Michigan’s senate delegation. “This is a very nerve-wracking process… when you go before your peers,” said Battani. Cohn expressed a feeling of “cold feet” along the way.

“I think [Senator Carl Levin] asked me something about the Constitution and I didn’t even remember there was a Constitution,” said Battani. Cohn said that he was asked to make the unusual step of interviewing twice with Senator Don Reigle. “He was told that I lacked judicial temperament and they were probably right,” said Cohn. “I’ve managed somehow,” he added.

Since Cohn’s nomination faced a Democrat-held Senate with two Democratic Michigan Senators, his battle in Washington, though protracted, was different than that of Battani. At the time of her nomination, Michigan’s junior senator was Spencer Abraham, a Republican. Because of Abraham, Battani became intimately familiar with the Senate’s blue slip procedure, which essentially allows any senator to block the confirmation of a federal judge appointment for a vacancy in his or her state.

In the end, Abraham relented and Battani was called one evening and told to be in Washington the next morning to meet with the Department of Justice before her hearing. “You have all this waiting and then things happen very quickly,” she said. She described the intimidating majesty of the Senate hearing room. “[The hearing] was like an out of body experience,” she said.

Continued on Page 15
CrimLaw Society Hoses Career Talk Given by Front-Line Practitioners

By Sarah Rykowski

Members of the Criminal Law Society and other law students were treated to a spirited, but friendly debate between Dave McCreedy, an assistant prosecutor with the Wayne County Prosecutor’s office, and Don Johnson, Chief Defender of the Legal Aid and Defender Association in Detroit. Despite their differences of opinion, both attorneys assured students that it was possible to intern with one side or the other, and then seek permanent employment with an agency or office on “the other side.”

“If you worked for the prosecuting attorney’s office [in law school], you got paid,” Johnson said. “I would just think you were smart. You do fall on one side eventually. There really are true believers for the defense.”

Johnson, one such believer, labeled himself as anti-establishment, and has only worked in defense. He earned his J.D. at Santa Clara University, after graduating from Michigan State, passed the California bar in 1978, and first worked as a public defender in Santa Clara.

“California has a statewide public defender system. Michigan does not,” Johnson said. “Michigan operates on a county-wide basis. Washtenaw has the only true public defender’s office [in the state]. Michigan is ranked 48th in the nation in terms of paying for indigent defense.”

Johnson joined the Legal Aid and Defender office in Detroit in 1983, after admission to the bar in 1982. He worked as a trial lawyer until 1995, when he became the Deputy Chief Defender, running day to day matters in the office. Four years ago, Johnson became the Chief Defender, and merged that position’s political duties with the management duties of his former position. Today, he and two other attorneys supervise 5 attorneys each. In the mornings, Johnson goes to court every day, trying 8-12 cases each morning, including 3 jury trials in the last year. He estimates that he has done 500 jury trials in his career.

In Johnson’s office, the new attorneys meet weekly for a formal training on Wednesday afternoons. Two-thirds of his office has lunch together daily, and the senior lawyers mentor new attorneys.

Johnson cited the lack of financial support as a problem in the area of public defense. “One of the problems with [public defense] is that the pay is really low. Going into indigent defense you’ll find you don’t have a lot of support.” Johnson’s office employs 18 attorneys and only one investigator, as well as office support staff, compared to McCreedy’s office, which employs 175 lawyers, and 12 investigators, as well as other support staff, and, as Johnson pointed out, the prosecutor’s office has the arm of law enforcement to support it.

According to Johnson, lack of funding is a principal reason that few private practices specialize in public or indigent defense. Banding together in the public defender’s office makes it easier to manage a large caseload on very little funding. “None of the governors have allowed federal money to come to defenders offices in Michigan,” Johnson said. “It all goes to law enforcement. Our clients are really in an underdog position—they really don’t have anyone else. If you are committed to help the poor, this is for you [otherwise] you probably want to go into private practice.”

Johnson told students that the Legal Aid and Defender Association’s office was founded in 1967 by current Michigan Senator Carl Levin in response to the riots in Detroit. So many individuals were being arrested that the jails and courts were backlogged, and someone had to defend these individuals, Johnson told his audience. Besides the senator, several current district and circuit judges were former defenders with the office. Many have also gone into private practice.

“If you develop a reputation, you must capitalize on it, as a private defense attorney,” Johnson said.

McCreedy cautioned his audience, however, to not consider the stakes wholly stacked in the prosecutor’s favor, stating that he and his fellow prosecutors frequently have to constantly ask the police for assistance and information.

“There’s not a lot of support in criminal law,” McCreedy said. “It’s not like Law and Order—you don’t just have the lab waiting for you to send them evidence.”

McCreedy clerked on the 6th Circuit Court of Appeals for Judge Ryan after graduation from the law school in 1996. In May of 1998, he went to the prosecutor’s office, the only job he applied for after law school. He started off in warrants, and preliminary exams, did trial work, then administration, and now currently handles appeals for Wayne County’s prosecuting office.

Strangely enough, McCreedy cited his attendance at a panel similar to this one in his decision to become a prosecutor. He attended a panel and heard an assistant prosecutor speak at the law school,

Continued on Page 15
Dr. Steinberg Dean’s Choices Reflect Pressure on Many Women Professionals

By Sara Klettke MacWilliams

Sometimes, going to school at the law school where Catherine MacKinnon works, where male professors are careful to say “he or she” and give examples that include female breadwinners, and where WLSA is one of the most visible groups on campus it is easy to forget that there are many people out there uncomfortable with the idea of women working. Occasionally, a professor might chide that “in the real world” people are very traditional and often bigoted, but no one believes it. On Friday afternoon, the real world hit me with a reminder.

I do not have classes on Friday. Since I skip driving in to Ann Arbor, I have time to work out at my local Powerhouse gym during the day. During the week, I work out in the evening with everyone else who is busy during the day, but on Friday, I work out with the housewives.

Being young, married and blonde myself, I fit right in with them. They are all in amazing shape, kept up by lifting for half-hour intervals and walking on the treadmill for an hour at a time, often while talking on a cell phone. They have a low-impact boxing class at 11 a.m., and sometimes I join them. Many of them have college degrees, but they usually change TV channels from the news stations favored by morning workouts to put on soap operas and daytime talk shows. The one exception is the 12 o’clock news, which is inescapable on the major networks.

On Friday, January 23rd’s 12 o’clock news, one of the big stories was the Drs. Dean interview on ABC news. Usually shows. The one exception is the 12 o’clock news, which is inescapable on the major networks. The female voters interviewed by ABC news do not live in 1950’s time warps. While we talk casually at the Law School about when the country will be ready for a female President, a large portion of American voters, many of them women, are still struggling with the idea of a two-professional family. “What about the children?” they wonder. “And who takes care of doctors’ appointments and dry cleaning?” No matter how skilled an attorney a female law school graduate might be, if she marries a fellow professional, and her spouse wants to run for president, she will be under pressure to give up everything she has worked for to stand by her man. Most voters are not talking about how noble it is for Ms. Dean to continue sharing her skills with the public. No one is interested in the logistics and consequences of her walking away from her practice to join a campaign that might not even get to face Bush. Most voters just want to know if her cookie recipe will impress the readers at Good Housekeeping.

That makes my blood boil more than any six mile run can. But what, really, can we do about it? Write an academic paper about why such attitudes are illogical? The housewives at the gym certainly would not read it. Make speeches about it on national television? If it plays at the same time as Oprah, forget it. Just plod along in our two income families, hoping that people will eventually get used to it? I have no idea. But I am painfully reminded that as a female professional, I will soon be facing pressures much worse than the stress of a bar exam.

Dr. Howard Dean, potential democratic presidential candidate, that day on ABC. The interview was reportedly an attempt to save Howard Dean’s campaign from criticism that his wife was not dedicated enough to his campaign. ABC reporters were asking female voters around New Hampshire for their opinion of Dr. Judy Dean’s choice and how it would affect her husband’s campaign. There were a few women who were proud of her not giving up her career, but the overwhelming majority of democratic, female voters were not comfortable with a Presidential candidate whose wife was not standing beside him.

The housewives in the gym added their own commentary. “Guess we know why they keep her away from cameras,” one woman laughed at Ms. Dean’s picture. She is actually quite attractive, but looks like a busy doctor, with little or no makeup, no expensive hairstyle, and utilitarian clothes. “Your husband is the 1% governor, just quit already, you know?” said the woman next to me. I was running too fast for real conversation, but I asked her if she would vote for him. “I just don’t think they seem like a good family,” she answered.

The male trainer standing next to my treadmill looked up at me and laughed, “The dude can’t even control his wife, I don’t think he can control much else.” He was speaking mostly in jest, only to tease me, but a woman answered him, “I know.”

This, ladies and gentlemen of the bar, is our country. As much as I might try to mock the women at my gym to console myself by pointing out that I hate soap operas, am actually a natural blonde, and usually have something to do during the day, I am outnumbered and ultimately dependant on voters like this. I do not live in a tiny, backwards town. I actually live in one of the most populous and educated suburbs in metro Detroit.

The female voters interviewed by ABC news do not live in 1950’s time warps. While we talk casually at the Law School about when the country will be ready for a female President, a large portion of American voters, many of them women, are still struggling with the idea of a two-professional family. “What about the children?” they wonder. “And who takes care of doctors’ appointments and dry cleaning?” No matter how skilled an attorney a female law school graduate might be, if she marries a fellow professional, and her spouse wants to run for president, she will be under pressure to give up everything she has worked for to stand by her man. Most voters are not talking about how noble it is for Ms. Dean to continue sharing her skills with the public. No one is interested in the logistics and consequences of her walking away from her practice to join a campaign that might not even get to face Bush. Most voters just want to know if her cookie recipe will impress the readers at Good Housekeeping.

That makes my blood boil more than any six mile run can. But what, really, can we do about it? Write an academic paper about why such attitudes are illogical? The housewives at the gym certainly would not read it. Make speeches about it on national television? If it plays at the same time as Oprah, forget it. Just plod along in our two income families, hoping that people will eventually get used to it? I have no idea. But I am painfully reminded that as a female professional, I will soon be facing pressures much worse than the stress of a bar exam.
New Ford F-150 Re-establishes Itself As Industry Standard

By Steven Boender

Upon climbing into the 2004 F-150, I fumbled through my bag looking for a CD to play. I randomly grabbed one and threw it in. The first song was “I Drive a Tank” by Robert Pollard and the Soft Rock Renegades. A more fitting musical introduction could not have been found. This truck is big, it’s tough, and very few obstacles outside of those manufactured by Raytheon can stand in its way.

First up, vital statistics. Ford offers updated versions of its 4.6 and 5.4 liter Triton V-8s. The 4.6 offers 231 hp and 293 lb-ft. of torque, while the 5.4 in the vehicle we tested grunts out 300 hp and 365 stump-pulling lb-ft. of torque. A wide variety of trim levels are offered. We tested the top-shelf FX4 four-wheel-drive off road edition, which comes with off-road suspension, skid plates, and a variety of options, including heated front seats. Our test vehicle had CD, leather interior, power sliding rear window, and a bedliner, but alas, no heated seats. All trim levels come with four doors on the new F-150, and in the SuperCab body style this results in a 5.5’ bed, six inches shorter than the standard 6-footer.

Ford reportedly spent nearly $2 billion developing the new edition of America’s best-selling vehicle, and the results are evident at first glance. Gone are the soft lines of the previous generation, replaced with sharp edges and an overall brawnier appearance. While the combination of the high tailgate and low roofline makes the view from the back less than inspiring, overall it’s a good looking truck. The interior is similarly appointed. Typically Spartan, Ford threw in a few touches to spice things up, including carbon fiber dash pieces, high grade leather, and industrial-strength plastic components throughout. The competition’s interior seems flimsy in comparison.

While the big V-8 sounds like a champion, its performance leaves a bit to be desired. Throttle response is a bit sluggish, and the extra 500 or so pounds of safety and noise improvements over the old model are felt in the corners. Another disappointment is the selector for 4-wheel drive. To shift into four-by, all that’s required is the turn of a dial that matches those of the climate control. While this is certainly easier than jumping out and locking the hubs, it’s just not dramatic enough. Electronic control is fine and all, but don’t make turning on the front differential as uneventful as switching the fan from “3” to “4.” Finally, “guy” points are lost on the exhaust sound. With Nissan’s Titan sounding like a chorus of Hell’s Angels, the Ford should have Lexus-ized the exhaust note.

Some new developments from Ford also show up, including a torsion-bar spring built into the tailgate assembly to make it easier to open and close. While no tough guy worth his salt would ever own up to it, it’s a nice feature. Side mirror turn signals and the parking-distance beeper are also nice touches, especially for times when the bed’s loaded up and rear visibility is nonexistent. However, probably the most notable feature of the truck is its overall quality. While I’ll make no conjecture as to the long-term quality, the build quality is as good as it gets. Everything just feels so solid, from the door handle, to the seat adjustment, to the dashboard. Anyone who’s wound up with a GM seat-recline lever breaking off in their hand will appreciate that.

Just for purposes of disclosure, I am not really a truck guy. I just never really bought into the whole deal. But after a few days of fighting an Ann Arbor blizzard in four-wheel and making the customary Saturday trip to Home Depot, I was hooked. I looked at poor saps in

Continued on Page 14
Give Me Your Money and I Will Not Get Hurt

By Michael Murphy

My car broke. It didn’t break so much as threaten to freeze. See, the “Check Coolant” light came on, which confused me since for some time now, my car’s engine has clearly been in no danger of overheating. But, see, your coolant can freeze if it gets old and it’s too cold, and that means your engine basically freezes too. So it was time to get the car checked out, and I knew what that meant.

Before we go any further, let’s talk about my car. It’s a 1993 Mercury Tracer (LTS, which means something). It’s not exactly what you’d call “cool,” “hot,” or even “comfortable.” What it does do, however is “start” and “go,” and so I feel indebted to hang onto it. I received it in a sweetheart deal from a little old lady who drove it to and from the grocery store for years—my mother.

Since then, I’ve driven the crap out of Mom’s car, which explains it’s, um, peculiarities. The frame itself is actually bent, from spending a winter encased in ice on a South Philadelphia sidestreet, so the driver’s side door rubs when it shuts. The trunk doesn’t open so good, and neither does the hood—my car guards these secret compartments jealously. The cruise control button angered me during a cross-country drive last summer, and was tried, executed, and jettisoned.

And, every several months, it goes in for a small problem and comes out with a large problem.

This time, it was exhaust, tires, and all kinds of work on the right front wheel which was (admittedly) loose and threatening to secede from the car entirely.

Rather than, you know, buy a new one, I had the Tracer re-fitted just in time for a gigantic snowstorm where it’s now re-encased in ice. But I tell you, that radiator fluid isn’t freezing.

The point of this is: with car repairs, books, Christmas, and to having to buy a suit, I ran some numbers and realized I’m poor.

So like many ILs, I’m clinging fast to the idea that my superb but startlingly incomplete legal education will get me in the door to a place that will, actually, amazingly, stupidly pay me money to do this stuff.

So far, I’ve been rejected as soundly as if I tried to drive in on Ben Wallace.

But unlike Ben, the firms are nice about it. So far, I’ve received some of the nicest, most supportive rejection letters I’ve ever read. They say that my credentials are impressive, my letter is well-written, I’m a roguishly handsome young man with limitless potential to maybe run their organization some day, but then add (generally in a separate paragraph) that on no uncertain terms will even remotely consider the idea of allowing me to enter their building and identify myself with their organization, probably ever, and goodbye.

What amazes me is the duality; they’ve done what no ex-girlfriend (or law school) could ever do. I actually believe them when they say they have no room for me, and not just because it’s true.

I have received some positive responses; most looking for a writing sample or grades or a blood test or something. My favorite one of those was from a non-profit, and the letter went verbatim:

Ms. Murphy, I order to be considered for a summer internship you must send a brief legal writing sample 5-10 pages and a list of references. You can email both to this address.

Thank you,
Stephanie

So I said, “Wait a second.”

Wait a second. What’s this Ms. Murphy crap? Are they talking smack, or what? At least I don’t have to worry about spelling, grammar or even identifying the subject of my writing sample correctly. This plays to my strengths since, and my Legal Practice professor can corroborate, on one of my memos I had severe problems with spelling, grammar, and identifying the client correctly.

Then I get the nicest, hand-written rejection letter from a firm in Philadelphia. Naming names is wrong, so I’ll substitute, calling the firm “Law Firm X.” They rejected me, as have the finer law firms in the Philadelphia metropolitan area, and I probably don’t blame them.

The thing about this one is, the rejection letter came with a brochure that says “Picture Yourself at Law Firm X.” It’s a 16 page brochure filled with happy, smiling, well-fed and obviously rich young associates who absolutely freaking LOVE working at Law Firm X. They rejected me, as have the finer law firms in the Philadelphia metropolitan area, and I probably don’t blame them.

Continued on Page 15
Continued from Page 1

performed when called on. In his signature, self-deprecating way, Brar described the anxiety and fear of getting called on, not knowing the answer because he did not hear the question, and seriously considering getting in a cab, flying home and forgetting about law school altogether. He thanked his classmates for “not staring” and for some of them handing him the casebook open to the right page or whispering him the answer. “I have never failed in front of a finer group of people,” he said to roaring laughter.

Professor Friedman also peppered his remarks with some jokes at his own expense. For an observer who had never witnessed Friedman teaching the graduates when they were wide-eyed 1Ls, the speech nonetheless felt like he was back in front of the chalkboard, bouncing his thoughts off of a receptive audience aware of all of his foibles and reveling in them. He pledged to live to see their thirtieth reunion and to ask how they were doing.

Then the Headnotes sang, the faculty led the graduates out, and everyone mingled before heading back to the Quad for the reception. The matinee had ended. A worker with a long pole began removing the sign reading “Congratulations U of M Graduates” on the marquee. But no doubt the memories etched in the minds and hearts of the Class of 2003 will long endure. Enjoy the photographs.
2003 Winter Graduates
Graduation Should Occur at Hill Auditorium

By John Fedynsky

Location, location, location. The mantra of the realtor is suddenly the dilemma facing May graduates. Hill Auditorium or the Quadrangle? Allow me to weigh in, for what it is worth.

Initially, I strongly preferred the Quad over Hill. I feel connected to the Quad and few if any academic settings in the world are lovelier. Hill is an unknown, rarely if ever visited space far from what I consider my special corner of campus. I went so far as to e-mail Edith Baise, Director of Special Events, to throw my weight behind having graduation at the Quad. She also told me, by the way, that the featured speaker is Senator Peter Fitzgerald (R-IL), who graduated from the Law School in 1986.

Had official action magically followed my initial impulse, the gentleman from Illinois would address my fellow graduates and me from under a large tent in the Quad.

But then I read Associate Dean Steven Croley’s lengthy e-mail arguing the case for Hill. Wonder of wonders, an administrator used the power of reason to change a student’s mind. The reasons are so eminently reasonable that the case for Hill approaches the level of compelling. In light of the relevant facts Croley made known, forsaking Hill for the Quad would be a serious mistake in judgment. Consider the following important areas where Hill, no pun intended, comes out on top.

Tradition
For many years, May graduates have graduated at Hill. Due to the renovation of Hill, last year’s graduation occurred in the Quad. Holding it in Hill this year is a return to tradition, not a departure from it. There is much to be said for graduating in the same space as the vast majority of those who came before us – just as it is important to preserve the Quad so that generations of students can share the same space for matriculation.

Expense
Graduation at Hill is a whopping $80,000 to $90,000 cheaper than at the Quad. It would be irresponsible to pay so much more for a less appealing location, especially at a time when Michigan is having a significant budget crunch.

Weather
Rain or other inclement weather would spoil graduation at the Quad. Tents leak, block views and obscure the natural beauty of the Quad. Last year, students were aghast that the administration did not plan on a rain site and accused the administration of leaving the success of graduation to chance. Planning on a rain site in addition to the Quad means reserving that space, setting up chairs, effectively paying for two events, and, trickiest of all, tempting fate by making a call at least a day in advance on the unpredictable Michigan weather in May. A wrong prediction the other way – indoor ceremony on a nice day – would be embarrassing.

Facilities
Hill has better parking, seating, and access for the elderly, children and the disabled. The acoustics are world-renowned. It is air-conditioned. There are convenient bathrooms. In short, unlike the Quad, Hill was specifically designed for events like graduation and is equipped to handle large crowds.

Beauty
Like the Quad, Hill has its own elegance and charm too. Best yet, graduates need not experience the beauty of one to the exclusion of the other.

Reception
After graduation at Hill, the Law School welcomes graduates and their families back to the Quad for a reception. Tents would obstruct socializing and photo opportunities. Plus, everyone can enjoy a nice walk from Hill to the Quad. I must confess that this experience appeals to me. I like the idea of punctuating my walk across the stage with a walk through campus back to where it all happened.

Best of all, I like the idea of a thoughtful, reasoned administrative response revealing a process that weighs concerns transparently, if only at the behest of active students. For that, Dean Croley – and those around him who seriously deliberated this issue – deserve praise. (Dean Caminker, by the way, deserves an honorable mention for reversing course on last semester’s JAG brown-bag lunch fiasco and announcing that the hastily cancelled event will indeed happen sometime this semester).

Well-intentioned as the backers of the Quad certainly are, they are wrong. Graduation at the Quad would be a serious mistake. If they give Hill a shot, they just might like the view.
Federalists Do It Too:
The False Debate Over "Activist" Judges

By Steve Sanders

At a recent lunchtime event on judicial nominations, a student prefaced his question by explaining that he was a member of the Federalist Society because he preferred judges "who interpret law rather than make law."

I don't know this student, so nothing here is intended personally. But I can't understand how someone can finish even a semester of law school and claim he can readily distinguish between "interpreting" the law (something, apparently, a card-carrying Federalist does) and "making" law (something activist liberal judges do).

Conservatives have gotten a lot of mileage with this idea. It appeals to non-lawyers who believe the proper role of judges is like turning a crank. You take the relevant inputs (facts, precedents, statutes, whatever), "apply" some law, and out pops objective, principled justice. A few more advances in Westlaw and we might not even need human judges.

Interestingly, when a controversial political or cultural issue is involved, the result this system is expected to produce almost always comports with the tastes, will, or prejudices of the majority.

But jurisprudence goes awry when "activist" judges sabotage the machinery by substituting their "arbitrary will" (President Bush's words in the State of Union) to achieve their own ideological ends. A sure sign this has happened is when the result supports the rights or aspirations of a political or cultural minority.

In short, many conservatives, full of phony populist indignation, tell a dishonest, oversimplified story to an ill-informed public. This provides cover for conservatives to appoint their own judges — many of whom are committed not to some tedious process of cranking the legal machinery, but rather to making law that reflects their policy preferences.

The mechanical conception of judges' work may be appropriate to trial courts, which are bound to apply law as they find it. Yet often what trial courts apply is common law — law that was made by other judges. The common law's enduring strength is its ability to evolve alongside human understanding and norms of behavior while gradually shedding outdated shibboleths.

Thus, one important role of appellate courts is to evaluate a law's rationality, workability, and constitutionality. This is not an inherently liberal or conservative enterprise.

Every student knows the law is full of open-ended questions. What did the legislature "intend?" Does text "bear the weight" of a given reading? Did the court below "abuse its discretion?" When is stare decisis inappropriate? What is "reasonable?" The idea that conservative judges aren't as capable or willing to manipulate these judge factors as avidly and effectively as liberals sometimes do is the essential lie of the conservative legal movement.

Take one example: In the 1996 Hopwood case, the Fifth Circuit gave a major victory to conservative agitators and struck down affirmative action at the University of Texas, overthrowing longstanding legal, legislative, and social consensus. The arguments for doing so may or may not have been persuasive. But don't say this wasn't activism.

How about Justice Scalia's ongoing obsession with overturning the settled law of Roe v. Wade? Roe may well have been flawed as a matter of legal reasoning. But Scalia, a Federalist high priest whose "textualism" is often confused with judicial minimalism, has no interest in "interpreting" that decision. He wants to blow it up.

The Federalists can't have it both ways — grooving to every cranky Scalia eruption, yet publicly claiming to want more disinterested judicial drones, and all the while praying for the retirements of actual independent-minded moderates like O'Connor and Kennedy.

Recently the Massachusetts Supreme Judicial Court explained why denying the fundamental right of marriage to same-sex couples is unfair, no longer supported by persuasive reasoning, and a violation of the state's constitution. This obviously makes for major change in the law. Yet the court did not just issue an edict. Its opinion is there for all to read, and should stand or fall on its own accuracy, honesty, and rigor.

But I have yet to hear a conservative political or legal commentator engage the history, findings, or logic of the actual Massachusetts opinion. That isn't the stuff of sound bites. Conservatives seem content to let thugs like Bill O'Reilly — who simply smears any judge he disagrees with as an undemocratic radical — instruct the public on these matters. And so, many Americans confuse prejudice and sectarian dogma with legal reasoning.

The legal right needs to give up the conceit of its purity. Thoughtful conservatives and liberals have different visions...
Music in 2003:  
The Year That Didn't Do Too Much At All

By Steven Boender

Let's face it, 2003 was a lackluster year for music. Radiohead released another great collection of songs for the Mars Rover, Guided by Voices shot out another couple records, and Canada continued to be the answer to the “Where are these guys from?” question that usually accompanies a great new record. Like Thom said, “no alarms and no surprises.”

Mostly, anyway. The Strokes figuratively flipped the bird to every skeptic in the world by releasing another great record with “Room on Fire.” The Shins grew up a little bit and actually sounded better, and Belle and Sebastian moved from tween-pop into theatrical numbers with the greatest of ease. Michael Jackson passed his king-of-pop scepter to fellow Caucasian and Mouseketeer Justin Timberlake and The Rapture released an album that had been on Kazaa for a year, yet was still able to make the indie kids party like it's 1979.

Finally, Broken Social Scene became the band that would consistently make concertgoers look down at their drinks and simply mutter “f*%$&.”

So here's the list. A few surprises, perhaps, and a few obvious calls. While the year as a whole was the chronological equivalent of a sophomore slump, we were still treated to some damn good music, and I hope you were able to find it too.

Best albums of 2003

10. The Shins – Chutes Too Narrow

James Mercer’s getting better with age. Gone are the rough edges, replaced with bleaker lyrics and complex melodies that belie the band's true snarkiness.

9. Guided by Voices – Earthquake Glue

Another year, another 40 minutes of rock with Captain Bob and his merry band of alcoholics. He may not have the youthful exuberance of the past, but pound for pound he's still the best pop song writer in the world.

8. Ted Leo and the Pharmacists – Hearts of Oak

Where have all the rudeboys gone, indeed. This guy sings with a passion all those golden calves on American Idol can only dream of. Basically, he's the F'n man.

7. The Postal Service – Give Up

Miraculously, none of Ben Gibbard’s heart-on-the-sleeve sincerity gets lost in the mix of co-conspirator Jimmy Tamborello’s laptop. Instead, we get a preview of the future of indie rock. Even dudes fall in love with it.

6. Outkast – Speakerboxxx/The Love Below

Andre lets his freak flag fly and Big Boi drops bass deeper than the 28’s on an H2. The kid in me likes Dre’s youthful fascination with all things carnal, while the grownup in me gets down to Big Boi on a semi-regular basis.

5. Radiohead – Hail to the Thief

Everybody already owns this. You know it's good. You know Johnny Greenwood still needs to play more guitar. Been there, done that, bought the snow globe.

4. Broken Social Scene – You Forgot It In People

A whole bunch of insane Canadians making beautiful chaos with every instrument in the book. My initial enthusiasm wore off pretty quickly, but repeated listenings reveal the nuances and attention to detail that truly made this one of the best of the year.

3. The Strokes – Room on Fire

Inspite of myself, I loved it. These guys are for real, and if they can keep it together, the world will be a better place.

2. Xiu Xiu – A Promise

The album cover is of a naked man with a red box over the part that isn't supposed to be seen. They cover Tracy Chapman's “Fast Car.” They have a song called “Ian Curtis Wishlist.” The English language needs a word that covers both “disturbing” and “beautiful.”

1 (tie). The Rapture – Echoes

This thing took FOREVER to come out, but was well worth the wait. DFA production gave it the low-end, but the band itself is still responsible for the core of the record, and across America, it was motivating head-nodders to convert to booty-shakers en masse.

1. (tie) The Unicorns – Who Will Cut Our Hair When We're Gone?

Quirky pop imported from Canada. Nobody is making music like these guys, yet it sounds deceptively simple: instantly-hum-able pop tunes featuring moogs, old casios, crunchy guitars and alternating bratty/serious lyrical themes. No record released this year comes close to being as fun. Buy it, borrow it, download it. Just get it.
“Show Your Own” Hides Story-Within-Story

By Steven Boender

A book arrived during the break, sent by a law school professor from New Orleans. The author had contacted me due to my affiliation with this here paper, quite possible given the demographics of the RG’s core audience. While the RG is a paper of some consequence, we don’t often receive promo items to review, so Mr. Bilbe receives points right off the bat for giving us the respect we all know we deserve. At any rate, back to the book itself.

Show Your Own immediately strikes the reader as unique with its unorthodox format. The first section consists of transcripts of exchanges between a filmmaker and friends/colleagues of a screenplay’s author—a screenplay which the filmmaker plans to bring to life onscreen.

Because the screenplay involves a short bout with mania, medical experts also figure into the conversations with the filmmaker, and the screenplay’s author also makes an appearance to give input into the process. The format itself is imposing at the outset, but after a few pages, you get quite used to it and more or less caught up in the story that unfolds.

The fact that the book is a sort of story-within-a-story makes it quite difficult to synopsize. Suffice it to say that the overall message involves teaching law, collegial camaraderie, and a loose knit group of individuals each trying in their own way to deal with the central character’s manic episode. The screenplay, the transcripts, and the edited screenplay which comprises the last section of the book all add up to form a comedic and heartwarming look at mania and its effect on those surrounding the sufferer, a law professor named John.

As the readers, we get front-row seats to witness John’s mania. Sometimes he plays it cool, and other time he loses it. Sometimes he fakes it to throw everyone off his trail, and sometimes he’s not sure if he’s faking it or not. The situations ultimately lead readers to feel a certain empathy for John, as many of us may not have suffered clinical manic depression, but certainly have felt the effects—on ourselves and those around us—of sleep deprivation, exhaustion, and general low-level craziness at one time or another. And as a law student, the thought of a professor standing on his desk and igniting his own flatulence holds an embarrassing amount of appeal to me.

As a novel, Show Your Own has little in the way of noticeable flaws. My major issue is that the wife of the main character could have stood a bit more development and involvement in the story. She was the person with the most at stake in her husband’s mental condition, along with his children, yet received very little attention in the story. Including her in one of the transcribed conversations would have added a degree of emotional content to the story deeper that that evinced by the friends and colleagues.

One walks away from the book reflecting mostly on the book’s author himself. Mr. Bilbe, if nothing else, seems to have thoroughly enjoyed himself while writing the book—a fact which is most evident in his treatment of some of the more irreverent segments. Perhaps he wanted to escape the drudgery of typical law review article writing, or perhaps he had his own manic demons to exorcize. Whatever his motivation, George Bilbe has crafted a genuinely funny story, dealing not only with mania, but rather all of the quirks that make us who we are, and what can happen when the quirks take over the more acceptable aspects of our psyches.

Show Your Own
By George Bilbe
Sine Wave Press
For purchase info, go to www.sinewavepress.com

Is There a Professor You Want to See Us Interview?

Let us Know!
Send Suggestions to rg@umich.edu
F-150, from Page 6

simple sedans and SUVs with contempt, for I was truly king of the mountain.

Assets
Impeccable build quality
Tough-guy good looks
Trim levels for every want/need imaginable

Liabilities
Disappointing acceleration
Jennifer Lopez-esque tailgate/rear window proportions

Bottom Line: A kinder, gentler F-150 that looks anything but, Ford appears to have hit a home run. Main competitor Chevy has been sleeping on their Silverado, but Toyota and Nissan are finally making an earnest attempt at the throne. While the imports are charging hard, the all-new F-150 and Ford’s near-fanatical brand loyalty should keep them in the front for the foreseeable future.

U-M Law Hockey Team Skates To Glory

FEDERALISTS, from Page 11

of justice and social utility, and these visions will affect how they shape the law. We can only insist on judges whose work is clear, exacting, and intellectually honest — transparent to citizens, and persuasive to those who are trained to evaluate legal argument.

Meanwhile, law students should know better than to describe our vocation with slogans and simplifications.
MONEY, from Page 7

I read the whole thing. I think Law Firm X is the bomb. They sold me on Law Firm X. Thing is, the brochure CAME WITH A REJECTION LETTER.

This makes it somewhat more difficult for me to “Picture Myself” at their firm. Unless it’s more of “Picture Yourself at Firm X Because That’s the Closest You’ll Ever Get to Working Here, Loser” kind of brochure.

“Hey, Dorkus, look at all these great people who work for us! Too bad you’re not going to be one of them! Ever! Ha ha! Have fun studying Torts and working in your father’s convenience store for the rest of your life, nerd! No one will ever love you! Clean up on aisle 8!”

Or maybe I’m just being too acerbic. I’ll settle down.

I know most of my classmates are in the same predicament, so I’ll stop the whining short. And I certainly won’t turn this space into a sad, desperate plea for readers to help me get a job. But I’ll just say this: if I don’t make some money this summer, I’m going to have to eat my car.

CRIMLAW, from Page 4

skipping the office’s internship program. Currently, McCreedy’s office hires 7 2Ls and 8 3Ls, as well as numerous volunteers, each summer, in an attempt to mentor students who want to become prosecutors. McCreedy’s office encourages young lawyers to question their superiors and coworkers. “They love to complain and they love to share what they know,” McCreedy said. “You ask questions and you try not to screw up too bad.”

Neither attorney admitted to being burnt out working in the field of criminal law. “People leave for other opportunities,” McCreedy said. McCreedy at one point considered leaving the prosecutor’s office for a law firm, but changed his mind. “Instead of

leaving the office, I did something else, appeals—research and writing.”

Johnson reported that his office gets two types of attorneys—the young ones, and “the lifers.” “If I can keep [the young attorneys] for two years I’m lucky,” Johnson said. “For certain positions, I can recruit from private practice. These lawyers are lifers. It’s in their blood. I can keep them for a long period of time.”

Johnson is happy to receive calls for internships, although because of the funding problem, they would only be on a volunteer basis. He expects to have a few positions open up as the “young lawyers” prepare to move on to other endeavors.

On March 5-6, the Law Students for Reproductive Choice will host a conference entitled “Reproductive Rights Under Siege: Responding to the Anti-Choice Agenda.”

This conference is a major national event among the reproductive rights community and law schools nationwide. The purpose of the conference is to mobilize law students to engage in activism for reproductive choice. It features eighteen speakers from major advocacy organizations nationwide including our keynote speaker, Nancy Northup (President of the Center for Reproductive Rights) and our closing speaker, Dr. Sarah Weddington, who successfully argued Roe v. Wade in front of the Supreme Court.

U of M law students interested in registering for the conference should visit: www.studentsforchoice.org

Please contact Andrea Gold (argold@umich.edu) or Patty Skuster (pskuster@umich.edu)

JUDGES, from Page 3

Then both judges faced the daunting fear of assuming the bench and feeling wholly unprepared. Cohn said that though he tried cases he did not know the federal rules of evidence. He recounted the story of alleviating a nervous witness’s butterflies by telling him that he was in no state compared to when Cohn first took the bench. Both judges conceded that a lot of learning was done on the job.

Battani and Cohn both encouraged members of the audience to apply for clerkships. Cohn described clerkships as invaluable postgraduate work. Battani said that she asked her clerks what they like about the job and they listed honing research and writing skills, learning to look at both sides of a case and finding out what a good advocate is by seeing how lawyers practice in federal court.

She added that clerks get experience in many substantive areas of the law. Cohn noted that most of the work is writing memoranda on motions, usually dispositive motions. “I give my clerks a lot of responsibility,” he said.

“I encourage [my clerks] to disagree with me, up to a point,” said Cohn. He noted one clerk in particular who “got confused as to who was the judge.”

“The process of hiring is very complicated,” said Cohn. Battani said that she mainly considers grades, writing samples and interpersonal skills. After encouraging students again to apply for clerkships and to seek part-time internships during the semester, the judges engaged in a brief question and answer session.
Wednesday, Jan. 28

**THE USA PATRIOT ACT:**

**What are its First Amendment Implications?**

**WITH**

**PROF. DON HERZOG**

12:15 P.M.
218 HH

**SPONSORED BY**

THE NATIONAL LAWYER'S GUILD (NLG)
CO-SPONSORED BY ACLU

---

**STUDENT FUNDED FELLOWSHIP APPLICATION MEETING**

7 P.M.
100 HH

---

**STUDENT ANIMAL LEGAL DEFENSE FUND**

**GENERAL MEETING**

12:30-1:15 P.M.
138 HH
LUNCH PROVIDED

---

Thursday, Jan. 29

**WOMEN'S LAW STUDENT ASSOCIATION**

**GENERAL MEETING**

12:30 P.M.
220 HH

---

**WOMEN'S LAW STUDENT ASSOCIATION**

**FACULTY RECEPTION**

4:30 P.M.
LAWYER'S CLUB LOUNGE

**FOOD AND REFRESHMENTS PROVIDED**

**BUSINESS CASUAL ATTIRE SUGGESTED**

---

Thursday, Feb. 5

**"HEY GEORGE, GET OUT OF MY BUSH"**

A ROE V. WADE ANNIVERSARY EVENT

**FEATURING KATE MICHELMAN**
(PRESIDENT OF NARAL)
**AND**
**ALMA WHEELER SMITH**
(FORMER MI SENATOR)

7-9 P.M.
ROOM 100 HH
**FOOD AND REFRESHMENTS SERVED**

---

**RES GESTAE'S PUBLICATION SCHEDULE**

* FEBRUARY 17
* MARCH 9
* MARCH 23
* APRIL 6
* APRIL 20

PLEASE SEND SUBMISSIONS TO
rg@umich.edu

---

**Upcoming Bar Nights:**

Jan. 29 - Leopold Brothers
Feb. 5 - Full Moon
Feb. 13 - Mitch's

---

**Send Your Student Organization Announcements to rg@umich.edu**