

Henry J. Fletcher
Law Review Founder

Law Review alum to clerk for U.S. Supreme Court

Amy Bergquist (vol. 90-91), class of 2007, recently accepted a clerkship for the 2010-11 term with U.S. Supreme Court Justice Ruth Bader Ginsburg. Bergquist just completed a clerkship with Judge William A. Fletcher of the U.S. Court of Appeals for the Ninth Circuit. She plans to work for a year at Faegre & Benson in Minneapolis before clerking in 2009 for Judge **John Tunheim** (vol. 63-64) of the U.S. District Court for the District of Minnesota.

At the Law School, Bergquist was editor-in-chief of volume 91 of the *Law Review*. She remarks that many of her experiences with the *Law Review* contributed to her clerkship success. “Nearly all of the skills I developed while working on the *Law Review* have been



Amy Bergquist, editor-in-chief of vol. 91

essential for clerking. The attention to detail that is important for citechecking an article is just as important for reviewing and editing opinions before they are published.” Of greater significance to Bergquist, however, was the collegiality and professionalism of the *Law Review*. She remarks that she gained experience collaborating with others, and that skills she developed like “collaborative problem-solving, critical thinking, and diplomatic advocacy” have served her well as a clerk.

Bergquist is grateful for the opportunities she enjoyed at the Law School, including “a great legal writing program, outstanding

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Minnesota Law Review
Annual Symposium
“Law and Politics in the
21st Century”
Friday, October 17th
Details Inside

Minnesota Law Review
University of Minnesota Law School
255 Mondale Hall
229 19th Avenue South
Minneapolis, MN 55455

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Catching Up With...



Robert Sheran
Volumes 22-23

Few people have had a larger impact on the Minnesota Supreme Court than former Chief Justice **Robert Sheran** (vol. 22-23). None have had a longer impact.

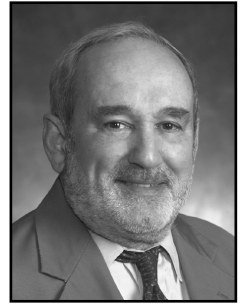
Born in Waseca, Minnesota, in 1916, Sheran graduated from the Law School in 1939. Sheran received his first experience with the Minnesota Supreme Court as a law clerk to Chief Justice Henry Gallagher, himself an attorney from Waseca.

Following his first year at the Court, Sheran joined the Federal Bureau of Investigation. He served in the FBI until the end of World War II, then relocated to Mankato. He joined the Farrish Johnson Law Firm, which was formed by pioneering female attorney **Charlotte Farrish** (vol. 9-10). Sheran was also reunited with his mentor, Henry Gallagher, who joined the firm that same year. In 1946, Sheran was elected to the Minnesota House of Representatives, where he served for four years.

Sheran was appointed to the Minnesota Supreme Court in 1963. He remained at the Court until 1970, when he resumed private practice at Lindquist & Vennum in Minneapolis. Four years later, Sheran returned to the Minnesota Supreme Court as its Chief Justice. In 1981, Sheran returned to Lindquist, where he remained until his retirement from daily practice in 1991. He later spent two years as Dean of the Hamline Law School.

And now, almost 60 years after his first experience with the Court, Sheran's imprint has not waned: his former law clerk, Eric Magnuson, was recently named its Chief Justice. //

Robert Atmore
Volumes 46-47



It is not often that victory comes after four losses in four different courts. But that is precisely what occurred when **Bob Atmore's** (vol. 46-47) client prevailed at the U.S. Supreme Court in *Plains Commerce Bank v. Long Family Land & Cattle Co.* Atmore and his firm, Lindquist & Vennum, represented the bank throughout the protracted litigation. "The client is elated," says Atmore.

Long Family recovered damages against the bank in Tribal Court after the bank foreclosed on land leased by Long Family, which had an option to purchase, and sold the land to nontribal members. The bank challenged tribal jurisdiction over the plaintiffs' discrimination claim, but the Tribal Court, the Tribal Court of Appeals, the Federal District Court, and the Eighth Circuit all concluded that the Tribal Court had jurisdiction.

After four losses, the bank finally succeeded in 2008 before the U.S. Supreme Court. The Court held that while tribes may regulate nonmember conduct inside tribal territory if it implicates the tribe's sovereign interests, tribes may not regulate the sale of non-Indian fee land to non-Indians. Thus, the Tribal Court had no jurisdiction because the claims arose from the bank's sale of non-Indian fee land to non-Indians.

While Atmore enlisted colleague Paul Banker to argue before the U.S. Supreme Court, he reflected on his own lengthy involvement in the case as he moves toward retirement, joking, "maybe I'll develop a new niche practice and focus on losing cases just to posture them for Supreme Court review." //

Remembering...



George MacKinnon
Volumes 12-13

Judge **George MacKinnon's** career started on rough footing – he was sworn into the bar on the day of the 1929 stock market crash. It did not phase him.

Born in St. Paul in 1906, Judge MacKinnon starred at the University in football, track, and basketball. After law school, he became assistant general counsel for Investor's Syndicate, a major mutual fund, and served in the Minnesota House of Representatives from 1935 through 1942. While in the state legislature, MacKinnon helped get his close friend from law school, **Harold Stassen** (vol. 12), elected governor in 1938.

At the outbreak of World War II, MacKinnon joined the United States Navy. After the war in 1946, he was elected to the U.S. House of Representatives. He served only one term, but made a lasting friendship with another first-term

Congressman, Richard Nixon. MacKinnon and Nixon helped draft the Taft-Hartley Act and investigated whether Alger Hiss passed government secrets to the Soviet Union.

After losing his bid for reelection, MacKinnon returned to private practice. In 1953, he was appointed United States Attorney for Minnesota. He ran for governor in 1958 but was defeated by **Orville Freeman** (vol. 25). MacKinnon returned again to the mutual funds industry until 1969, when then-President Nixon appointed MacKinnon to the U.S. Court of Appeals for the District of Columbia. One of Nixon's first two judicial appointments, MacKinnon stayed on the court until his death in 1995. He also presided over the Foreign Intelligence Surveillance Court after its inception and served as a member of the U.S. Sentencing Commission.

Judge MacKinnon was "fiercely independent," as the *New York Times* noted, a trait that was frequently vindicated. Over one period, the U.S. Supreme Court reversed 25 of the 29 decisions it reviewed from MacKinnon's court. In all 25, MacKinnon was in the dissent. //

Primed for the Election, *Law Review* To Explore 21st Century Politics

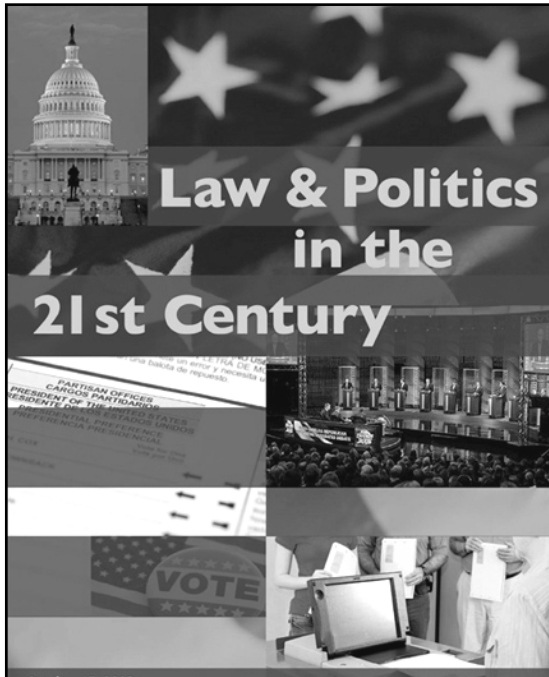
On **October 17, 2008**, the *Law Review* will host its annual symposium, “Law & Politics in the 21st Century,” at the Law School. The event will take place less than three weeks before the general election. The discussion will examine the ways in which political factors increasingly affect the development of the law, and will feature two keynote speakers: D.C. Circuit Judge Brett Kavanaugh and *The New Republic* columnist Benjamin Wittes. The symposium will also focus on three panel topics: “Politics and the Judiciary,” “Current Issues in Election Law,” and “Beyond Bush: The Future of Executive Power.”

Several of the country’s most distinguished scholars will participate. Professors Lee Epstein (Northwestern), Ward Farnsworth (Boston University), Nancy Staudt (Northwestern), and Tim Johnson (Minnesota) will address issues regarding the politicization of the judiciary. Discussion will include the merits of various modes of judicial selection, the political economy of judging, and factors that cause U.S. Supreme Court justices to dissent from the bench.

The second panel consists of Professors Heather Gerken (Yale), Ellen Katz (Michigan), Nate Persily (Columbia), and Terry Smith (Fordham). The panelists will tackle several important issues in election law. Debate will center on the U.S. Supreme Court’s four recent election law cases that raised issues from the constitutionality of voter identification requirements to the scope of political party autonomy to control of candidates’ access to the ballot.

Finally, Professors Steven Calabresi (Northwestern), Charles Cameron (Princeton), William Howell (Chicago) and Heidi Kitrosser (Minnesota) will address both the descriptive and normative scope of executive power. Professors Kitrosser and Calabresi will analyze unitary executive theory and will engage in a normative debate about its validity. Professors Howell and Cameron – the panel’s political scientists – will provide empirical assessments of executive power.

The *Law Review* is hosting the symposium in conjunction with the Institute for Law and Politics, an interdisciplinary institute based out of the Law School. Six and one-half CLE credits have been approved for the event, and all *Law Review* alumni who attend the symposium are invited to an alumni reception at the Law School after the symposium. More details, including registration information, are available at <http://www.law.umn.edu/lawreview/symposium.html>, or by contacting Jeff Justman, Symposium Editor, at just0052@umn.edu or 612-644-0742. //



The Editor’s Desk

Volume 93 is up and running!

Since hosting the annual banquet in April, the *Law Review* has transitioned to its new board, solidified our symposium agenda and roster, filled our volume, accepted 39 new staff members, and approved eight new student notes for publication – all before publishing our first issue. Here is a sneak preview of the Volume 93 highlights:

- A lead article from Professor Jack Balkin, Yale Law School.

- Articles from the most distinguished scholars in the nation, including Professors Martin Redish (Northwestern), Steven Schwarcz (Duke), and Ilya Somin (George Mason).

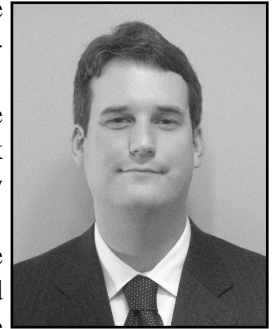
- Articles from some of Minnesota’s top scholars, including Professors Alan Erbsen and Jill Hasday.

- Our annual symposium.

- A continued emphasis on student publication, with a strengthened editing process and approximately 15 placements reserved for student notes.

In addition, we are examining our current online capabilities and looking for opportunities to improve. As our peer journals around the country have launched online companions, our board is hard at work creating our own online supplement in order to bring increased exposure to the *Law Review*.

A former editor-in-chief recently commented that electing an editor-in-chief is like promoting a factory worker to CEO. It is true that overseeing an entire volume can seem intimidating, but I am lucky to have a stellar board and staff working as my teammates. This year will involve plenty of on-the-job learning, and to that end, I always welcome the thoughts and ideas of our alumni. With your support, we look forward to building upon the *Law Review*’s tradition of excellence. //



Kyle Hawkins is the editor-in-chief of vol. 93.

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Editor-in-chief, vol. 93

The Fletcher Files is published twice annually. Send news, articles for submission, updated contact information, or general feedback to Ryan Stai, 2414 Buchanan St NE, Minneapolis, MN 55418, 612-335-7039, or ryan.stai@leonard.com. The submission deadline for the spring issue is Feb. 10, 2009.

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Lindsey Hopper (vol. 92-93)
Karla Vehrs (vol. 89-90)*

Are you interested in helping us write the Fletcher Files?

We are looking for three people to help write profiles and other articles. Email ryan.stai@leonard.com.

Alumni News

Susan Gaertner (vol. 63-64) has formed an exploratory committee and intends to run for governor of Minnesota in 2010. She is serving her fourth term as Ramsey County Attorney.

Michael Hurley (vol. 63-64) delivered the keynote address at Dean David Wippman's installation as the 10th Dean of the Law School. A former CIA officer and senior counsel to the 9/11 Commission, Hurley is now a consultant to the U.S. State Department on the Israeli-Palestinian peace process and a special advisor to the Nuclear Threat Initiative. He graduated from Edina High School with Dean Wippman.

Linda Mealey-Lohmann (vol. 73-74) has been appointed to the roster of mediators for the U.S. Postal Service REDRESS program and reappointed to the roster of independent contract mediators for the EEOC. She is also an adjunct professor at William Mitchell College of Law.

Emily Melvin (vol. 91-92) received a 2008 Burton Award for her article, *An Unacceptable Exception: The Ramifications of Physician Immunity from Medical Procedure Patent Infringement*, 91 Minn. L. Rev. 1088 (2007). It is the third straight year a *Law Review* alumnus has won a Burton Award.

Joseph Price (vol. 55-56), a partner at Faegre & Benson in Minneapolis, was named one of the nation's top 25 product liability lawyers by the *Guide to the U.S. Leading Lawyers*. It marks his second straight year of receiving the honor.

Meghan Ryan (vol. 89) is a visiting assistant professor at the Law School, teaching courses in criminal law, criminal procedure, and sales.

In Memoriam

William F. Brooks, Jr., vol. 44-45
Jan. 2, 2008, Minneapolis

Elizabeth A. Cumming, vol. 75-76
July 15, 2008, New York City

C. Blaine Harstad, vol. 39-40
Apr. 19, 2008, Minneapolis

Robert J. Miller, vol. 41
Aug. 24, 2008, Maple Grove, Minn.

C. Blaine Harstad

1928-2008



In 2005, when Volume 89 was trying to put together a fiftieth anniversary celebration of Volume 39, it had no idea where to start. The advice from the Law School's alumni relations department was loud and unanimous: talk to **Blaine Harstad** (vol. 39-40). For no reason other than his love for the Law School and his long-time friends, Blaine dove head first into the endeavor. Because of his effort, the reunion was a great success and has since become a key part of the *Law Review's* banquet.

A well-respected lawyer at Gray Plant Mooty in Minneapolis, Blaine volunteered again as one of the initial members of the *Law Review* Advisory Board. His wise counsel and unblemished reputation helped the Advisory Board establish its footing.

No one's ties to the *Law Review* were stronger than Blaine's. Perhaps it was his time as president of Volume 40. Or maybe it was his early professional practice with *Law Review* colleagues **Harry MacLaughlin** (vol. 39) and **Douglas Rainbow** (vol. 49). Regardless, Blaine will be greatly missed by the *Law Review* community. //

BERGQUIST, from page 1

professors, clinics, mentoring from faculty, the structured study group program, extracurricular activities, alumni support, and, of course, the chance to be a part of the *Law Review*."

A graduate of Amherst College in Massachusetts, Bergquist spent 11 years as a social studies teacher in the Minneapolis Public Schools. She is the eighth *Law Review* alum to clerk for the U.S. Supreme Court, joining **Norris Darrell** (vol. 5-6), **William Canby** (vol. 39-40), **James Hale** (vol. 48-49), **Allan Ryan** (vol. 53-54), **Timothy Kelly** (vol. 56-57), **Scott Knudson** (vol. 65-66), and **Douglas Winthrop** (vol. 74-75). //