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Reflections on the Job:
Joe Edney, 1956-1983

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International Conference

FALL 2007

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16



20



24

Creighton Lawyer

FALL 2007

Feature Stories

- 10 An Invitation to Success: Creighton Alumnus Douglas Johnson Helps Families Reunite with Zero to Five Family Drug Treatment Court
Judge Douglas Johnson, JD'87, founded the Zero to Five Family Drug Treatment Court two years ago. Read how Johnson helps the youngest of the young and their parents through a unique problem-solving drug court.
- 16 Advancing Community and Faith-Based Entrepreneurship: How is Creighton's CED Legal Clinic Faring Two Years Later?
Taking Creighton's service-driven mission to a new level, the nationally recognized Community Economic Development Legal Clinic operates as a full service public interest law firm and provides Creighton law students with hands-on experience in transactional law.
- 20 Reflections on the Job: Joe Edney, 1956-1983
Professor of Law G. Michael Fenner shares his story of reflection, fate and remembrance at a tiny village near the end of the road in Mexico.
- 24 Creighton Hosts International Conference on the Japanese Legal Profession: The Brave New World of Lawyers in Japan
The Creighton University School of Law held an international conference on Japanese law in May. Associate Professor of Law Bruce Aronson led the conference, which looked at big-picture issues, such as the rise of large corporate law firms in Japan and the role of lawyers in Japanese society.
- 4 Lawyer News
- 28 Alumni Briefs
- 30 William Blackstone's Enduring Legacy
- 31 The Last Word



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A Message from the Dean



Photo by Mark Rommesler

Even as faces change, the Creighton University School of Law continues to be a vital place to work and study.

Our Second Century: The Best is Yet to Be

No, this message was not written by an imposter. There is a new face in the Dean's Office and other changes as the School of Law moves on in its second century.

In July, Pat Borchers' title changed from dean of the law school to academic vice president of Creighton University. While we search for his replacement, I am honored to serve as interim dean. I'm new to the Dean's Office, but not to the law school. For 30 years, I've been part of Creighton's law faculty. I look forward with great enthusiasm to building on the foundations laid by deans who mentored me: Rod Shkolnick, Larry Raful and Pat Borchers.

As dean, Pat moved the law school forward on many fronts. We hired new faculty and increased faculty scholarship. We attracted talented students, expanded class offerings and forged closer ties to alumni. New ventures on Pat's watch include the Werner Institute for Negotiation and Dispute Resolution, the Community Economic Development Legal Clinic and Law School Advisory Board. Pat did all this while continuing to emphasize what makes Creighton law school unique — the Jesuit tradition of *cura personalis* (care of the individual person), excellent teaching and service to others. Thanks, Pat!

This year also saw Professor Dick Shugrue retire, after 40 years as our beloved guru of constitutional law and politics. He never forgot a name or face, and we will never forget him. Thanks, Doc!

We'll miss them both. Still, good news fills our future.

New faculty. Professor Sean Watts will teach constitutional law after nine years in the Army, the last three teaching at the JAG School. Professor Palma Strand, a Stanford law grad, comes to us from Georgetown to teach trusts and estates.

New international outreach. This fall we began a student exchange with a Jesuit law school in Spain. Professor Ron Volkmer led students to the Dominican Republic for study and service. Professor Mike Kelly won a prestigious award for his book on trials for genocide. Professor Bruce Aronson hosted a Japanese law conference in Omaha (see story on page 24), while Professor Ed Morse organized symposia in Denmark and Turkey. Professor Raneta Mack lectured in Lithuania and Professor Art Pearlstein spoke in Argentina.

The Creighton University School of Law is an exciting, vital place to work and study. With the support of our wonderful alumni and Creighton University's \$350 million *WILLING TO LEAD: THE CAMPAIGN FOR CREIGHTON*, the best is yet to be in the law school's second century.

Marianne Culhane, J.D.
Interim Dean and Professor of Law

Borchers Named VP for Academic Affairs, Culhane Named Interim Law Dean

Creighton University School of Law Dean Patrick Borchers was named vice president for Academic Affairs at Creighton. His term became effective July 1. He replaces Christine Wiseman, who was named provost of Loyola University Chicago.

Borchers served as law dean for eight years. Under his leadership, applications to Creighton's law school more than doubled and the school won several regional and national trial skills, negotiating and moot court competitions. The law

school was awarded its first federal grant from the U.S. Agency for International Development to study resolution of property claims involving Cuba.

In 2005, a \$4 million gift from the family of C.L. Werner, founder of Werner Enterprises, helped establish the Werner Institute for Negotiation and Dispute Resolution.

The law school also received a U.S. Department of Justice grant to create

a Community Economic Development Legal Clinic, which is committed to encouraging economic growth and stability within underserved communities in Nebraska, while providing third-year law students a clinical experience.

Marianne Culhane, professor of law, is serving as interim dean while a search is conducted for Borchers' replacement as dean of the law school.

Culhane has been on the faculty since 1977, teaching a variety of commercial and business law courses. She frequently writes and speaks on consumer bankruptcy and has been active in legal reform.

Law Students Selected for 2007 Equal Justice Works Summer Corps Program

Creighton law students Rachel Suhrbier and Britton Jobe were selected for the 2007 Equal Justice Works Summer Corps Program. Both served with the Nebraska Appleseed Center for Law in the Public Interest in Lincoln, Neb. Jobe focused on general legal services while Suhrbier worked with immigrant and minority populations. They were among the 592 applicants vying for 350 participant slots nationwide.

The 2007 Summer Corps members were first- and second-year law students from 117 law schools. While in the program, participants served at least 300 hours in public interest projects, providing critically needed legal assistance to low-income and underserved communities in 37 states and the District of

Columbia. Summer Corps members also gained first-hand experience and legal skills in areas such as client intake, individual representation, research and writing.



Rachel Suhrbier and Britton Jobe served with the Nebraska Appleseed Center for Law in the Public Interest this summer.

Photo by Mark Remesser

Civil Rights Lawyer Delivers Lane Lecture

Theodore Shaw presented the School of Law's annual Lane Lecture on Sept. 13. Shaw is director-counsel and president of the NAACP Legal Defense and Educational Fund, Inc. (LDF). Shaw recently participated in the Supreme Court's *Grutter* decision on the role of affirmative action in the admissions systems for the University of Michigan.

Watch for further information about these upcoming lectures: TePoel Lecture — Kenneth Roth, executive director of Human Rights Watch; Werner Lecture — John Paul Lederach, director of the Kroc Institute, University of Notre Dame; and Koley Lecture — joint panel on the famous *Nebraska Press Association* case featuring Jim Koley, JD'54, Woody Howe and Professor of Law G. Michael Fenner.

Strand, Watts Join Law Faculty

The Creighton University School of Law welcomed two new faculty members this fall. They are Palma Strand, assistant professor of law, and Sean Watts, assistant professor of law.



Strand

Strand most recently has been an adjunct professor at the Georgetown University Law Center and previously was an assistant professor at

the University of Maryland. She was a Hewlett Fellow in Alternative Dispute Resolution and Legal Problem-Solving at the Georgetown University Law Center from 2002-2004. She was also the co-founder and principal of the Arlington Forum, a civic organizing initiative based in Arlington, Va., that worked with community institutions to broaden and deepen civic engagement in the areas of schools, land use, youth and government processes generally. Strand will teach Trusts and Estates I, Legal Ethics and a course on Civic Organizing and Democracy in the spring.

Watts most recently taught as an



Watts

associate professor of international law at The Judge Advocate General's School and has been a lecturer at the University of Virginia School of

Law. Watts served as a Judge Advocate General in the United States Army from 1999-2007. He attended law school under the Army's Funded Legal Education Program. Prior to his selection for law school, he served as a Regular Army Armor Officer in a tank battalion. Watts will teach Constitutional Law, Post-Conviction Relief and Military Law.

Cote Named Assistant Dean for Career Services

Kristin Cote, JD'01, joined the School of Law on Sept. 4 as the new assistant dean for Career Services.

Cote graduated *magna cum laude* from the law school in 2001. She has taught legal writing at the law school for several years. Prior to attending law school, she was the director of debate and forensics and an instructor in the Communication Studies Department at Creighton University.

Cote replaces Shannon Kelly, who accepted a position as law clerk with the U.S. District Court. Kelly will work with Chief Judge Joseph Bataillon BA'71, JD'74, and with Judge Laurie Smith Camp.

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Werner Institute Continues to Grow

By almost any measure, the Werner Institute for Negotiation and Dispute Resolution has been an enormous success. In only its second year of operation, the Institute launched an interdisciplinary graduate program for the 2006-07 academic year. Enrollment in the program exceeded even the most optimistic projections by more than three-fold. By the second semester of the academic year, some 45 students

The interdisciplinary nature of the graduate program is one of the distinctive advantages of the Werner Institute over other law-based alternative dispute resolution (ADR) programs in the U.S.

“When I told colleagues at other universities of my goal to launch an interdisciplinary program in conflict resolution within a year,” recalls Institute Director and Professor of Law Arthur Pearlstein, “they told me I’d be lucky if it could happen in five or 10 years given the bureaucracy and lack of cooperation typical of academic institutions.”

students are enrolling under the joint degree program, which allows them to apply up to 12 credits of law school study in ADR to the 32-credit master’s degree.

The faster-than-anticipated expansion of the program has proved challenging, though it has created what Pearlstein calls “the kinds of problems we like to have.” He attributes the Institute’s accomplishments to the hard and creative work of its faculty and staff along with “incredible support” from outstanding colleagues on the law faculty and elsewhere at Creighton.

The achievements of the Werner Institute go well beyond the graduate program. The Institute and its leaders have been tapped by the Federal Mediation and Conciliation Service (FMCS) to lead a national program facilitating the design of dispute resolution processes for workplaces across the country, recognizing, in the words of the FMCS director, that Creighton “has developed an outstanding center for the study and development of conflict resolution.”

The Institute has also done work for the State Department, the U.S. Office of Personnel Management and the World Health Organization, as well as a host of local and regional community, business and government organizations.

As the Institute forges ahead with plans for two international conferences and for launching a major distance learning program over the next year, it seems well on its way to realizing the vision of the C.L. Werner family, whose generous gift to Creighton made it possible.

The Werner Institute and its leaders have been tapped by the Federal Mediation and Conciliation Service to lead a national program facilitating the design of dispute resolution processes for workplaces across the country.

had entered the program, most of them working toward the newly established M.S. in Negotiation and Dispute Resolution. Total enrollment by the fall of 2007 exceeded 80 students.

The graduate program includes students from an amazing variety of backgrounds. Law students, experienced attorneys, human resources professionals, doctors (including a psychiatrist and a dentist), teachers, entrepreneurs, mental health professionals and clergy are among those enrolled along with a number of outstanding recent college graduates.

Pearlstein attributes the speed of getting the program off the ground to the closeness of the Creighton community, the joint commitment to advancing the University, and the emphasis on interdisciplinary growth in Creighton President the Rev. John P. Schlegel’s vision for Creighton. Indeed, Fr. Schlegel has held the Institute out as an exemplar in Creighton’s renewed commitment to graduate education.

The Institute now has joint degree programs in place with the law school, the business school and the graduate International Relations program at Creighton. An increasing number of law

Creighton Alumnus Featured in New Yorker Article

John McKay, JD’82, is prominently featured in the Aug. 6, 2007, issue of *The New Yorker*.



The article, written by Jeffrey Toobin, CNN’s legal analyst, is titled “An Unsolved Killing: What does the firing of a U.S. Attorney have to do with a murder case?” and can be found at: www.newyorker.com/reporting/2007/08/06/070806fa_fact_toobin.

The article, written by Jeffrey Toobin, CNN’s legal analyst, is titled “An Unsolved Killing: What does the firing

of a U.S. Attorney have to do with a murder case?” and can be found at: www.newyorker.com/reporting/2007/08/06/070806fa_fact_toobin.

McKay is a former United States Attorney for the Western District of Washington. President George W. Bush nominated McKay to serve as the United States Attorney on Sept. 19, 2001, and the United States Senate confirmed his nomination on Oct. 24, 2001. McKay began his tenure as United States Attorney for Western Washington on Oct. 30, 2001.

One of eight U.S. attorneys fired by the Bush administration in 2006 for performance related issues involving “policy, priorities and management,” McKay is currently an adjunct professor of law at Seattle University



John McKay, one of several former U.S. attorneys who was asked to resign last year by the Bush administration, testifies during a Senate Judiciary hearing on their dismissals in March 2007.

School of Law. In May, McKay joined Getty Images, headquartered in Seattle, as senior vice president and general counsel.

Creighton Law Grad Accepts Clerkship with Supreme Court Justice Clarence Thomas

Patrick Strawbridge, a 2004 graduate of Creighton University’s School of Law, has accepted a clerkship with U.S. Supreme Court Justice Clarence Thomas, effective July 2008.

“This is, of course, terrific news for Patrick who was an extraordinary student and is an extraordinary human being,” said Creighton Law Professor G. Michael Fenner. “It is great news for Creighton as well. With Patrick, our law school joins the list of the relatively few whose graduates



Justice Thomas signs a book for Strawbridge in 2003, when Thomas taught a weeklong seminar course at Creighton. Strawbridge will begin clerking for Thomas in July 2008.

have clerked on the nation’s high court.” Strawbridge participated in a 2003 Supreme Court seminar taught by Justice Thomas and Fenner. Thomas and Fenner teach the weeklong seminar every other year at Creighton University.

“I feel very fortunate to have this kind of opportunity and feel it is a great honor to serve as a clerk for Justice Thomas. I owe Creighton and all of my professors there for providing me with the education that made this clerkship possible,” said Strawbridge.

2007 Dominican Republic Trip

Last January, eight Creighton law students and one graduate student from the Werner Institute for Negotiation and Dispute Resolution, accompanied by their sponsor, Professor of Law Ron Volkmer, participated in Creighton law school's fourth Dominican Republic immersion experience. The Creighton law school's program is conducted under the auspices of the Institute for Latin American Concern (ILAC) and follows the model of other ILAC programs — focusing on the service of faith and the promotion of justice.

The law school's program is based on the goals and ideals formulated by the Superior General of the Society of Jesus, the Very Rev. Peter-Hans Kolvenbach, S.J., in his landmark Santa Clara speech of 2000. In that talk, Fr. Kolvenbach stated that we must raise our Jesuit education standard to educate the whole person in solidarity for the real world. That solidarity, stated Fr. Kolvenbach, is learned through contact rather than through concepts. As the Superior General put it: *"When the heart is touched by direct experience, the mind may be challenged to change. Personal involvement with innocent suffering, with the injustice others suffer, is the catalyst for solidarity which then gives rise to intellectual inquiry and moral reflection ... Students must let the gritty reality of this world into their lives, so they can learn to feel it, think about it critically, respond to its sufferings and engage it constructively. They should learn to perceive, think, judge, choose and act for the rights of others, especially the disadvantaged and the oppressed."*

The photos that follow document the group's immersion experience.



The group toured a Haitian *batey* (Batey Libertad). Pictured above with children from the *batey* are, left to right, Roxanne Beranek-Oscarson, Colleen Byers and Christen Carns.



Students participated in a service project at an elementary school (Rafaela Jiminian de la Cruz) in Cienfuegos, Santiago's largest *barrio*. Pictured in the foreground are James Meuret (digging with tool) and Roxanne Beranek-Oscarson (kneeling at far right).



James Meuret and Colleen Byers (in the background) painted a building during the group's service project at Las Lamas, a *campo* village in the mountains.



In Dajabon, participants in the immersion program witnessed the influx of Haitians crossing the border on market day.



An integral part of the trip was the time spent in reflection and prayer. The Rev. Pat Malone, S.J., led these sessions. Pictured in St. Omer Chapel are: (front, left to right) Zac Oswald, Fr. Malone, Dawn Heusohn, Roxanne Beranek-Oscarson, Rachel Suhrbier and Christen Carns; and (back, left to right) Robert Holland, James Meuret, Kelly Orbik, Colleen Byers, Ron Volkmer, Cara Gatlin and Jim Howell-Burke.



During a daylong trip to the Dominican Republic capital of Santo Domingo, the group toured the Supreme Court and met with Attorney General Radhames Jimenez. Pictured above are, left to right: Dawn Heusohn, Jim Howell-Burke, Ron Volkmer, Colleen Byers, Roxanne Beranek-Oscarson, James Meuret, Attorney General Jimenez, Kelly Orbik, Christen Carns, Robert Holland, Zac Oswald, Margarita Dubocq and Rachel Suhrbier.



An Invitation to Success:

Creighton Alumnus Douglas Johnson Helps Families Reunite with Zero to Five Family Drug Treatment Court

By Eugene Curtin

Watching five or so young mothers stand one by one before Judge Douglas F. Johnson is a bit like watching a teenager face dad after wrecking the family car.

The relief is palpable. Dad turns out to be far more concerned about you than about your transgression, more worried about how you are handling the situation than the situation itself. Dad's not mad. Phew!

Of course, it's all slightly illusory, because after dad has reassured you that you are still loved and valued, and that there remain plenty of reasons to believe in you, the hammer is coming down. Driving privileges will be suspended, courses in safe driving required, and a lengthy period of responsible behavior demonstrated. Only then, and only incrementally, will privileges be restored.

So it goes in Judge Johnson's Zero to Five Douglas County (Nebraska) Family Drug Treatment Court where Johnson deals not with wrecked cars, but wrecked lives — lives wrecked usually by drug addiction and damaged further by child neglect.

Johnson has served with Douglas County's juvenile court since January 1994, where the bulk of his judicial workload still lies. Two years ago, however, he founded the Zero to Five Family Drug Treatment Court, an additional duty that permits

him to specialize in cases involving children from newborns through age five. His project was approved by the Nebraska Supreme Court and was the first of its kind in the state and in the country. He partnered with the National Council of Juvenile and Family Court Judges; Zero to Three, the National Center for Infants, Toddlers, and Families, a nonprofit multidisciplinary organization dedicated to the health development of infants and toddlers; and the National Drug Center Institute for evidence-based best practices.

Johnson says he did this to create an effective response for the one-fourth of all children who are placed in foster care — birth to five years old. Once in foster care, these children stay the longest and suffer trauma from multiple foster placements and lack of attachments. These children have poor social interactions, underachieve in school, and usually wind up in trouble as delinquents. As parents, they replicate the pattern of abuse and neglect since they were not properly parented.

Early childhood science shows that a child's greatest brain development is from



Judge Douglas Johnson, JD'87

birth to age three. To achieve healthy brain development, a child requires a consistent nurturing caregiver. Only then will a child be cognitively and emotionally prepared for healthy social relationships and school. Since the main reason children enter foster care is parental substance abuse, and since babies and toddlers need a permanent loving caregiver quickly, Johnson thought why not help the youngest of the young and their parents through a unique problem-solving drug court for their issues and needs. Eventually, he expanded the project to include four and five year olds.

A 1987 graduate of the Creighton University School of Law, Johnson now teaches juvenile law at Creighton and is the recipient of several awards for his work with children, including recognition by the Nebraska Supreme Court in 2001 when he received the Distinguished Judge Award for Service to the Community.

Behind the bio, though, and beyond the awards, lies an upbeat and engaging man who is determined to "break the cycle" that too often sees the children of offenders eventually falling into the court system.

“I set the tone for civility,” Johnson said. “Parents are going to get a fair shake. Mine is not a criminal court, so parents are not sent to jail as a consequence. I have some coercive powers, but it’s for true contempt of court, which is rare. Studies show that affirmation, encouragement and rewards work better to motivate change in behavior than a jail sanction. What parents also need to know is that they have my respect, that they will be treated with dignity, that they are being offered an invitation to success, and they are accountable for their actions.”

Success, in the context of Johnson’s court, has much to do with benchmarks and milestones. Frequently, the first consequence for a young mother or father found to be involved with illicit drugs is removal of their children and the placement of those children in foster care. For those involved in Zero to Five, this suspension of parenting privileges begins a lengthy journey involving drug and mental health evaluations, parenting education, anger management courses, unannounced home inspections, a job search and a gradual reintroduction of privileges. Failure to meet the benchmarks can mean permanent legal severance of parental rights and the child being put up for adoption.

But, Johnson said, he does not like to stress such bleak consequences when dealing with young mothers and fathers. They are in the Zero to Five program voluntarily after all, thus demonstrating a desire to get back on track and recover their children. Rather than asking whether they have met this or that benchmark (the team can handle such things), Johnson begins with questions about the relationship of the parent and child, which is very personal and takes time.

“How did it feel to visit with your child, to feel how your child clung to you? That’s what I ask,” he said. “Did you read to your child? Did you sing to your child? How does your baby react? How does that make you feel? How does parenting sober feel?” Johnson has developed a series of questions with therapists that helps the parent reflect on his or her relationship with the child. Recognizing and strengthening that relationship brings about parental pride and change.

“This court is about restoring the relationship of a parent with a child, and a child with a parent. People often think that a successful outcome is when parents get their children back. But we are trying to help children get their parents back. If that can’t happen, then the child should be adopted in a timely fashion.”

Zero to Five Family Drug Treatment Court helps parents improve through holistic interventions including: mental health and substance treatment, parenting assessment, training and skills development, early childhood evaluations,

For those involved in Zero to Five, this suspension of parenting privileges begins a lengthy journey involving drug and mental health evaluations, parenting education, anger management courses, unannounced home inspections, a job search and a gradual reintroduction of privileges.

dyadic therapeutic parenting time, domestic violence programs, housing, diet, exercise, smoking cessation, frequent drug tests, dental care, jobs, time management,

mediation and family group conferences — always with the child’s best interest and timely permanency in mind.

A Day at Court

It’s 10:15 a.m. on a Tuesday at the Douglas County Hall of Justice on Farnam Street. The spacious first-floor Jury Assembly Room has been transformed into a Family Drug Treatment Court by virtue of a sign temporarily attached to the judge’s podium. Judge Johnson is scheduled to arrive at 10:30 a.m. In the meantime, the Zero to Five Family Drug Court team staffs cases and prepares to report on the progress of each parent and each child’s well-being. The program participants sit quietly in a waiting area.

Johnson arrives in shirt and tie, cheerful as ever, five minutes early. He banters a little, slips on the black robe, takes his seat and calls the first case.

It’s a young girl, late teens perhaps, in trouble with the law for drug use. She wants to be admitted to the program,

hoping that its five stages will enable her to get her children back. She’s admitted.

Next up is a mom who apparently has an

anger problem with her son since Johnson is eager to know how she handles things when her son is crying. “Do you take a break?” he asks. She does. Her social workers report significant progress. Johnson is pleased. He jokes. He tells her she is doing well and invites her to take a toy or a children’s book from a “treasure chest” stocked by donations from companies and individuals who value the program.

Next up is another burgeoning success story, a mom with a young son. She is 27 days into the course but has had a run of bad luck lately. The latest stumble occurred when her car broke down in the middle of Interstate 80. But she stayed calm.

“I didn’t get irate like usual,” she told the judge.

Yes, she tells Johnson, she has been exercising and swimming, and is counting the days as she advances through the program toward full reunification with her child.

“It feels good to come in here and not feel scared,” she tells Johnson. She gets to dip into the treasure chest.

The next participant does not.

Possibly the youngest of this morning’s moms, she is already the mother of three children, has a meth and alcohol problem, is not adapting well to the program and is in danger of losing social services from private agencies whose rules she also is not respecting.

She is 33 days into Phase 2 of the program. She’s not doing well, but she’s here, and she takes the time to apologize to everyone — two good signs. Johnson



Judge Douglas Johnson conducts a session of the Zero to Five Drug Court at the Hall of Justice in downtown Omaha.

wants to reinforce her determination to succeed. He orders her to write a letter to her kids explaining why it is important for them to have a sober, caring mom and stating her intention to become that mom. No treasure chest, but a round of applause.

A very chatty mom is next up, with 28 days in Phase 4 of the program, and obviously comfortable with the judge. The social workers are effusive about her progress and she talks about her son, how he just started walking and how he has to be restrained by gates. A definite trip to the treasure chest.

Not so for the next and final participant this Tuesday morning. Three weeks after verbally blasting a substitute judge, this 20-something has obvious rage problems and is accompanied by her mom. Her social workers tactfully let her know that

her previous behavior was upsetting not only to the judge and other Family Drug Treatment Court team members, but also to her “peers,” those taking part in the program along with her.

She refuses to apologize.

Judge Johnson steps in to warn her that her meth use could cause her to lose her kids permanently. He warns that meth is so powerful a drug that addicted parents often abandon their kids for days on end in its pursuit. She can’t count on her mom to clean up her mess forever, Johnson warns. She must take an anger management course.

“This is a lifelong issue for you,” he says. “We want you to succeed.”

There is a commencement at the end of

the session, a low-key event at the request of the mom graduating. She is back in full possession of her three children, the youngest dozing on her shoulder. There is a cake and punch to mark the occasion.

“Eighteen months ago I was pregnant and using,” she told the gathering. “I was a terrible housekeeper. I couldn’t pay the utilities. My kids were taken away. I am so grateful for this past year and a half. I have all three of my kids back.”

Johnson is beaming. This, he said, is why he conducts the Zero to Five court, why he signed on to this early intervention concept that is gaining advocates across the nation.

“The heart of this program is about being a mom, being a dad,” he told the gathering. “When you know what you want, and you want it badly enough, you will find a way to get it.”

Johnson, 53, who is married with two children, long ago considered becoming a Jesuit priest and had been a member of the order from 1978-84. He had been in the Novitiate for two years where he took his first vows and then studied humanities and philosophy for three years. He taught English at Marquette High School as a Scholastic before deciding the nomadic nature of Jesuit life was too much at odds with his desire for roots and a family, which he could affect over the long term.

More than 20 years after his release from his vows, however, Johnson said the Jesuit imperative — service to others — remains vital.

“I do feel my Jesuit training and experiences shape how I act as a judge,” he said. “It’s the ongoing desire to be in the service of others. It’s about finding God in all things and all people. That’s what St. Ignatius always spoke of. If you are willing and observant, you can find and encourage that spark in others, and that is the road to improvement.”

About the author: Eugene Curtin is a freelance writer in Bellevue, Neb.

Current Outcomes for Zero to Five Family Drug Treatment Court (FDTC)

- Four graduations with eight graduates since May 2005
- Average length of time in FDTC 12 months
- Twelve children have received permanency
- One graduate has given birth to a healthy baby with no drugs in the baby’s system
- 31 out of 39 children have placement with a relative
- Eight cases were dismissed from FDTC
- Two parents have relinquished their rights
- There has been one case where the child’s parent relinquished rights. The child was adopted by a placement family.
- FDTC has worked with 30 families and 41 children

A Success Story: Andrew Mitchell’s Fight Back



Andrew Mitchell with his sons Adam, left, and Alex, right. Mitchell is a graduate of the Zero to Five Family Drug Treatment Court.

Photo by Mark Romesiger

Mist still shrouds the past two or so years in the life of Andrew Mitchell. Events, especially their chronology, are something of a jumble to him. Still, his continuing emergence from addiction to meth and marijuana permits him to speak fluently as he describes his descent into a chemical hell.

It began for Mitchell at age 12 after the death of his father, when he made friends with a student three years his senior. To Mitchell, now 25 years old, it seemed his friend lived a life of utter freedom.

He not only smoked cigarettes at home, and drank, but did so in his mother’s presence and usually at her expense. Within a week of their friendship, Mitchell had been introduced to meth.

And so began a six-year descent into drug addiction which left him in a state of mental, spiritual and functional paralysis. The descent was complete, but the day did not pass that Mitchell failed to tell himself he could quit whenever he wanted. Of course, he never wanted. He partied, drank and filled his craving body with chemicals. Nothing else mattered. When high school graduation rolled around, he found himself at least two years behind the curve with no chance of walking across that stage.

His girlfriend did, though, and the sight of her accepting her diploma brought Mitchell to his senses.

“I thought, ‘This really sucks,’” he said, recalling that moment. “I thought I should be graduating, too.”

For the better part of two years he fought back, earned his GED, but fell back in the pit after his girlfriend left him. In short order he was arrested for driving under the influence, and got his new girlfriend pregnant.

In time, he said, he and his equally addicted girlfriend had two children, were utterly incapable of caring for them, and basically abandoned them to his mother’s care. Eventually, the state moved in and placed the two infant boys in foster care.

Today, Mitchell has his children back. He is employed at Wal-Mart, is no longer together with his girlfriend and lives with his mother in west Omaha. He has a new set of friends. He is two years clean. And counting.

And he is grateful that two years ago he was given a chance to enter Judge Douglas Johnson’s Zero to Five Family Drug Treatment Court. There, he said, he found a little point of light, a lodestar that gave him direction in his battle against the darkness.

“I was bound and determined to let those people help me,” he said. “I wanted to know what I had to do to get over this, to get our kids back. So I entered the program.

“I loved it, and I hated it, all at the same time. When it first started, they had me doing so many things when I was used to doing nothing. I met with counselors, drug counselors, parenting teams. They helped me find a job at Wal-Mart, which I’ve held.

There was no time to even think about drugs. I was a human being again, a human being who had to relearn how to live life.”

He stumbled twice as he advanced through the course. He was admonished, lost some ground in the program, but he was not abandoned. The court felt he could succeed, and so Mitchell persevered.

“Judge Johnson encouraged me every single step along the way,” he said. “I have so much respect for that man and his upbeat, positive approach.”

Mitchell said he knows he has been given a second chance, a great gift. His kids, he acknowledged, are so young that they might never remember this difficult chapter. He has a chance, against the odds, at a full and useful life.

“It’s a miracle to think of that,” he said. “When I think of where I was, how completely lost I was, and where I am today, it’s just pretty amazing.”

Advancing Community and Faith-Based Entrepreneurship:

How is Creighton's CED Legal Clinic Faring Two Years Later? By Katie Henriksen

Since joining the Creighton University School of Law's Milton R. Abrahams Legal Clinic in January 2005, the Community Economic Development (CED) Legal Clinic has tackled the issues relating to poverty in communities throughout Nebraska (and some in Iowa) by empowering nonprofits, minority groups, neighborhood associations and low-income entrepreneurs to revitalize their distressed communities.

The CED Clinic, which operates as a full-service public interest law firm and provides Creighton law students with roll-up-your-sleeves, hands-on experience in transactional law, delivers *pro bono* legal services to disadvantaged populations across the state of Nebraska. The CED Clinic is the only one of its kind in the country that extends its services statewide and into rural areas.

A Mission of Service

Taking Creighton's service-driven mission to a new level, the CED Clinic responds to the needs and aspirations of low-income, racially diverse and immigrant communities through community economic development efforts with a focus on troubled rural areas.

"The need in our state is severe," said Steven Virgil, director of the CED Clinic and supervising attorney. "Nebraska has the three lowest income counties in the nation and nearly 10,000 nonprofit corporations, many of which serve low-income people and lack access to legal services."



Virgil

Virgil believes that the clinic has done remarkably well in advancing its mission. Since its start just two years ago, the CED Clinic has served an average of 1,000 clients each year by delivering legal services, technical assistance and consulting services. The clinic has helped to create or sustain more than 300 jobs in communities across Nebraska, while also serving Creighton University's mission of educating students for service to others.

"The availability of legal representation is often the primary element in an organization's capacity to carry out its work. Our goal is to positively impact our region by equipping clients with the necessary legal tools," said Virgil.

By serving those who serve the poor, the clinic also reaches beyond individuals to bring about enduring and systemic change.

By working with various non-profit organizations in underserved communities, the clinic helps clients plan and implement strategies that will create and protect assets, spur job growth and promote sustainable development in low-wealth areas.

National Recognition

In recognition of its efforts, the CED Clinic was recently awarded a five-year, \$100,000 grant from the W.K. Kellogg Foundation for policy work on rural issues in Nebraska.

"The CED Clinic offers expertise in entrepreneurship and community development, particularly in rural areas where access to legal services is limited," said Virgil. "Kellogg's support will allow the clinic to work with leaders from around the Great Plains to develop and implement policies that serve Nebraska's rural communities."

The clinic was also recognized by the U.S. Department of Commerce as one of three national finalists for the Excellence in Economic Development Award, which honors organizations for their advancement of community and faith-based social entrepreneurship in redevelopment strategies for areas of chronic economic distress.

Preparing Students for Service

As a teaching clinic, the CED Clinic pairs clients with third-year law students who are supervised by clinic faculty and staff attorneys. Each semester, up to 12 students have the opportunity to sharpen their skills while enriching their perspective on social, economic and legal justice issues.



Photo by Julian Jenkins

Matt Andrew, JD'07, now living in Idaho, worked at the CED Clinic during his third year of law school.

Creighton's CED Clinic is unique among teaching clinics in that it presents an opportunity for students to exercise transactional skills in client interviewing, advocacy, problem solving and community lawyering while fighting the systemic causes of poverty across the state.

Matt Andrew, JD'07, was involved with the CED Clinic throughout his third year of law school. "I was lucky enough to get to work in the clinic for the entire year," he said. "It was a great mentoring environment where I got the chance to learn from attorneys who had been practicing for 15 to 20 years. The

experience I got out of it was invaluable."

Andrew credits the clinic with giving him a chance to learn a number of practical skills that will help him become a better lawyer. "You can know all the substantive law in the world, but if you can't handle your clients or deal with opposing counsel, you're going to come up short in your practice," he said. "Those are just a few of the things I learned firsthand in working in the clinic."

Andrew described Creighton's CED Clinic as a small law firm in which students get the opportunity to play a

major role. During his one-year stint with the clinic, Andrew was able to work on a number of real estate law cases. "We dealt with several predatory lending cases, where people were being defrauded out of their homes," he said. "I got firsthand experience in researching, preparing and even trying cases. It was very satisfying to be able to help people who might otherwise have lost their homes."

According to Andrew, working in the clinic also helped to reinforce his commitment to service. "While I was in the clinic, I was able to work with

people who would not have been able to help themselves except by the services that we were able to provide them," he said. "The importance of service to others is something that was always in the background at Creighton. Working in the clinic helped me to realize that an attorney's role can really make a difference and have an impact in that regard."

As a recent law school graduate, Andrew is now preparing to take the bar exam in Idaho. If all goes as planned, he will join the Marine Corps in January to begin five years of active duty. It is a job Andrew

says he looks forward to. "I wanted a chance to do something more significant at the beginning of my career than simply earning a lot of money," he said. "I joined the Marines because I wanted to serve in some capacity. My work at the CED Clinic only helped to reinforce that."

For more information on Creighton's Community Economic Development Legal Clinic, contact Steve Virgil at 402.280.3068 or cedlaw@creighton.edu.

About the author: Katie Henriksen is a freelance writer living in Council Bluffs, Iowa.

Helping Those Who Serve Our Communities

Located at 24th and Lake streets in North Omaha, Family Housing Advisory Services (FHAS) is a comprehensive housing counseling agency with a mission of building community and increasing housing opportunities by empowering people to secure and sustain safe and affordable housing. The agency is certified by the U.S. Department of Housing and Urban Development (HUD) to provide Comprehensive Housing Counseling Services.

FHAS offers a host of programs that are focused on helping people overcome poverty by developing the asset of owning a home. According to Gary Fischer, general counsel for FHAS, the agency has worked with Creighton's Community Economic Development (CED) Legal Clinic regularly

since the clinic opened in 2005, and over time has built a mutually beneficial relationship.

A Much Needed Resource

Not only has the clinic helped FHAS directly with the legal issues that go along with running a nonprofit corporation, but the clinic also helps the agency assist its clients.

"The clinic helps improve our capacity to address the needs of our clients," Fischer said. "They do that by providing us with educational information. For example, we have a program that helps prevent foreclosure on people's homes, and the clinic has provided training materials to help our staff become more aware of the options available to their clients."

Creighton's CED Clinic also reviews cases for the organization, evaluating them for legal flaws and advising the agency on legal remedies that may help the agency negotiate better results for its clients. The

clinic also accepts client referrals from FHAS, providing direct legal assistance to those who have been victims of predatory lending practices, for example.

"The CED Clinic is extremely important in rural areas of the state where you can't obtain counsel at all, let alone counsel of the quality that they provide," said Fischer. "The clinic offers the best kind of legal service you can get anywhere. Because it's also a teaching clinic, they have a great deal of resources to devote to these cases."

Not in My Backyard

As part of the Kellogg Foundation grant, the clinic is working with the FHAS in researching and developing an education program to help individuals and organizations wanting to build facilities, such as a group home or shelter, to benefit the less fortunate in their communities.

One example of such a case occurred when the city of Gordon, Neb., attempted to block

a group from opening a much needed rescue mission in that community. FHAS referred the group to Creighton's CED Clinic for help. Eventually, the parties were able to reach an agreement by relocating the facility and also expanding its capacity. "Because of the legal assistance the clinic provided, this rural Nebraska community was able to get a much needed service that wasn't going to happen elsewhere," said Fischer.

The High Plains Center, the nonprofit organization involved in this effort, has since referred several more cases to the CED Clinic for legal assistance. One such case was brought on behalf of a group of disabled people in the Chadron, Neb., area who had been unlawfully forced out of their housing; another involved building a facility to assist the homeless in the Scottsbluff, Neb., area.

Helping Nonprofits Advance Their Mission

As a result of the work they have done with Creighton's CED Clinic in rural areas of

the state, FHAS has become better known outside of the Omaha metro area. "Not only is the clinic helping our clients directly, but they've also helped us further our anti-discrimination mission throughout the state by providing education and resources," Fischer said.

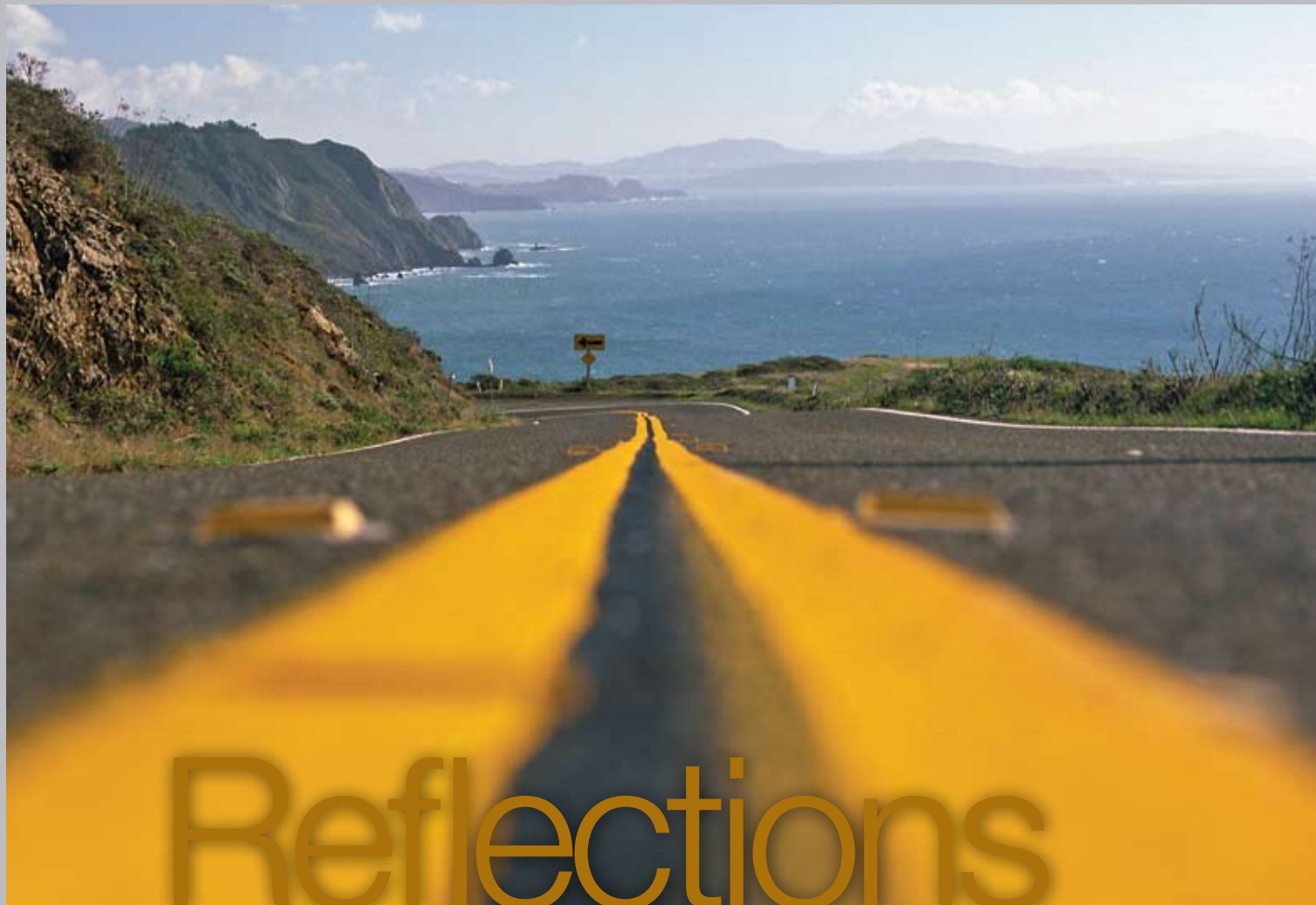
Fischer also believes the CED Clinic has helped Creighton to establish more of a presence in the North Omaha community.

"I think that Creighton is often criticized in the North Omaha community where I work," he said. "The CED Clinic is doing something every day that helps break down that criticism and establish Creighton as an organization that does care and is doing something to help the poor in this community. Not only that, but they have helped to expand Creighton's mission of service beyond Omaha and into all of Nebraska and Iowa as well."



Photo by Mark Romeser

The Omaha Family Housing Authority's staff credits Creighton's CED Clinic with helping them and others with legal services and advice. Pictured, from left to right, are Sandy Baxter (assistant director-investigations, Fair Housing Center), Gary Fischer (general counsel), Lillian Miranda (intake specialist/data manager, Fair Housing Center) and Donna McFadden (homeownership program director).



Reflections on the Job:

Joe Edney, 1956-1983

By G. Michael Fenner, Professor of Law

My daughter Hilary got married last March. She married Alex Dessouky. They were wed on a beach pretty much in the middle of nowhere, but somewhat near the town of Troncones, Mexico. Troncones is a remote fishing village on the Pacific Ocean, reached by turning west off Federal Highway 200, at km marker 31. This is the story of how this wedding led me to reflect on what a great job I have, and how it led me back to Joe Edney.

Here is how you get to the beach house in which we stayed for the week preceding the wedding. On Federal Highway 200, north from the Ixtapa/Zihuatanejo airport, take the turnoff for the two speed-bump village of Buena Vista. Just over the second speed bump make a right turn. From there, except for the concrete bridge back over the highway, the road is dirt and rock. It is about five one-lane miles long. Much of the way in, there is barbed wire right up against the road on each side. As we drove in or out we sometimes had to wait. Once we waited as a few count-their-ribs cattle were being driven from a dusty brown pasture on one side of the road to another dusty brown pasture further down on the other side. Once a man on a burro was ahead of us, with his dog, and we had to wait for them to come to a place big enough for them to move to the side so we could pass. If you met oncoming traffic, one or the other had to back up to a turn off. At least three of the people driving the wedding road were delayed while they

changed tires flattened by the rocks.

We stayed in this house at the end of this road for the week preceding the wedding. It fronted on an enormously wide beach. It is as long, wide and pretty a beach as I have seen. Because of its remoteness, the beach almost always had no one on it. No one but us. It was an ideal spot for a celebration.

One morning midweek — on the morning of the day in question, as they might say if this were a deposition — I reached into my suitcase and pulled out a random T-shirt to wear with my swimming trunks. It said “Jim Esch for Congress.” Both Jim and his opponent, Congressman Lee Terry (R-Neb.), were students of mine. Jim gave me a T-shirt. Lee did not. It was, then, a Jim Esch for Congress T-shirt I put on that morning.

As the day passed, we decided that we would have dinner that evening with some of our friends and relatives in the nearest



Photo courtesy of Mary Lynn (Edney) Schwietz, BS'73

Joe Edney, BA'78, JD'83 (posthumously), died in a car accident during his last semester as a Creighton law student.

town with a restaurant — Troncones. Our daughter recommended Eden.

As the dinner hour approached, we drove back out the dirt and rock road to Buena Vista (which, by the way, as far as I could tell had absolutely no view at all) and turned left onto the paved highway. We crossed the two speed bumps and drove the mile or so to Federal Highway 200. We took the highway another 10 or so miles to the bus stop at km marker 31, where we turned left and onto the five-mile road into Troncones. At the T in the road as you enter Troncones, we turned right and drove nearly to the end of that gravel road — past Mi Casa es Su Casa; Present Moment Conscious Living Retreat and, two doors down, Casa Tranquila (Which came first, I wonder, Present Moment Conscious Living or Tranquila?); Casa Omaha, with Herbie Husker by its gate — to the Garden Restaurant at the Hacienda Eden.

The restaurant is outdoors. The tables are set among palm trees and flowers. They say that the sunset is always beautiful and, as far as I can tell, they are right. That night it was perfect, with clouds and water so orange and purple that it did not look real. The name Garden Restaurant at Hacienda Eden is truth in advertising.

On the evening in question, there were five groups of people in the restaurant, including one table with three women. As I recall, the restaurant was full, but because it was outside, it is difficult for my memory to pin down where it ended.

When we had finished eating and as we got up to leave, one diner from the table of three women came up to me and said, “Jim Esch for Congress?” I said, “Yes, he ran for Congress in Nebraska. He is a Democrat. He lost.” She said, “Jim Esch is a friend of our family.”

Because this part of the exchange was overwhelmed by what followed, I did not remember this young woman’s name. I said to her, “Jim was a student of mine.”

“Where do you teach?”

“At Creighton University, at the law school.”

“Did you know Joe Edney?”

“Yes, I sure did. He was a student of mine who was killed in a tragic automobile accident while he was a student.”

“Joe was my brother,” she said, “and I wonder if you’d come over to our table and meet my mother.”

She took me to her table and introduced me to Mary Jane Edney.

We sat and chatted. It may not have been a long time by the clock but it was a long conversation as measured by emotional content. We sat on the grounds of Eden and we talked about Joe.

At that table in Troncones, Mrs. Edney told me that after Joe’s death she created a law school scholarship in his name. “I did not want him to be forgotten,” Mrs. Edney said.

I recall thinking that once we are past the fact that we can’t bring Joe back, what better thing could happen to someone who does not want a loved one to be forgotten than to be at the end of the road in a tiny village on foreign soil and run into someone who remembers.

We were there because our daughter, born in Washington, D.C., met a man in a restaurant in San Francisco, a man who 30-some years ago was also born in Washington, D.C., and they fell in love. Mrs. Edney was there because as their trip to Cabo San Lucas approached, a friend told her that she had just been to a fishing village in Mexico, south of Cabo, south of the Baja, and it was beautiful and



Photo courtesy of Mary Lynn (Edney) Schwietz, BS’73
Mike Fenner and Mary Lynn (Edney) Schwietz, BS’73, at the Garden Restaurant at Hacienda Eden in Troncones, Mexico.

not forgotten — the message that he is remembered at Creighton and that on that day in March 2007 he was remembered at the Garden Restaurant at Hacienda Eden, Troncones, Guerrero, Mexico.

Mrs. Edney created the Joseph D. Edney Memorial Scholarship Fund in the School of Law at least in part so that Joe will not be forgotten. The fact is that Joe will be remembered by students who have received the benefit of this scholarship and he will be remembered by the countless more who will be helped in the future. Joe never got to practice law, but through this scholarship others will carry something of Joe into their practice of law.

For myself, the joy of this job is that you meet so many wonderful people — people like Joe Edney. And everywhere you travel

the Edney family might like to go there instead. They decided they would, and changed their plans.

I like to believe that all of this somehow came together to bring to Mrs. Edney and her daughters the message that Joe is not forgotten — the message that he is remembered at Creighton and that on that day in March 2007 he was remembered at the Garden Restaurant at Hacienda Eden, Troncones, Guerrero, Mexico.

Even though we all got near that one spot in the world, we would never have met had we not decided to eat at this same restaurant on this same evening. And once we got to the same restaurant, we would have passed in the evening had I worn a different T-shirt.

I like to believe that all of this somehow came together to bring to Mrs. Edney and her daughters the message that Joe is

you run into them and their families. You run into them and their memories on a street corner outside Macy’s in New York City, walking down a sidewalk in Paris, and in a small restaurant in a tiny fishing village in the middle of nowhere in Mexico. The sadness of the job is the sorrow you share with those who are left behind by those students who leave this world too soon — the sorrow you share with Mary Jane Edney and her daughters.

Law Student Dies in Crash

From the March 18, 1983, *Creightonian*

Joseph D. Edney, a Creighton law school senior, was killed Tuesday in a traffic accident on Nebraska Highway 370 in Sarpy County.

Four other people were injured in the accident, which took place at 3:15 p.m.

Edney, 26, was a passenger in a car driven by Bellevue attorney Paul E. Watts, 49. Watts apparently was eastbound on Nebraska 370 when he lost control of the car and crossed the centerline at 52nd Street.

Watts’ car was struck on the passenger side by a westbound vehicle.

Edney and Watts were pinned in the wreckage and freed by rescuers using a hydraulic prying tool. Edney was pronounced dead on arrival at Midlands Hospital.

Edney and Watts had just left the Sarpy County Courthouse in Papillion where Watts was the defense attorney in an attempted murder trial. Edney was Watts’ law clerk.

About the Author: G. Michael Fenner is the James L. Koley, ’54 Professor of Constitutional Law at Creighton University. He is a member of the Nebraska Supreme Court Committee on Practice and Procedure and the House of Delegates of the Nebraska Bar Association, and past chairperson of the Evidence Section of the Association of American Law Schools. He teaches Constitutional Law, Evidence and First Amendment Freedom of Speech at Creighton. He can be reached at fenner@creighton.edu.

The Joseph D. Edney Memorial Scholarship Fund

The Joseph D. Edney Memorial Scholarship Fund in the School of Law was established in memory of Joseph D. Edney, class of 1983, by his parents, John A. and Mary Jane Edney, and friends for third-year law students.

Recent Creighton law student recipients of the Edney Scholarship include:

- Jeffrey Niebling, Class of 1997
- Mark Williams, Class of 1998
- Shannon Guerber, Class of 1999
- Robert Lamb, Class of 2000
- Jennifer Betterman, Class of 2001
- Matthew Thurber, Class of 2002
- Diane Baysinger, Class of 2003
- William Matthew Semple, Class of 2004
- Casey Miller, Class of 2005
- Byron Wobeter, Class of 2006
- Katrina Smeltzer, Class of 2007
- Angela Miller, Class of 2008

In thanking the Edneys for their support, grateful students have said:

“This scholarship has enabled me to continue my education with Creighton law school, and your contribution has been invaluable.” — Katrina Smeltzer, Class of 2007

“I am extremely lucky that there are generous people like yourself out there who find it worthwhile to help out graduate students with their ever increasing tuition. Hopefully someday, I will be able to return the favor and help out others who need financial assistance.” — Jennifer Betterman, Class of 2001

“Thank you for your donation to the Joseph D. Edney Memorial Scholarship Fund. I am a first-generation college graduate (Creighton undergrad, BA’01). The Joseph D. Edney Memorial Scholarship affords me the opportunity to attend law school and rewards my academic achievement.” — William Matthew “Matt” Semple, Class of 2004

Scholarship support is one of the goals of *WILLING TO LEAD: THE CAMPAIGN FOR CREIGHTON UNIVERSITY*. For more information on how you can assist Creighton students or contribute to the Joseph D. Edney Memorial Scholarship Fund, please call the Office of Development at 800.334.8794 or 402.280.2740.

Creighton Hosts International Conference on the Japanese Legal Profession:

The Brave New World of Lawyers in Japan

By Bruce E. Aronson,
Associate Professor of Law

Our image of Japan is one of an insular society, which emphasizes informal consensus and where lawyers and the law do not play an important role. But deregulation and administrative reform initiated during Japan's economic malaise of the 1990s have led to surprising changes over the last decade — a new demand for corporate legal services, an increase in the supply of lawyers, the emergence of large corporate law firms, law firm mergers and increasing activities by foreign law firms. A recent conference at the Creighton University School of Law examined this brave new world of the legal profession in Japan.

The Creighton University School of Law held an international conference on Japanese law entitled “Current Trends in Japanese Law and the Legal Profession” in May. This private conference attracted more than 30 distinguished participants from two disparate groups that rarely have an opportunity to interact: leading Western specialists of Japanese law from the United States, Japan, Canada and Australia, and prominent legal practitioners from Japan.

The genesis for this conference was my desire, based partially on my experience in private practice, to provide a forum for American academic specialists in the field to interact in a small group setting with Japanese practitioners. The goal was for a “Goldilocks” conference — neither too big nor too small — where discussion between these two groups would go beyond the question-and-answer sessions of the formal panels and carry over into ongoing, informal discussions.

To facilitate this interaction, “changes in the legal profession” was chosen as the basic theme. A broad topic of common interest to both scholars and practitioners in the legal profession, Japan has witnessed very significant and surprising changes in the legal profession over the past several years, and the trend is ongoing.

The conference was made possible by the generous support of six law firms that I invited to be cosponsors: the four leading Japanese law firms in Tokyo and two prominent international law firms (one American firm and one English firm) with substantial operations in Japan.¹ All of the

firms agreed to engage in a cooperative effort involving “big picture” issues, such as the rise of large corporate law firms in Japan and the role of lawyers in Japanese society.

The overarching message from the conference, again, was change — significant, recent changes in Japan, which strongly challenge long-held skepticism concerning the role of law and lawyers in Japanese society. This skepticism stems both from popular views of Japan, which have long emphasized the importance of cultural values and the unimportance, if not active dislike, of law and lawyers in Japanese society, and from objective factors such as the small number of Japanese lawyers.

However, over the last seven years, Japan has seen growth in both the demand for corporate legal services and the supply of lawyers, a major revamping of the legal educational system and the bar exam, an increasing attractiveness of the legal profession over more traditional government and business jobs, the rise of large corporate law firms, an increasing presence of foreign law firms and greater competition with Japanese firms, and law firm mergers — both domestic and international. The issues generally discussed with respect to the legal profession in other developed countries are highly relevant to Japan today.

The first day of the conference was devoted to the main theme of the legal profession. I moderated a panel discussion by a group of eight prominent Japanese lawyers² on the broad topic of “The Growth of Corporate Law Firms and the Role of Lawyers in Japan.” The discussion covered three

principal areas: the rise of corporate law firms, internationalization of the Japanese bar and law firms, and the social role of lawyers.

With respect to the growth of large corporate law firms, the panelists noted that domestic demand for corporate legal services in Japan has increased rapidly over the past decade. Deregulation and administrative reform were cited as important catalysts. In the past, businesses likely went to a government bureaucrat for an answer as to whether a particular transaction or practice was permissible, but today businesses are much more likely to consult attorneys.

The supply of lawyers is also increasing, spurred by recent reform efforts in the education and licensing of lawyers. Japanese corporations soundly supported these measures, as past wariness of the law and lawyers has been replaced by the needs of global competition, such as the protection of intellectual property. Finally, mergers also have hit the Japanese law firms. The first merger in 2000 created the first Japanese law firm with 100 lawyers. By 2005, each of the top five firms was more than double that size, and the most recent merger this year created a law firm with nearly 320 lawyers. (See Tables 1 and 2 on pages 26 and 27)

Conference participants were interested in the impact of the liberalization of the activities of foreign attorneys and law firms in Japan, which has progressed from licensing individual foreign attorneys (1987), to establishing joint ventures between foreign law firms and Japanese firms (1995) and finally to permitting full international mergers (2005). The first significant

¹ The supporting law firms are as follows: Anderson Mori & Tomotsune, Jones Day, Linklaters Tokyo, Mori Hamada & Matsumoto, Nagashima Ohno & Tsunematsu, and Nishimura & Partners.

² The panel members were as follows: Hisashi Hara, Chairman, Nagashima Ohno & Tsunematsu; Toru Ishiguro, Managing Partner, Mori Hamada & Matsumoto; Kenichi Masuda, Administration Partner, Anderson Mori & Tomotsune; John Roebuck, Partner-in-Charge, Tokyo Office, Jones Day; Shinichi Sugiyama, Harago & Partners; Toshiro Ueyanagi, Tokyo Surugadai Law Offices; Akihiro Wani, Managing Partner, Linklaters Tokyo; and Takashi Yoneda, Senior Partner, Nishimura & Partners.

international merger occurred at the time of liberalization in 2005, and the press emphasized a close link between the two.

However, panel speakers downplayed the significance of the most recent liberalization. John Roebuck, the Tokyo head of Jones Day, stated that the main handicap in a joint venture arrangement, as opposed to a full merger, was more a question of client perception than any actual legal or administrative barrier to providing clients with a full range of legal services. And Akihiro Wani, head of the Japanese group which entered into the first international merger, stated that liberalization did not play a role. His motivation was to continue to emphasize a cross-border practice, rather than domestic Japanese corporate work, and to take advantage of more advanced law firm management practices at international firms.

How have all of these changes, particularly

the growth of large law firms with a corporate orientation, affected the social role of lawyers? Panelists from the large law firms emphasized their broader roles in financial markets and regulatory matters, including the trend of seconding lawyers for defined periods to government agencies, in addition to the expansion of law firms' traditional *pro bono* programs. They also noted that they were now in a stronger position to advise clients to improve corporate practices in areas such as corporate governance, due to an increased societal emphasis on those issues and to the relatively new threat of shareholder derivative suits.

Lawyers from smaller firms who have been actively engaged in public interest activities saw no lessening of interest in public interest activities. But they did note a change in the type of matters involved. Whereas a generation ago they may have represented

plaintiffs in highly visible and contentious labor and environmental matters, today they are more likely to be involved in medical and health issues.

Another panel on "The Legal Profession in Japan" featured presentations by leading scholars from Harvard University and the University of Washington, who took differing quantitative and qualitative approaches to the question of career and business choices by members of the Japanese legal profession today.

Also at the conference, presenters from Japan and Australia provided analyses of the results of ongoing legal reform efforts in Japan: an increase in the annual number of new lawyers (although limits remain in place), the creation of new "American-style" professional graduate-level law schools, and a new bar exam. They noted that the reforms remain controversial. The substantial number of licensed law

Largest Law Firms in Japan

1985		1998		2001		2005	
Firm names not listed for 1985	26	Nishimura & Partners	63	Nagashima Ohno & Tsunematsu	149	Mori Hamada Matsumoto	198
	25	Nagashima & Ohno	62	Nishimura & Partners	112	Nagashima Ohno & Tsunematsu	197
	23	Mori Sogo	62	Mori Sogo	94	Nishimura & Partners	183
	20	Anderson Mori	50	Anderson Mori	91	Anderson Mori & Tomotsune	179
	20	Asahi	48	Asahi	79	Asahi Koma	140
	20	Mitsui Yasuda	36	Mitsui Yasuda	65	TMI	87
	17	TMI	33	Tokyo Aoyama Aoki	58	Tokyo Aoyama Aoki	68
	17	Matsuo Sogo	29	TMI	54	Ohebashi	64
	16	Iwata Godo	28	Hamada Matsumoto	41	City-Yuwa	64
	16	Ohebashi	27	Ohebashi	40		

Table 1
 Note: Numbers are for Japanese lawyers (bengoshi) only
 Sources: 39 JIYU TO SEIGI, No. 13, at 61 (Supp. 1988); Shoichiro Niwayama & Kazuhiko Yamagishi, Nihon ni okeru Kyodai Horitsu Jimusho no Kanosei [The Possibility of Large-scale Law Offices in Japan] 49 JIYU TO SEIGI 34, 35 (Nov. 1998); ILS PUBLICATIONS INC., INTERNATIONAL LAWYERS 2002, 246-47 (2002); Nihon Keizai Shinbun, Feb. 25, 2005, at 1.

Law Firm Mergers in Japan

Effective Date	Merger Partners	# of Lawyers	Specialty of Smaller Firm
01-01-2000	Nagashima & Ohno Tsunematsu, Yanase & Sekine	69 24	Finance
05-01-2001	Tokyo Aoyama/Baker McKenzie Aoki & Partners	42 16	Securities
10-01-2002	Asahi Law Offices Komatsu, Koma & Nishikawa	77 17	International & Corporate
01-01-2003	Mori Sogo Hamada & Matsumoto	92 42	Securities
01-01-2003	Tokyo City Yuwa Partners	27 20	Real Estate International & Corporate
01-01-2004	Nishimura & Partners Tokiwaga Sogo	137 14	Bankruptcy
01-01-2005	Anderson Mori Tomotsune & Kimura	134 23	Securities
04-01-2005	Linklaters Group from Mitsui Yasuda	30 30	Finance
07-01-2005	Mori Hamada & Matsumoto Max Law Offices	191 13	Intellectual Property
07-01-2007	Nishimura & Partners Group from Asahi Law Office	234 84	

Table 2
 Note: Numbers indicate Japanese lawyers (bengoshi) only
 Source: Firm announcements/websites and email confirmations with firms

schools now produce a relatively large number of graduates. Given the numerical limitation on the number of lawyers admitted each year, competition remains strong and the bar passage rate (although higher than under the old system) remains lower than anticipated at the time the reforms were planned. There is a strong possibility of a shakeout among the new law schools.

The Japanese constitution also was covered at the conference. Mike Kelly, professor of law at Creighton, made a presentation on constitutional law, and Christopher Gerteis, assistant professor of East Asian history at Creighton, acted as a commentator. Discussion included the Japanese administration's plan to amend the "peace

provision" article of their constitution, which states:

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes. (2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

The proceedings of the panel on "The Growth of Corporate Law Firms and the Role of Lawyers in Japan" are being edited

for publication. A draft of the proceedings, including my introductory note, is available online at <http://ssrn.com/abstract=1008334>, and will be published in the *Columbia Journal of Asian Law*.

About the Author: Bruce Aronson teaches business law at Creighton. He was a corporate partner at the New York City law firm of Hughes Hubbard and Reed LLP (1989-2000). Prior to joining the Creighton faculty, he was a Senior Fulbright Researcher at the University of Tokyo, an Associate Research Scholar at Columbia Law School and a visiting professor at Michigan Law School. His areas of expertise include corporate law, finance law, and international and comparative law, with a special focus on Japan. He can be reached at BruceAronson@creighton.edu.

Law on the Frontlines: An Alumni Profile from Iraq

It was between her first and second years of law school that Air Force Capt. Jackie DePuydt, BSBA'02, JD'04, made the decision to blend her love of the law with the desire to serve her country. That summer, she interned with the Army JAG Corps in Fort Leonard Wood, Mo. In addition to finding the work interesting, DePuydt enjoyed the sense of camaraderie she experienced. "When you're in the military, the people you work with become part of your family," she explained.



DePuydt in full Army gear while in Iraq.

To law students considering following in her footsteps, DePuydt offered the following advice. "You'd better be a self-starter," she said. "I had my first trial a week out of my military law training. They pretty much just throw you in and you have to swim. It's difficult, but in the end it's rewarding to know that you accomplished something because of your own efforts."

DePuydt joined the Air Force in November 2004 as a direct commissionee. "You have to be a licensed attorney before you can receive a direct appointment into the JAG Corp," she explained. "So, I commissioned after I'd graduated law school and received my bar results."

It was in early July 2006, while stationed at Vandenberg AFB in California, that DePuydt learned she would be going to Iraq. She soon learned that her work in a war zone would be quite different from what she'd been doing back home.

"During my daily job in California, I prepared for court martial cases and did

direct impact on the war effort."

Now back in the U.S. and living in San Antonio, Texas, DePuydt still finds meaning in service. "One of the most rewarding parts of my day-to-day job is working with young airmen — many who are just 18-19 years old and deploying away from their families for the first time — to sort out their legal issues, such as drafting wills or dealing with landlord issues."

DePuydt credits the knowledge, skills and support she received from Creighton for assisting her in her work, especially while in Iraq. "I use the witness examination skills I learned with Professor [Kenneth] Melilli and the trial practice I had with Professor [Collin] Mangrum with every trial I have," DePuydt said. "My international law classes with Professor [Michael] Kelly also helped me to analyze the laws we were using in Iraq to make sure we were doing the right thing."

While DePuydt does not plan to continue her military career beyond her remaining two-year commitment, she believes that it's an excellent starting point for a law career. "In the military, you won't start out at the ground level doing research, you'll get right into it, getting trial experience and working with a broad range of topics," she said. "However, your family must be prepared for how demanding on your life it's going to be. I've enjoyed the work I've done in the military and have gained a lot of excellent trial experience, but at some point, you're just ready to be closer to home."

claims work (for example, recovering money for the government if there's been damage to property)," she said. "In Iraq, it's completely different. I worked for an operation called Task Force 134, where we dealt only with detention operations. Our only mission was to deal with the processing of detainees. My job was to advise the deputy commander for Multi-National Force-Iraq (a two-star Army general) on whether or not the individuals our troops had apprehended out in the field should be detained or released. If we had enough evidence, the individual would go to court. If we didn't, but still considered the individual to be a threat, he or she went before the Combined Review and Release Board, made up of Iraqis and Americans."

The fast pace of her job in Iraq is what DePuydt credits for keeping her too busy to be homesick. "The military is fast paced anyway, but in Iraq we were basically working 12- to 15-hour days, seven days a week for six months straight," DePuydt said. "It was exhausting, but you felt like you had a

A Detour into Politics

By her own admission, 2006 was a big year for Creighton law school alumna Michaela Sims, JD'96. "That was the year Sen. Ben Nelson (D-Neb.) won re-election to six more years in office, and my husband and I adopted our son Sam," she explained.

In 2007, after a decade of working for Nebraska senators, Sims finally decided it was time to make a career shift. "I loved my job just as much as I did the day I started 10 years ago," Sims said. "But I felt that the timing was right for me to make a move to the private sector."

After meeting with several Washington, D.C., consulting firms, Sims took a lobbying job with the Bockorny Group. Explaining how she came to make that decision, Sims said, "Having worked for moderate-minded senators in a closely divided Senate, I know firsthand how almost nothing gets done without both Republicans and Democrats working together. Headed by Dave Bockorny, who worked in the Reagan White House, the Bockorny Group is a perfect example of how people from both parties work together to achieve success."

The Bockorny Group is a bipartisan consulting firm that helps many major corporate clients and leading trade associations with their efforts before Congress and the administration.

With her background in Senate Finance Committee related issues, much of Sims' work focuses on tax



Michaela Sims acted as Sen. Ben Nelson's legislative counsel from 2001-2007.

and health issues, although the firm also deals in other areas, including agriculture and financial services. As a lobbyist for the firm, much of Sims' job involves developing and implementing strategic plans to further clients' legislative goals.

As a Creighton law student, Sims was torn between practicing law and working on Capitol Hill. After graduation, she first moved to St. Louis, intending to embark on a law career. The day after she took the bar exam, the public defender's office called Sims to request an interview. Although this was the job Sims had envisioned for herself, her instincts led her in a different direction. Declining the interview with the public defender's office, Sims headed to Washington, D.C., to explore other job possibilities. It was there, thanks to contacts she had made during a summer law school internship with Sen. Bob Kerrey's office, that Sims

secured a temporary campaign job and eventually joined Kerrey's office as a legislative aide.

From 2001-2007, Sims acted as Sen. Nelson's legislative counsel, having joined his team after Sen. Kerrey retired from the Senate in 2001.

As a member of the legislative staff, Sims' job involved helping to advance the senator's legislative agenda, monitoring committee and Senate floor activity, acting as a surrogate at meetings and speaking engagements, and offering advice and best strategies on issues of importance.

For those seeking a career on Capitol Hill, Sims offered the following advice. "There is no one right or wrong way to do these jobs," she said. "The most important thing is to maintain good character and to treat everyone with respect, because today's staff assistant can easily become the chief of staff you'll end up working for down the road."

"Overall, the past 10 years have been some of the best years, and certainly among the most amazing experiences, of my life," Sims said. "I feel very fortunate to have had the opportunity to work for two great Nebraska senators in Bob Kerrey and Ben Nelson and to have been involved in some very interesting issues along the way. I loved my time on the Hill and I love what I am doing now. And, I hope to stay active with Nebraska and continue working with Nebraska interests."

William Blackstone's Enduring Legacy

By Ann Kitchel

One day a western emigrant stopped at my store and asked me to buy a barrel of odds and ends of little value. I bought it and put it away and never thought of it again until one day, rearranging things, I found a two-volume copy of Blackstone's Commentaries. I devoured them, I assure you, and I never read anything which so profoundly interested and thrilled me. Soon after that I began the study of law, and that is how I came to be a lawyer. — Abraham Lincoln

William Blackstone's *Commentaries on the Laws of England* was the first legal treatise to comprehensively describe the common law as it existed in England in the mid-18th century. The *Commentaries* originated as a series of lectures Blackstone delivered at Oxford University. The lectures were extremely popular, leading Blackstone to publish the *Commentaries* in 1765. A 1767 review praised Blackstone's achievement: "Mr. Blackstone has entirely cleared the law of England from the rubbish in which it was buried and now shows it to the public in a clear, concise, and intelligible form."

The impact of Blackstone's *Commentaries* was immediate and profound in England, but its influence was greater still in the new American colonies.

Blackstone's *Commentaries* was published at a time in America when there were very few lawyers and virtually no law schools or law libraries. Blackstone's fame spread across the ocean and copies were imported in quantities. Before 1771, 1,000 sets had been shipped to the colonies. This led to the printing of the first American edition in 1771-1772 by Robert Bell of Philadelphia. The four-volume set sold on a subscription

basis at three pounds per set. Over 1,400 sets were ordered and the list of subscribers included many prominent figures in American history. Sixteen subscribers later signed the Declaration of Independence, six were members of the Constitutional Convention, and one became president of the United States.

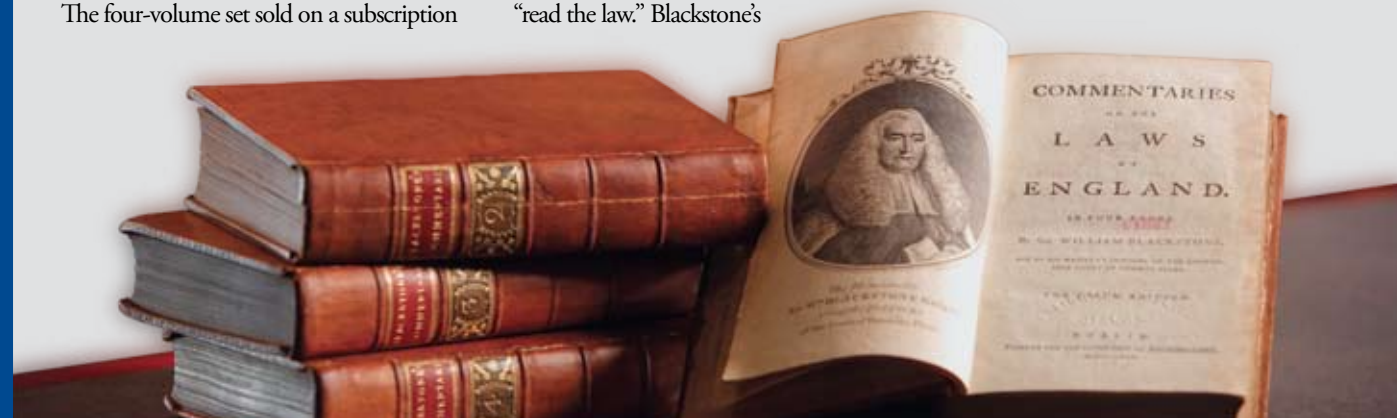
The structure and form of the *Commentaries* served as a framework for early legal education in the new country. At the College of William and Mary in 1790, George St. Tucker offered some of the first American lectures in the law. The *Commentaries* was the basis for his lectures. Finding some principles in the English version ill-suited to this country, Tucker published an "American Blackstone" in 1803 complete with annotations and notes about unique aspects of American law. This edition was highly praised as "the definitive edition of Blackstone available in America."

Blackstone's *Commentaries* was essential to future lawyers on the western frontier where no formal law training was available. At best, a young man could work as an apprentice for a practicing lawyer and "read the law." Blackstone's

Commentaries was the recommended text. Even students without the guidance of a trained attorney read Blackstone on their own, giving them enough of the law to learn on the job. Although seldom read today, the *Commentaries* is widely regarded as the work that established the English legal tradition in the United States.

Many editions of Blackstone's *Commentaries* have been published. Creighton University Law Library is proud to own over 40 English, Irish and American editions, including the rare first American edition and the first edition of Tucker's Blackstone. These editions are on display at the Law Library's Venteicher Rare Book Room. In addition, a virtual exhibit of the Law Library's Blackstone Collection is available at law.creighton.edu/library/rarebooks/blackstone. Visit the exhibit online to learn more about William Blackstone and his classic work, including further readings, links to the text of the *Commentaries*, and images of each edition in the collection.

About the author: Ann Kitchel is associate director of the law library and adjunct professor of law.



An Opportunity of a Lifetime

By Patrick Borchers, J.D.
Vice President for Academic Affairs, Creighton University

The first time I visited Omaha to interview for the position of dean of the Creighton University School of Law was in late October of 1997. It was an inauspicious beginning. An early snowstorm had hit when the leaves were still on the trees and power was knocked out in some areas for weeks.

From that low point, however, began a journey that has been satisfying both personally and professionally. Those of you who have moved families know how difficult emotionally that process can be. After nearly a decade in upstate New York, we had put down roots that were not easily extracted.

Moving to Omaha was the opportunity of a lifetime. No place my family and I have ever lived has been as welcoming as this city. It's no wonder



Patrick Borchers

Photo by Mark Romesser

that some of the biggest advocates for Omaha and its surrounding regions are transplants like me.

But if moving to Omaha was the opportunity of a lifetime, taking over as dean of your school was the opportunity of a thousand lifetimes. Before coming

here, I only faintly appreciated the potential presented by this school and this University. Together we have been able to accomplish a tremendous amount. And by "we" I don't mean "I." Everything good is accomplished together. The progress we've made has been possible only because of the faculty, staff, students, alumni and friends of the School of Law. So to you, the reader, allow me to say a big "thank you" for all the support you've given to your school.

Now just a few words on my new position as vice president for Academic Affairs at Creighton: It's not often that one person gets two huge opportunities at the same institution, but that has been my great good fortune. I hope to serve the law school as well as the broader University for many years to come.

A Site to See.

Check out the new alumni website:
creighton.edu/alumni