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A half-century tradition

Mitchell Lecture renews its prominence



The James McCormick Mitchell Lecture, a UB Law School tradition for a half-century, is gaining a new role as a signature of excellence as UB Law continues to solidify its standing among the nation's top public law schools.

The lecture is funded by a generous endowment from the estate of its namesake, a member of the school's Class of 1897. Its history has been a rich and varied one, starting with the very first lecture, in 1951, in which U.S. Supreme Court Justice Robert H. Jackson spoke about "Wartime Security and Liberty Under Law."

"Over the years we have had a number of exceptional speakers," says Professor Dianne Avery, who for two years has chaired the faculty committee that administers the lecture. Though for some years the endowment had been used to fund smaller events, such as individual speakers for class lectures, "The Mitchell Lecture Committee wanted to return to an annual event that is more faithful to the original purpose of the endowment," Avery says.

True to the interdisciplinary spirit of the Law School, the lecture has covered

a diversity of topics, which have included freedom of speech, the U.S. civil rights movement, feminist discourse, racial inequities and the war-making powers of the president.

The committee solicits suggestions from faculty members for topics, lecturers, and formats. "Through the lecture, we attempt to realize our commitment to interdisciplinary study of the law,

and also to introduce students, who might not be familiar with some of this scholarship, to this kind of discourse," Avery says.

The Mitchell Lecture is primarily for UB Law faculty and students, but is also open to general university faculty, students, and alumni. This year a full-color brochure announcing the lecture was mailed to every law professor in the nation. "This is a way of making other schools aware of what we are doing here," Avery says. "It is important to communicate with our colleagues across the country to focus attention on high-quality programs such as this."

This year's Mitchell Lecture, titled "Mr. Dooley and Mr. Gallup: Public Opinion and Constitutional Change in the 1930s," was delivered by Barry Cushman, the Elizabeth D. and Richard A. Merrill Research Professor of Law and a professor of history at the University of Virginia.

His article of the same title was published, just weeks after the April 5 lecture, in the *Buffalo Law Review*. A round-table discussion featured Neal E. Devins, the Earnest W. Goodrich Professor of Law and a pro-



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fessor of government at the College of William and Mary; Mark A. Graber, a professor of government and politics at the University of Maryland; Isabelle Katz Pinzler, special counsel and Director of the Project on Federalism of the NOW Legal Defense and Education Fund; and William G. Ross, a professor at Samford University's Cumberland School of Law, who was then a visiting professor at Notre Dame Law School.

Cushman's lecture dealt with public opinion polls during the New Deal. The polls explored views about political and legal reforms, including issues resolved in a series of famous Supreme Court decisions. Cushman argued that the polls demonstrated that the court was not as out of step with the public as is commonly believed, and that its decisions were cautious and not revolutionary.

In a commentary on the lecture, UB Law Professor Alfred S. Konefsky observed, "It is not that important changes did not take place, but rather that a complex intellectual process was in motion over time. That process involved the gradual breaking up of interdependent structural assumptions about how constitutional cases were to be decided. ... A political or electoral explanation of the so-called 'switch in time' by the Supreme Court to sanction New Deal legislative activity is an unsatisfactory and incomplete historical account. To those versions of the events, Professor Cushman now adds his latest evidence, the public opinion polls."



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– Professor Dianne Avery

Some highlights from the history of the Mitchell Lecture:

- 1954:** *"Australia and the United States: Some Legal Comparisons"*
- 1963:** *"Some Reflections About the Impact of Federal Taxation on American Private Law"*
- 1975:** *"Vindicating the Public Interest Through the Courts: A Comparativist's Contribution"*
- 1976:** *"Plea for Utilizing Foreign Experience"*
- 1977:** *"A Life Not (Or No Longer) Worth Living: Are We Deciding the Issue Without Facing It?"*
- 1982:** *"Are Americans Too Quick to Complain and Too Prone to Go to Law?"*
- 1983:** *"The War-making Powers of the President: Do Effective Constitutional Limits Exist?"*
- 1983:** *"Law Libraries of the Future"*
- 1984:** *"Feminist Discourse, Moral Values, and the Law: In Theory and Practice"*
- 1988:** *"Politics, Protest and Legal Change: The Legacy of the American Civil Rights Movement"*
- 1989:** *"A Hard Look at Home Health Care"*
- 1990:** *"Buffalo – Community & Change"*