Comings and goings

Simpson, Ellsworth, Gross, and Pildes join the faculty

LQN recently interviewed four new faculty members who arrived in Ann Arbor during the latter part of 1987. They bring with them a range of interests and expertise (in areas as diverse as legal history and psychology) that will greatly strengthen the Law School's educational program and its capacity to contribute to the profession and the scholarly community.

A.W. Brian Simpson

A distinguished scholar with eclectic interests

by Eve Silberman

"It has a sort of macabre attraction," says Brian Simpson modestly of his highly acclaimed—and provocatively titled—book Cannibalism and the Common Law.

A transplanted Britishe, Simpson, who joined the faculty this fall as the Charles F. and Edith J. Clyne Professor of Law, was a bit surprised at the widespread attention the book (published by the University of Chicago Press in 1984 and reissued by Penguin last year) received. In Cannibalism and the Common Law, Simpson did the first in-depth study of a famous 1884 case, in which a shipwrecked English captain and mate killed and ate a ship's boy. The notoriety of the case (the sailors were convicted and sentenced to death but were pardoned and served only a short sentence) helped put an end to the surprisingly common cannibalistic practice among Victorian sailors.

The case of the sailors on the yacht Mignonette is one familiar to most criminal law students. "It raises the question," explains Simpson, "to what extent you can kill other people in order to save your own life." But Simpson was startled at what his findings revealed about both sailing culture and Victorian morality.

"What's odd about the case is that the two sailors actually boasted about what they'd done. Then you find out that the family of the ship's boy didn't blame them at all but accepted it."

To research the episode, Simpson did everything from working as a crew member on a large sailing ship to interviewing by telephone the descendants of the notorious Mignonette captain, who now live in Australia. His thoroughness characterizes his commitment to legal history—a field, he observes, finally coming into its own.

"When I was first an academic, the history of law was a very unfashionable subject, especially in law schools," he recalls. "In the last 15 years or so, it's really enjoyed a tremendous increase in popularity both in England and more particularly in America." Simpson's interest in legal history was kindled in the early 50s when he was an undergraduate at Oxford where he was encouraged by legal scholar Derek Hall. His books, Introduction to the History of the Land Law (which explored the medieval development of what evolved into the modern land laws of England and the United States) and A History of the Common Law of Contract, are considered classic expositions of the development of two of the main pillars of the common law. He has also written Pornography and Politics (resulting from his experiences as a member of a blue ribbon British government committee on pornography and censorship), and has edited Oxford Essays in Jurisprudence and A Biographical Dictionary of the Common Law.

Simpson's career has been both distinguished and eclectic. He taught first at Oxford, then at the University of Kent. For several years he served as a justice of the peace, an unusual experience for an academic. He described the voluntary position as "rather depressing," recalling that he dealt with a gamut of minor offenses like shoplifting and drunk driving. Simpson also served as dean of the Faculty of Law at the University of Ghana in 1968-69. He became a visiting professor at the University of Chicago Law School in 1979, joining the faculty in 1983.

Despite his long sojourn in the United States, Simpson maintains strong links to his native country, where two grown children live.
He is a professor emeritus at the University of Kent and still owns a 16th century cottage in a village near Canterbury.

The new U-M faculty member has found the Law School's intellectual climate much to his liking. "The Law School here is bigger than that of the University of Chicago, and there is a much more varied range of interest among the academic staff," he notes. "There's also a superb library here—a marvelous collection!"

Simpson spent a term at Michigan as a visiting professor in 1985. Both students and faculty were lavish in their praise of his teaching. This winter, Simpson is teaching English legal history and a seminar on law and morality. He is intrigued to find that American law students tend to be livelier than their British counterparts, who are usually undergraduates.

Simpson is the first faculty member to hold the Clyne Professorship. The new position is supported by an endowment created pursuant to the bequest of Edith J. Clyne, the widow of Charles F. Clyne, a member of the Law School Class of 1902.

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Phoebe Ellsworth

A top scholar who believes in making science useful to society

The addition of Phoebe Ellsworth to the Law School and the psychology department was viewed as a major coup by both. A prodigious researcher and writer since her very first year of graduate school, she's now recognized in one sphere as a nationwide leader in the psychology of emotions and in another sphere as one of the country's top experts on psychology and law. She brings with her, too, a reputation as a gifted instructor. Her classes have always attracted large numbers of students, and three years ago at Stanford she received the Dean's Award for Distinguished Teaching.

Ellsworth says that what lured her here (and what lured her husband, Samuel Gross, as well) was not only the Law School's strength and diversity, but also the university's encouragement of interdisciplinary work. "Part of me really enjoys being a pure scientist," she says. "But I also like making science useful to society. I have a drive to do research that's going to be used and considered in court." Ann Arbor also appealed to the couple as a good place to raise their children, Alexandra, 6 and Emma, 1.

Ellsworth's interest in law arose while she was earning her Ph.D. in social psychology from Stanford in the late 60s. A visiting law professor was working with a commission on uniform state laws dealing with divorce and child custody, and Ellsworth helped him evaluate relevant psychological literature. That convinced her that "there were many areas in which the questions that the law needed answers to were really empirical social science questions."

One of those areas was death penalty litigation. In 1968, in Witherspoon v. Illinois, the U.S. Supreme Court considered the constitutionality of death-qualified juries. The challenge was brought on the grounds that weeding out prospective jurors who were opposed to the death penalty created juries that were biased against the defendant in capital cases. The justices declared that too little evidence existed for them to decide the matter, and they declined to set a precedent. Notes Ellsworth, "It was perhaps the most explicit invitation ever from the Court for empirical research on an issue of legal concern." Before leaving Stanford, Ellsworth took several law classes and did basic research on the death penalty under the tutelage of Anthony Amsterdam.

Ellsworth spent the 70s as a psychology professor at Yale, but she returned twice to Stanford — the second time (on sabbatical) — to work as Sam Gross's expert witness in his challenge to the constitutionality of death-qualified juries.

The challenge which Ellsworth helped Gross mount ultimately failed in the Supreme Court, but she feels it was a victory of sorts.