Why can abortion be legal one decade and severely restricted the next? Why does the Supreme Court find capital punishment unconstitutional in 1972, yet four years later deems it within our rights?

Political scientists — and the public — often blame such ideological shifts on membership changes on the Supreme Court. But that’s not necessarily the reason, says Lee Epstein, Ph.D., associate professor of political science.

While factors such as new justices or the political climate often play a role in changing decisions, they don’t do it alone. Instead, Epstein says, the attorneys and the arguments they present before the Supreme Court have the most impact on legal change — shifts in how the bench decides a case.

"And it’s true that no legal argument could change the stance of eight hard-core ideologues. But we don’t have eight hard-core ideologues." — Lee Epstein

The 500-page book examines two issues — abortion and capital punishment — and follows their ride through the Supreme Court. By researching oral arguments, public opinion polls, briefs, newspaper articles and the changing political climate, Epstein and her colleague conclude that conventional wisdom is wrong: new court members, whether conservative, liberal or moderate, don’t necessarily mean new legal opinions.

"Ideology has become such an issue surrounding the Supreme Court. And it’s true that no legal argument could change the stance of eight hard-core ideologues. But we don’t have eight hard-core ideologues. So we argue that what matters a great deal is the language of the law," says Epstein.

The book notes that in 1972, the Supreme Court struck down the right to capital punishment with a 5-4 decision in the Furman vs. Georgia case. Yet just four years later, with only one personnel change on the bench, the Supreme Court reversed its decision 7-2. In that 1976 vote, two justices had reversed an earlier vote. As another example, Epstein points out that Justice Sandra Day O’Connor — a central player in the abortion tug-of-war — apparently was open to legal persuasion when she joined the bench. When President Ronald Reagan nominated O’Connor to the bench, the only opposition came from pro-life advocates who didn’t like her abortion record as a state legislator. But in her first major opinion on the topic in 1983, O’Connor supported some restrictions on abortion. She based her dissent on a legal standard proposed by a Reagan administration solicitor general. With that case, Epstein says, O’Connor showed she was open to an attorney’s legal argument.

So how can attorneys and their arguments sway the Supreme Court? Epstein says the key is flexibility.

By analyzing arguments attorneys pose before the Supreme Court, Epstein and Kobylka found that abortion rights attorneys had not made major changes in strategy since their first victory with Roe vs. Wade in 1973, the case that gave women the absolute right to have an abortion. That strategy, says Epstein, is flawed. She contends that by clinging to the 1973 decision and not reading changes and changes in the Supreme Court, the attorneys have lost their case gradually.

"It’s the tyranny of absolutes," she says. "A kind of all or nothing attitude on the issue."

Pro-choice litigators have ignored hints by Justice O’Connor that they might be able to save Roe vs. Wade from being overturned by settling for less than an absolute right to abortion, says Epstein. She says Justice O’Connor has hinted that litigators could legally support a scaled-down abortion law — one with more restrictions — within the 14th Amendment. But pro-choice litigators won’t budge, says Epstein.

The belief that one big victory, such as Roe vs. Wade, can be the principal precedent for all future legal arguments may not be the best strategy, Epstein says. Epstein’s research doesn’t dismiss the influence of ideology. "The court’s composition, its ideological makeup, can set the stage for legal change," she says, "but it doesn’t always provide the best explanation."

Epstein says attorneys presenting cases before the bench should remember that Supreme Court justices are attorneys as well. And because they are, at heart, lawyers, they are trained to appreciate a sound legal argument. When Justice Clarence Thomas recently was appointed to the Supreme Court, much of the public felt a conservative majority was secured and future decisions would reflect that.

Continued on p. 3

**Swaying the Supreme Court**

Good lawyers, not new justices, may signal changing legal opinions

**Arab-Israeli talks, 1992 presidential elections examined**

Rahid Khalidi, adviser to the Palestinians for the Middle Eastern region peace conference, will speak at a symposium on Tuesday, Feb. 18, in the St. Louis University Center for Continuing Education Hall. His lecture on "The Arab-Israeli Peace Prospect" is scheduled at 4 p.m. Following the lecture, he will participate in a panel discussion.

Ahmad Mann, director of the Governmental Studies Program at The Brookings Institution, will speak on "The Politics and Economics of the 1992 Presidential Elections" at 11 a.m. Wednesday, Feb. 19, in the May Auditorium, Simon Hall. His lecture on "The Arab-Israeli Peace Prospect" is scheduled at 4 p.m. Following the lecture, he will participate in a panel discussion.

**Mann the first recipient of the National Academy of Public Administration's freedom study freedom award**

The first volume has been published of a series that promises to be the most extensive study of the history of freedom ever undertaken. The Center for the History of Freedom at Washington University is developing the series, titled The Making of Modern Freedom.

The book, entitled The Politics and Economics of the 1992 Presidential Elections, was published by Stanford University Press. Another dozen volumes are planned in the series.

Richard Davis, Ph.D., director of the center and general editor, said: "The work on freedom has been in the making for four centuries; its history has never been traced in such a detailed and comprehensive fashion. "The series...will inquire into the way freedom is perceived in different social worlds over time."

**First book**

The first book was edited by J.H. Hexter, Ph.D., the University’s John M. Olin Professor of Modern and Contemporary History Emeritus and the center’s founder.

"The Politics and Economics of the 1992 Presidential Elections" examines eight chapters by American and British historiographers. "The series as a whole is a collaborative effort, written by Americans and foreign scholars. The chapters begin as papers, which are discussed and critiqued at an autumn..." Continued on p. 3

**Record**

Vol. 16 No. 20/Feb. 13, 1992

**An American Moses**: Daniel Boone Escorting Settlers Through the Cumberland Gap (1851-52) by George Caleb Bingham is considered the quintessential image of Boone as a modern Moses, leading his followers to the "Promised Land." This image, part of the Gallery of Art’s permanent collection, is the centerpiece for "Columbus of the Woods: Daniel Boone and the Myth of Manifest Destiny." The exhibit is on display in the Gallery of Art through March 29. "Columbus of the Woods" is a groundbreaking new examination of Boone and his place in American history.
"Hansel and Gretel," "The Fisherman and his Wife" and "Cinderella" are the three fables slated for the matinee event at 2 p.m. Sunday, Feb. 23, at Edison Theatre.

"Simply Grimms Stories" at 2 p.m.

Sunday, Feb. 23, in Edison Theatre as part of the "ovations! for young people" series.

This theatre company, which presents anything but "typical" children's theatre, brings the classic Grimms fairy tales to life using masks, magic and illusion. "Hansel and Gretel," "The Fisherman and his Wife" and "Cinderella" are the three fables slated for the matinee event.

Illustrated Theatre specializes in "transformation mime," a theatrical tool that incorporates a lot of imagination. Using no props and minimal costumes, the three actors on stage become everything from volcanoes to typewriters to heart beats.

The Chicago-based group was founded in 1983 and now tours nationwide. It has been invited to theatre festivals. The company brings classic Grimms fairy tales to life using the use of masks, original stories, old and new techniques of theatre, says the Arts and Entertainment Department.

Tickets are $7 for the general public and $5 for senior citizens, faculty and staff. For more information, call 935-6543.

Theatre company brings classic Grimms fairy tales to life

The illustrated Theatre Touring Company will present an afternoon of "Simply Grimms Stories" at 2 p.m. Sunday, Feb. 23, in Edison Theatre as part of the "ovations! for young people" series.

This theatre company, which presents anything but "typical" children's theatre, brings the classic Grimms fairy tales to life using masks, magic and illusion. "Hansel and Gretel," "The Fisherman and his Wife" and "Cinderella" are the three fables slated for the matinee event.

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"Plenty" takes ironic look at life after World War II

Washington University's Performing Arts Department presents David Hare's "Plenty" at 8 p.m. Feb. 21, 22, 28 and 29, at 7 p.m. Feb. 23 and at 2 p.m. March 1 in the Drama Studio, Room 316 Mudd Law Building.

The play, which provides a near-epic resonance and Susan's life parallels the decline of the British Empire from the end of World War II to 1962. As a young woman, Susan was a resistance fighter in France. Surrounded by the Nazis and faced with constant danger, this was the only time she felt truly alive. A fleeting romance with a man whose name she doesn't know becomes the high point of her life. Everything that follows seems pale and lifeless.

"Plenty" is full of irony. The title is a play on the British catch phrase "Peace and Plenty." Early in the play the characters are poor but full of dreams. By the end of the play the characters are no longer poor, but are morally bankrupt and disillusioned.

"It is one of the most difficult roles I've ever seen and Maya (Geyer) is certainly up to the task. She is on almost the whole time and the play covers 12 distinct time periods. It's like having to play Hamlet with 12 costume changes." —Jeffery Matthews

"Plenty" was originally produced in London at the National Theatre. The late Joseph Papp then produced it in New York, both on and off-Broadway. "Plenty" was then made into a movie starring Meryl Streep and Sling.

Newsweek said that the play, "has a near-epic resonance and Susan Traherne must be the most extensive woman's role in the contemporary English-language theatre ... crackles with the kind of passionate intelligence that these new woman-centered plays seem to have." Tickets are $7 for the general public and $5 for senior citizens, students and Washington University faculty and staff.

For more information, call 935-6543.

Legal ethics expert to give 40th Tyrrell Williams lecture

Geoffrey C. Hazard Jr., executive director of the American Law Institute and the Sterling Professor of Law at Yale Law School, will deliver the 40th Tyrrell Williams lecture on "Doing the Right Thing." The lecture, which is free and open to the public, is scheduled for 11 a.m. Wednesday, Feb. 19, in the Courtroom, Room 216, Mudd Law Building.

Hazard is widely regarded as the nation's leading authority on legal ethics. He advises law firms on legal ethics issues and appears frequently as an expert witness in litigation over ethical conflicts.

Hazard joined the law faculty at Yale in 1971. In 1986 he was appointed a Sterling Professor, the university's most prestigious chair. He also has served as the acting dean of the Yale School of Management. Prior to his appointment at Yale, Hazard was on the law faculty at the University of Chicago and the University of California in Berkeley.

The Tyrrell Williams Lecture was established in 1958 in honor of Tyrrell Williams, a faculty member at the university's School of Law from 1913 to 1946. Williams, who received his LL.B. degree from Yale Law School, twice served as the School of Law's acting dean and was a charter member of the American Law Institute and an adviser on the Restatement of Criminal Procedure.

The lecture is co-sponsored by the School of Law and the Assembly Series. For more information, call 935-6431.

Historian discusses Soviet architecture

Russian architect and historian Sergey Ozhegov will discuss Soviet architecture, planning and urban development at 8 p.m. Tuesday, Feb. 18, in Steinberg Hall auditorium.

Ozhegov, who served as a private in the Red Army infantry from 1941-45, was educated at the Moscow Institute of Architecture. He has written and lectured widely on topics ranging from the art and architecture of Russia, Thailand and Laos, to the history of landscape architecture.


In addition to his scholarly work, Ozhegov has designed more than 50 buildings, including the reconstruc-
tion of the Admiralty, an 18th century country estate near Moscow.

The free lecture is sponsored by the School of Architecture. A reception will follow in Room 120, Givens Annex.

For more information, call 935-6200.
Law school presents 'Jims' conference

Monts Dees, one of the country's leading civil rights attorneys, and the Rev. Bernice King, daughter of the late Rev. Martin Luther King Jr., will address the keynote speakers at an upcoming conference at the Washington University School of Law.

The school's third annual conference on "Jims" in legal education, "The New Conservative and Jims to the" is set for Feb. 22-23 in the Conference Room, Room 302, in the Whittemore Building. The conference will look at how the shifting conservative mood in politics affects efforts to promote justice and equality in the law. The conference is open to the public. There is a $10 registration fee.

Dees, a founder and director of the Southern Poverty Law Center in Montgomery, Ala., will speak on "The Development of White Supremacist Institutions" at 5 p.m. Feb. 21. Dees is known for securing a $7 million lawsuit against the United Klans of America on behalf of the mother of a black man who, a jury decided, was killed by Ku Klux Klan members in Mobile, Ala. That case represented the first time a Klan organization was held liable for the violent acts of its members.

The Rev. King, a civil rights activist, is scheduled to speak on "Strive Toward Freedom" at 11:30 a.m. Saturday, Feb. 22. Twenty-eight-year-old King and her preaching style are already drawing comparisons to her father. The only child of King's four children follow him into the ministry. King was ordained a Baptist minister. She has a master of divinity and a law degree from Emory University.

Other lectures will include:

• Justice Bruce Wright of the New York Court of Appeals, who discusses blacks and the legal system. The author of "The End of the Jim Crow Justice System Doesn't Work for Blacks," will speak at 4 p.m. Friday, Feb. 21.

• Evan Pugh, president of African American Images, a Chicago-based communications company, and author of 11 books on raising black children. Kunguji will guide a workshop on "The Conspiracy to Destroy Black Boys and the Criminal Justice System" at 5 p.m. Thursday, Feb. 20.

The conference is sponsored by the Richard G. Rosewicz, the Law School Students Association, the Latin American and Caribbean Society and the Asian American Law Students Association, OUTLAW and Students Concerned with Rights for Disabled Individuals. For more information about attending the conference, call 727-4007.

Society donates piano to Whittemore House

Whittenmore House recently received a Baldwin grand piano to replace the one that was in the living room. The piano was given in the memory of the Society's former professors Emeriti by Saul and Louise Rosenzweig.

The piano is used frequently at cocktail parties, wedding receptions and other gatherings at Whittemore House.

"The piano we had prior to this one was in poor condition," said General Manager Ken Fitzhugh. "This is truly a wonderful addition to Whittemore House.

The piano was formally presented to Whittemore House on Feb. 10 at a meeting of the society.

Supreme Court ideology.

The American public is troubled by that, notes Epstein, who is the author or co-author of eight legal books, including "Conservatives in Court. Public Interest Law Groups, Constitutional Law for a Changing America and the Supreme Court Data Book," for 1993 publication.

The public believes the bench should operate outside the political fray. In just the Supreme Court, several founding fathers (e.g., Justice Joseph Story) have said that the law is supposed to be the same, even if the justices differ in their views. In fact, the Framers of the Constitution took great pains in creating and empowering the Supreme Court. They didn't want it to be a political institution. The justices were to be independent of what the public, or even the political parties, wanted. They were to focus on what the text of the Constitution meant.

Among the justices who have served on the court, more than half have been appointed by Republican presidents, including five current justices. The other justices were appointed by Democratic presidents. The justices are appointed for life, and they can only be removed by impeachment or resignation.

The justices' decisions are based on their interpretation of the Constitution. The Constitution is a document that sets out the basic structure and powers of the federal government. The justices' role is to determine what those powers mean and how they should be applied in specific cases.

The justices' decisions are not always popular, and they can be controversial. The public may disagree with the justices' decisions, but they are ultimately owed a thorough and principled explanation for their decisions. The justices' decisions are based on their interpretation of the Constitution, and they are not subject to the approval of the public or the political process.

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CALENDAR

Thursday, Feb. 13
6:30-9:30 p.m. WU School of Law, Urban League of St. Louis, Jury Selection and the May Center Present a Breakfast Seminar. "Law, Ethics, and Journalistic Responsibility in the Age of Environmental Issues," with keynote Marcia L. Rapport, associate professor, Journalism, and Susan O. Hylton, voting associate, prof. of law, Chicago Kent College of Law, 35 West Jackson Blvd., Room 3200.

11 a.m.-2 p.m. U. of Washington College of Medicine, John A. Kralovec, medical student. "Accelerated B.S.-M.D. Program," School of Medicine, Room 241 Compton Hall.

Wednesday, Feb. 19


Saturday, Feb. 22


PERFORMANCES

Friday, Feb. 21
8 p.m. Edison Theatre "OVALTINE" Series Presents "Plays by Gray." Program I. Edison Theatre. SOLD OUT. For info., call 935-6543.

9 p.m. Performing Arts Dept. Presents "Plenty." (Feb. 17, 18, 19, 20, 21, same time, and Feb. 23 at 7 and March 1 at 2 p.m.) Muriel Kallis NYC Center. Room 100 Brown Hall. Free.

Saturday, Feb. 22
4 p.m. University College "OVALTINE" Series "Speaking Gray." Program II. Edison Theatre. SOLD OUT. For info., call 935-6543.

EXHIBITIONS

"Washington University Art Collections." Through May 1992 Gallery of Art, lower gallery, University and radio station KSHE-FM. For info., call 935-6543.

"Columbus of the Woods: Daniel Boone and the Missouri Response." Through March 29, Gallery of Art, upper gallery, Brown Hall. Exhibit hours: 10 a.m.-5 p.m. weekdays. Free. For more info., call 935-5949.

"The Revenge of Style: Stanislav Elkin, Journalist." Through April 18, Special Collections. Library hours: 9:30 a.m.-4:30 p.m. weekdays. Free for more info., call 935-5949.

MUSIC

Saturday, Feb. 15
4 p.m. Dept. of Music Presents a Voice Recital by Catherine Sannemann. Steinberg Hall, Aud. Free.

FILMS

Thursday, Feb. 13
6:30-9:30 p.m. Filmboard Foreign Series Presents "Yakuza." Room 201 Brown Hall.

Friday, Feb. 14
6:30-9:30 p.m. Filmboard Foreign Feature Series Presents "Billy." Room 201 Brown Hall. FREE.

Saturday, Feb. 15
6:30-9:30 p.m. Filmboard Foreign Feature Series Presents "Land of Look Behind." (Also Feb. 15, same time, and Feb. 16 at 9:30 p.m.) Room 100 Brown Hall. $3.

Sunday, Feb. 16

Monday, Feb. 17
3 and 9 p.m. Filmboard Classic Series Rapidly Rising Star: "The Untouchables." Room 100 Brown Hall. $3.

Wednesday, Feb. 19
3 and 9 p.m. Filmboard Foreign Feature Series Presents "Ribs." (Feb. 20, same time, and Feb. 23 at 7:30 p.m.) Room 100 Brown Hall. $3.

MIDNIGHT, Filmboard Midnight Series Presents "Land of Look Behind." (Also Feb. 22, same time, and Feb. 21 at 9:30 p.m.) Room 100 Brown Hall. $3. On Fri. and Sat., both the 9 and 11 p.m. midnight films can be seen for a double feature price of $4; both Sunday films can be seen for $3.

SPORTS

Tuesday, Feb. 18
7:30 p.m. Men's Basketball. WU vs. Maryville College. 7:30 p.m. Chaminade Bldg. Free.

Wednesday, Feb. 19
7 p.m. Women's Basketball. WU vs. Illinois College. 7:30 p.m. Chaminade Bldg. Free.

Friday, Feb. 21
7:30 p.m. Men's Basketball. WU vs. Brandeis University. 7:30 p.m. Chaminade Bldg. FREE.

Thursday, Feb. 13

Saturday, Feb. 15
9 a.m. Noon, University College Career Center Presents "Career Resume and Interviewing." Tiers Kroes-Lefevre, career planning consultant. (Workshop continues Saturdays through Feb. 26, same time.) Room 200 January Hall. COS. For more info., call 935-7668.

Wednesday, Feb. 17
8:45 a.m-10:45 a.m. Center for the Study of Diversity and Race, and the School of Social Work Presents "Understanding Diversity: The Role of Social Work & the Study of Racial History." Dr. William L. Taylor, chair, Department of Social Work and director, Center for the Study of Diversity and Race. (Also Feb. 19, same time.) Room 332 Prince Hall. $5 for WU faculty and staff. For public pricing, registrations or info., call 935-5980.

Wednesday, Feb. 18
9 a.m.-12 noon, Center for Corporate-Integrated Manufacturing Center Seminar. "Experimental Development of a Revolution in Manufacturing," with Donal Fox, intern, Consultant, WU Manufacturing Center. Consultation continues through Feb. 19, same time. Room 332 Prince Hall. Cos. $100 for WU faculty and staff. For public pricing, registrations or info., call 935-4944.

Thursday, Feb. 18
4:30-5:30 p.m. Center for Corporate-Integrated Manufacturing Center Seminar. "Experimental Development of a Revolution in Manufacturing," with Donal Fox, intern, Consultant, WU Manufacturing Center. Consultation continues through Feb. 19, same time. Room 332 Prince Hall. Cos. $100 for WU faculty and staff. For public pricing, registrations or info., call 935-4944.

Wednesday, Feb. 17
Ozzie Smith to lead Special Olympics oath

The games will be conducted by athletes with mental and physical disabilities, and will feature about 300 athletes. Ozzie Smith, the baseball great, will give a speech of encouragement to the athletes and also will join them in reciting the Special Olympics oath ("Let me be true in the attempt.") Other events include a torch lighting ceremony, the singing of the National Anthems, and theclappping of the hands. The official song of the Special Olympics, "Let Me Be True," written by Violent as a tribute to the Special Olympics, is sponsored by the Zeta Beta Tau Fraternity at the University and radio station KSHF-FM.

Calendar Deadline

The deadline to submit items for the Feb. 20-29 calendar of the Record is noon Feb. 14. Items should be submitted in the space, date, place, name of event, sponsor and the fee charged. The deadline will not be extended. If available, include speaker's name and identification (student, faculty, etc.). Include city and zip code and telephone number. Send items to Marilyn Chisholm, Box 1070, or by electronic mail to p72245CM at WUVMC.

Wednesday, Feb. 18
11 a.m.-12 noon, Center for Corporate-Integrated Manufacturing Center Seminar. "Experimental Development of a Revolution in Manufacturing," with Donal Fox, intern, Consultant, WU Manufacturing Center. Consultation continues through Feb. 19, same time. Room 332 Prince Hall. Cos. $100 for WU faculty and staff. For public pricing, registrations or info., call 935-4944.