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**JUDICIAL ASSISTANTS OR JUNIOR
JUDGES: THE HIRING, UTILIZATION,
AND INFLUENCE OF LAW CLERKS**

CHAD OLDFATHER

TODD C. PEPPERS

Law clerks have been part of the American judicial system since 1882, when Supreme Court Justice Horace Gray hired a young Harvard Law School graduate named Thomas Russell to serve as his assistant.¹ Justice Gray paid for his law clerks out of his own pocket until Congress authorized funds for the hiring of “stenographic clerks” in 1886. The Gray law clerks, however, were not mere stenographers. Justice Gray assigned them a host of legal and non-legal job duties. His clerks discussed the record and debated the attendant legal issues with Justice Gray prior to oral argument, conducted legal research, and prepared the first draft of opinions. Today all nine Justices of the United States Supreme Court follow the institutional practices established by Justice Gray. Each Justice is entitled to hire four clerks (five, in the case of the Chief Justice), most of whom are recent graduates of an elite law school who serve for a single term. What is more, the practice of hiring newly graduated attorneys to serve as clerks has spread beyond the Supreme Court to become a well-established feature throughout both the federal and state courts.

The institution of the law clerk, as we will discuss, has generally received little scholarly attention. But it has never been entirely ignored, and at least some initial reviews of the practice were promising. In 1960, Karl Llewellyn wrote of the rise of the law clerk in almost excited terms. After noting that Gray had started the practice, and

1. Todd C. Peppers, *Birth of an Institution: Horace Gray and the Lost Law Clerks*, in IN CHAMBERS: STORIES OF SUPREME COURT LAW CLERKS AND THEIR JUSTICES 17 (Todd C. Peppers & Artemus Ward eds., 2012) [hereinafter IN CHAMBERS].

Holmes continued it, Llewellyn opined, “I should be inclined to rate it as Frankfurter’s greatest contribution to our law that his vision, energy, and persuasiveness turned this two-judge idiosyncrasy into what shows high possibility of becoming a pervasive American legal institution.”² Llewellyn lauded the institution for a variety of reasons, including not only the manpower it provides, but also because “the recurring and unceasing impact of a *young* junior in the task is the best medicine yet discovered by man against the hardening of a senior’s mind and imagination.”³

“A new model every year” may have little to commend it in the matter of appliances or motorcars or appellate judges, but it has a great deal to offer in the matter of appellate judges’ clerks: there then arrives yearly in the judge’s chambers a reasonable sampling of information and opinion derived from the labors, over the three past years, of an intelligent group of men specializing in the current growth and problems of our law: the faculty which has reared the new apprentice. This is a time-cheap road to stimulus and to useful leads.⁴

Llewellyn also praised the impact on the clerks themselves. Having seen the process from the inside, they would be better able to craft a good appellate argument. And the clerks would go into the world knowing how the appellate courts function, and that they function well, and would as a result be able to reassure their colleagues that the process works as it should. The master, the apprentice, and the bar alike would benefit.

Llewellyn’s optimism was not universally shared, and already some had suggested that law clerks might not be an unalloyed good. In 1957 a young Arizona attorney named William H. Rehnquist, a former law clerk to Justice Robert Jackson, wrote an article suggesting that ideologically liberal law clerks might be manipulating the review of petitions for certiorari and tricking their more conservative Justices into voting in a more liberal fashion.⁵ While Rehnquist backtracked in the face of public challenges raised by other former law clerks (a response

2. KARL N. LLEWELLYN, *THE COMMON LAW TRADITION: DECIDING APPEALS* 321 (1960).

3. *Id.* at 322.

4. *Id.*

5. William H. Rehnquist, *Who Writes Decisions of the Supreme Court*, U.S. NEWS & WORLD REP., Dec. 13, 1957, at 74.

orchestrated by Justice Felix Frankfurter),⁶ he had opened the door for subsequent critiques.

In the decades that followed, commentators paid increasing attention to the role of law clerks. Most of the early focus was on Supreme Court law clerks,⁷ and former clerks themselves contributed to the flurry of new articles by discussing their own clerkship experiences (although usually in the most laudatory and general terms).⁸ In subsequent years scholars began to appreciate and assess how lower federal and state courts also heavily relied on these young judicial assistants.⁹

As much of this commentary revealed, Llewellyn's optimism turned out to be misplaced. Some of this may have been a product of larger societal and institutional shifts. Llewellyn had written in 1960, which turned out to mark the beginning of a period of dramatic and sustained growth in the caseloads of the federal courts.¹⁰ Not even a decade later, commentators began to lament the problems caused by swelling dockets. Paul Carrington decried the negative effects of congestion and noted the accompanying temptation for judges to cut corners.¹¹ Testifying before the Commission on Revision of the Federal Court Appellate System in 1973, Ninth Circuit Judge Ben Cushing Duniway reflected back on conditions when he joined that court in 1961:

When I came on the court . . . , I had time to not only read all of the briefs in every case I heard myself, which I still do, and all the motion papers in every motion that I was called upon to pass

6. William H. Rehnquist, *Another View: Law Clerks Might "Influence" Some Actions*, U.S. NEWS & WORLD REP., Feb. 21, 1958, at 116.

7. See, e.g., Chester A. Newland, *Personal Assistants to Supreme Court Justices: The Law Clerks*, 40 OR. L. REV. 299 (1961).

8. In most instances, the law review articles took the form of "in memoriam" pieces in which the law clerks praised their former employers and argued for their inclusion in the pantheon of "great" Justices. See, e.g., Bennett Boskey, Special Comment, *Justice Reed and His Family of Law Clerks*, 69 KY. L.J. 869 (1980-1981); Anne M. Coughlin, In Memoriam, *Writing for Justice Powell*, 99 COLUM. L. REV. 541 (1999); Paul A. Freund, Historical Reminiscence, *Justice Brandeis: A Law Clerk's Remembrance*, 68 AM. JEWISH HIST. 7 (1978).

9. See, e.g., JOHN BILYEU OAKLEY & ROBERT S. THOMPSON, LAW CLERKS AND THE JUDICIAL PROCESS: PERCEPTIONS OF THE QUALITIES AND FUNCTIONS OF LAW CLERKS IN AMERICAN COURTS (1980); Paul R. Baier, *The Law Clerks: Profile of an Institution*, 26 VAND. L. REV. 1125 (1973); J. Daniel Mahoney, Forward, *Law Clerks: For Better or For Worse?*, 54 BROOK. L. REV. 321 (1988).

10. E.g., WILLIAM M. RICHMAN & WILLIAM L. REYNOLDS, INJUSTICE ON APPEAL: THE UNITED STATES COURTS OF APPEALS IN CRISIS 3 (2013).

11. Paul D. Carrington, *Crowded Dockets and the Courts of Appeals: The Threat to the Function of Review and the National Law*, 82 HARV. L. REV. 542, 554-56 (1969).

upon, which I still do, but I could also go back to the record and I could take the time as I went along to pull books off the shelves and look at them. And then I had time, when I was assigned a case, to write. And occasionally I could do what I call “thinking,” which was to put my feet on the desk and look at the ceiling and scratch my head and say, “How should this thing be handled?”

....

Today the situation is quite different.¹²

Pressed for time, and unable to approach their job as they or their predecessors once had, judges grew to place increasing reliance on their clerks. By 1993, Anthony Kronman, whose book *The Lost Lawyer* otherwise echoed Llewellyn in its emphasis on the value of craft, decried the institution of the law clerk in terms as despairing as Llewellyn’s were hopeful. Kronman charged the rise of the law clerk with responsibility for a number of pathologies. Clerks not only facilitate an increase in the aggregate number of opinions simply by being available as a source of labor, they encourage proliferation by having an incentive to see their judge make a name for him or herself via separate opinions.¹³ Their role as primary authors likewise changes opinions’ style in a way that increases length, footnoting, reliance on jargon, and the incorporation of multi-factor balancing tests, all of which Kronman characterized as a product of “the combination of hubris and self-doubt that is the mark of the culture of clerks.”¹⁴ What is more, he suggested, these changes

12. Roman L. Hruska, *The Commission on Revision of the Federal Court Appellate System: A Legislative History*, 1974 AZ. ST. L.J. 579, 583 n.14 (COMM’N ON REVISION OF THE FED. COURT APPELLATE SYS., FIRST PHASE HEARING: AUGUST–OCTOBER, 1973, at 895 (1973) (statement of Judge Duniway)).

13. ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* 346 (1993) (“The primary attachment of most law clerks is to the judge for whom they work and not the court on which he sits. And because their own time at the court is much shorter than his—he is appointed for life, and they only for a year or two—they are less likely to be interested in issues of long-term collegiality and more likely to want, instead, to see their judge stand out in his opinions as an individual with distinctive views of his own. For that is the only way in which they can realistically expect to make an impression on the law during their brief tenure as clerks. If they are to make such an impression, law clerks must do it through their judge, whose voice cannot be heard if it is drowned in a majority opinion issued in some other judge’s name.”).

14. *Id.* at 347, 350. Kronman hammered on clerks’ inexperience and lack of the “horse sense” that Llewellyn so valued. *Id.* at 349–50 (“Because of this they have no choice but to rely on the opinions of their seniors, to which they often attach themselves uncritically, and on general rules and principles, which even a beginner with intelligence but no experience can comprehend. The less developed one’s own powers of discernment in an activity—the less assured one’s craftsmanship in Llewellyn’s sense—the more one will need to rely on

contribute to pernicious, tectonic shifts in the legal culture. As clerk-written opinions become the norm, judges increasingly come to regard that style of opinion as the ideal.

And as this happens, the older person's virtue of practical wisdom will lose its meaning for judges too and be replaced by other, more youthful traits such as cleverness and dialectical agility, redefining the qualities judges admire in a practitioner of their craft and in the opinions he or she writes. Subtly perhaps, but steadily and effectively, the increasing influence of law clerks and their antiprudential culture thus brings about a shift in judicial values, contributing to the decline of the lawyer-statesman ideal in the minds of judges themselves by making the beginner in the craft of judging the measure of the master's art.¹⁵

Kronman's portrayal does not end there. The transformation becomes complete, he suggested, as this new sort of opinion becomes the standard fare of law-school instruction. Because those opinions no longer reflect the old norms, students do not learn to value those perspectives and approaches, and the wisdom of the past largely slips away. Rather than the wisdom of experience, "[w]hat they see reflected in these opinions, therefore, is essentially an image of themselves, clothed in the trappings of authority."¹⁶

Kronman's is perhaps the most dystopian vision of the impact of the law clerk, but he has hardly been the only critic of the clerk's growing influence.¹⁷ In the last thirty years there has been a slow but steady growth in newspaper articles, scholarly essays, and books examining the hiring and utilization of the men and women who help process the business of the courts. Overall, however, the scholarly attention paid to law clerks has been episodic, unsystematic, and primarily limited to the Supreme Court. Three books have covered Supreme Court law clerks in some depth,¹⁸ but beyond that the scholarly focus has been limited

strategies like these, which in essence provide a kind of substitute or surrogate for judgment and thereby help to compensate for its absence.").

15. *Id.* at 350–51.

16. *Id.* at 351–52.

17. *See, e.g.*, RICHARD A. POSNER, *THE FEDERAL COURTS: CHALLENGE AND REFORM* 139–59 (1996); Michael Boudin, *Judge Henry Friendly and the Craft of Judging*, 159 U. PA. L. REV. 1, 13–14 (2010); Owen M. Fiss, *The Bureaucratization of the Judiciary*, 92 YALE L.J. 1442, 1455–59 (1983); Richard A. Posner, *The Courthouse Mice*, NEW REPUBLIC, June 5 & 12, 2006, at 32. There are many more examples.

18. TODD C. PEPPERS, *COURTIERS OF THE MARBLE PALACE: THE RISE AND INFLUENCE OF THE SUPREME COURT LAW CLERK* (2006); ARTEMUS WARD & DAVID L.

largely to the stray law review article or a brief burst of attention following the publication of a book like Edward Lazarus's *Closed Chambers*¹⁹ or article like the piece in *Vanity Fair*²⁰ that followed *Bush v. Gore*.²¹ And as has been the case more generally, legal academics and social scientists conducted their respective explorations of the institution along largely separate tracks.

This absence of sustained attention is somewhat striking given that law clerks are, arguably, the elephant in many of the rooms inhabited by lawyers and legal academics. Concerns like those Kronman raised deserve systematic examination. Should it matter to us, as teachers, that the opinions we ask our students to pay such close attention to may not, in some meaningful sense, be the product of the jurists whose names are attached to them? If part of being an effective lawyer is knowing one's audience, then are we doing our students a disservice by failing to make explicit the fact that clerks are an important part of their audience? As lawyers, how should the role of clerks factor into our reading of and reliance upon opinions? As academics attempting to understand the characteristics and capabilities of the judiciary, how should we account for the likely opacity of the window that opinions provide into the workings of the courts? Is there a point at which delegation of responsibility to clerks crosses the line from undesirable to unconstitutional? How much do we actually understand about the role of clerks?

Despite the growing interest in law clerks, to our knowledge not a single academic conference has been devoted to the institution of the judicial clerk²²—until now. In April of 2014, Marquette University Law School sponsored a conference in which journalists, state and federal court judges, legal scholars, and social scientists gave formal

WEIDEN, SORCERERS' APPRENTICES: 100 YEARS OF LAW CLERKS AT THE UNITED STATES SUPREME COURT (2006); IN CHAMBERS, *supra* note 1.

19. EDWARD LAZARUS, *CLOSED CHAMBERS: THE FIRST EYEWITNESS ACCOUNT OF THE EPIC STRUGGLES INSIDE THE SUPREME COURT* (1998).

20. David Margolick, Evgenia Peretz & Michael Shnayerson, "The Path to Florida," *VANITY FAIR*, Oct. 2004, at 310.

21. 531 U.S. 98 (2000).

22. The closest thing was a print symposium that appeared in 1995 in *The Long Term View: A Journal of Informed Opinion* (published out of the Massachusetts School of Law). Symposium, *Law Clerks: The Transformation of the Judiciary*, 3 *LONG TERM VIEW* 2 (1995). The journal's list of participants was impressive—it included Judges Alex Kozinski, Wade H. McCree, Jr., Abner J. Mikva, Richard A. Posner, and Kenneth W. Starr—and it addressed many of the important issues involving the hiring and utilization of law clerks. But the issues have not been reexamined in any sort of systematic fashion since.

presentations and participated in informal conversations revolving around such fundamental issues as how law clerks are selected, “who” law clerks are, what job duties law clerks are assigned, and whether law clerks exercise inappropriate levels of influence over the judicial decision-making process. And participants discussed the challenges related to studying law clerks given existing clerkship codes of confidentiality.

What emerged from the conference was a rich and diverse dialogue not only about the evolution of the institutional structures undergirding the hiring and use of law clerks, but also normative questions as to how clerks should be used in a judicial system which has struggled with a dramatic increase in its caseload over the last fifty years. In short, the ultimate question facing the symposium participants was as follows: Is it a wise practice to allow unelectable and unaccountable men and women largely selected from a small group of elite law schools to wield influence not only over the outcomes of trials and appeals, but also over the selection of the doctrines and principles which support the legal justification for these outcomes?

The conference took place over two days and included six panels as well as a keynote address. They were as follows:

UTILIZATION AND INFLUENCE

The first three panels considered a variety of issues relating to the utilization and influence of law clerks. Dean Joseph Kearney articulates reservations about the institution of the career or long-term law clerk.²³ He expresses concern about its impact not only on the exercise of the judicial function, but also on the profession, which gains fewer new lawyers with the experience of having worked with a judge at the beginning of their careers.

Timothy Johnson, David Stras, and Ryan Black investigate the influence that clerks can have on oral arguments via examination of bench memos prepared by Justice Blackmun’s clerks.²⁴ These memos typically included suggested questions for the Justice to ask during oral argument, and the authors find that he asked over 40% of them. Although they caution that their data is preliminary in many respects, it

23. Joseph D. Kearney, *A Truth About Career Law Clerks*, 98 MARQ. L. REV. 13 (2014).

24. Timothy R. Johnson, David R. Stras & Ryan C. Black, *Advice from the Bench (Memo): Clerk Influence on Supreme Court Oral Arguments*, 98 MARQ. L. REV. 21 (2014).

is nonetheless suggestive of direct clerk influence on a Justice's performance of his duties.

Zachary Wallander and Sara Benesh likewise exploit the Blackmun papers to explore the contours of the influence that clerks may exert over Justices.²⁵ They focus on cert pool memos, conclude that clerks' recommendations in those memos do in fact influence the Justices' decision making, and suggest that such influence is not only to be expected, but also desired.

Ryan Black, Christina Boyd, and Amanda Bryan, also drawing on the Blackmun papers, investigate the impact and interrelation of ideology, certworthiness, and a clerk's recommendation on the certiorari process.²⁶ They find that clerks' recommendations matter, but also that the degree of influence varies based on the relationship between those recommendations and the Justices' own assessment of certworthiness as well as the ideology of the Justice for whom the recommending clerk works.

Stephen Wasby discusses the role and influence of clerks, drawing primarily on the papers of Ninth Circuit Senior Judge and former Oregon Supreme Court Justice Alfred Goodwin.²⁷ He explores the nature of the tasks typically delegated to law clerks and outlines the ways in which clerks thereby influence judges in the performance of their duties.

Albert Yoon explores the role of the clerk within the larger institutional design of the federal judiciary.²⁸ Among the institutional features he flushes out is the bimodal distribution, in terms of age and experience, of personnel in judicial chambers. If the common understanding that clerks have come to play a large role in the crafting of opinions is true, this is of potential concern because it involves the delegation of substantial amounts of responsibility to the young and inexperienced. Yoon suggests that these effects could be mitigated through reforms such as the fostering of a culture in which judges take a more active role in writing opinions, or through increases in judicial pay.

25. Zachary Wallander & Sara C. Benesh, *Law Clerks as Advisors: A Look at the Blackmun Papers*, 98 MARQ. L. REV. 43 (2014).

26. Ryan C. Black, Christina L. Boyd & Amanda C. Bryan, *Revisiting the Influence of Law Clerks on the U.S. Supreme Court's Agenda-Setting Process*, 98 MARQ. L. REV. 75 (2014).

27. Stephen L. Wasby, *The World of Law Clerks: Tasks, Utilization, Reliance, and Influence*, 98 MARQ. L. REV. 111 (2014).

28. Albert Yoon, *Law Clerks and the Institutional Design of the Federal Judiciary*, 98 MARQ. L. REV. 131 (2014).

KEYNOTE ADDRESS

Justice David Stras of the Minnesota Supreme Court gave a keynote address amongst the panels on utilization and influence.²⁹ Having previously served as a clerk to two federal appellate judges, a clerk on the United States Supreme Court, and a legal academic whose scholarly interests included judicial behavior, Justice Stras is uniquely positioned to offer insights into the law clerk's role, and his address drew upon his range of experience to bring an informed perspective to a range of materials relating to the selection, utilization, and influence of law clerks.

LAW CLERK SELECTION

The members of our fourth panel addressed a varieties of issues relating to law clerk selection. Aaron Nielson takes up the topic of law clerk hiring in the federal courts in the wake of the collapse of the Federal Judges Law Clerk Hiring Plan.³⁰ He contends that the lack of an adequate enforcement mechanism doomed the plan to failure from the beginning and that the costs of creating a sufficient mechanism are so great as to make a new plan unlikely. Less costly reforms might involve more focus on hiring of clerks who have already graduated at the time of their application and mechanisms designed to introduce greater transparency into the process.

Artemus Ward, Christina Dwyer, and Kiranjit Gill explore the post-clerkship careers of Supreme Court clerks.³¹ They find a recent increase in the portion of clerks who go from the Court into private practice, which they attribute to a combination of the large signing bonuses offered by law firms and increasing partisanship within the clerkship institution itself.

John Szmer, Erin Kaheny, and Robert Christensen examine the gender imbalance between men and women in the group of Supreme Court clerks, including by comparison to practices on the Supreme

29. David R. Stras, *Secret Agents: Using Law Clerks Effectively*, 98 MARQ. L. REV. 151 (2014).

30. Aaron L. Nielson, *The Future of Federal Law Clerk Hiring*, 98 MARQ. L. REV. 181 (2014).

31. Artemus Ward, Christina Dwyer & Kiranjit Gill, *Bonus Babies Escape Golden Handcuffs: How Money and Politics Has Transformed the Career Paths of Supreme Court Law Clerks*, 98 MARQ. L. REV. 227 (2014).

Court of Canada.³² They find not only that there are differences between the two courts, but also that some of the effect appears to be tied to ideology.

Christopher Kromphardt approaches the task of law-clerk hiring by suggesting a shift in focus.³³ While past work has examined hiring decisions at an individual level, Kromphardt points out that Justices may not be interested in assembling a collection of the strongest individual clerks so much as in putting together the best team. He finds support for this hypothesis in the fact that Justices frequently hire clerks whose ideological preferences differ from their own.

Todd Peppers, Micheal Giles, and Bridget Tainer-Parkins report the results of a survey of how judges on the United States Courts of Appeals select and utilize their law clerks.³⁴ Their study represents an important step in bringing greater awareness to functioning of the clerkship institution at that level and to its appropriateness as an object of academic study.

Lawrence Baum identifies an ideological component of the Supreme Court clerk selection process that has strengthened over time.³⁵ In particular, he explores the increasing tendency for liberal Justices to hire clerks with prior service for liberal lower-court judges, with conservative Justices preferring clerks who come out of the chambers of conservative lower-court judges. He tentatively suggests that the trend is a product of increasing ideological polarization in elite American society more generally, coupled with an increase in the number of applications to the Justices due to the development of a norm that prospective clerks apply to all nine members of the Court.

JOURNALISTS AND BIOGRAPHERS

Tony Mauro recounts his initial, pathbreaking research into the demographics of Supreme Court law clerks and provides some

32. John J. Szmer, Erin B. Kaheny & Robert K. Christensen, *Taking a Dip in the Supreme Court Clerk Pool: Gender-Based Discrepancies in Clerk Selection*, 98 MARQ. L. REV. 261 (2014).

33. Christopher D. Kromphardt, *Fielding an Excellent Team: Law Clerk Selection and Chambers Structure at the U.S. Supreme Court*, 98 MARQ. L. REV. 289 (2014).

34. Todd C. Peppers, Micheal W. Giles & Bridget Tainer-Parkins, *Surgeons or Scribes? The Role of United States Court of Appeals Law Clerks in "Appellate Triage,"* 98 MARQ. L. REV. 313 (2014).

35. Lawrence Baum, *Hiring Supreme Court Law Clerks: Probing the Ideological Linkage Between Judges and Justices*, 98 MARQ. L. REV. 333 (2014).

preliminary findings from his efforts to update that work.³⁶ While the percentage of female clerks has risen, the number of minority clerks appears to have remained stagnant.

Stephen Wermiel draws upon his access to Justice Brennan and his papers to provide a unique window into the practices of a long-serving Justice.³⁷ Wermiel's essay covers topics ranging from selection to the scope of clerks' formal responsibilities to their personal relationships with the Justice, and demonstrates the extent to which clerkships are a product of a judge's preferences and personality.

Scott Armstrong provides a fascinating account of the process of researching and writing *The Brethren*, for which law clerks served as significant sources.³⁸ He also reflects on differences between the cohort of clerks that he worked with as sources and the clerks of today, suggesting that they may differ in terms of how they are selected, the backgrounds they bring to the position, and the career choices they make afterwards.

We are delighted that this conversation has been memorialized in the essays which comprise this symposium issue of the *Marquette Law Review*. Our hope is that the essays contained herein will not only attempt to answer some of the questions raised above, but also spark a new wave of research and publications on the rules and norms surrounding the selection and utilization of law clerks in the federal and state court systems.

PANEL DISCUSSION

The conference concluded with a panel discussion of judges who drew upon a range of experience both as judges and as clerks. Judges Diane Sykes and James Wynn, Jr., and Justice David Stras not only reacted to what they had heard over the preceding portions of the conference, but also contributed their own perspectives and responded to questions from the other conference participants.³⁹ What resulted

36. Tony Mauro, *Diversity and Supreme Court Law Clerks*, 98 MARQ. L. REV. 361 (2014).

37. Stephen Wermiel, *Justice Brennan and His Law Clerks*, 98 MARQ. L. REV. 367 (2014).

38. Scott Armstrong, *Supreme Court Clerks as Judicial Actors and as Sources*, 98 MARQ. L. REV. 387 (2014).

39. Panel Discussion, *Judges' Perspectives on Law Clerk Hiring, Utilization, and Influence*, 98 MARQ. L. REV. 441 (2014).

was a wide-ranging and informative discussion that will be of interest to scholars, practitioners, and prospective clerks.

We are grateful to all of the conference participants for making the event a wonderful in-person experience, as well as for generating such useful contributions to the growing scholarly literature on judicial clerks. We would also like to thank Dean Joseph Kearney of Marquette University Law School for his generous support and encouragement, and also the many members of the law school's staff and administration for their work in putting on the conference. Finally, we are grateful to the editorial staff of the *Marquette Law Review* for publishing the conference papers, and for doing the difficult work of bringing them into print.