

INSTITUTE FOR LEGISLATIVE AND GOVERNMENTAL AFFAIRS

SUMMARY OF EVENTS FOR SPRING 2012



The Legislative Institute had a very active spring, which included a variety of events relating to legislation and public affairs. This summary addresses four of the principal programs we sponsored.

- **First**, the Joint Committee on Transportation of the Massachusetts Legislature conducted a hearing at the Law School in January 2012. Senate Chair Thomas McGee, Senator Gale Candaras '82, and other members heard testimony from transportation, business, and resident stakeholders who rely on safe, reliable, and affordable transportation in western Massachusetts. The Economic Development Council, the Pioneer Valley Transportation Authority, the Chamber of Commerce, and patrons of public transportation, among others, testified at the hearing. The witnesses agreed that a major problem is that western Massachusetts does not receive its proportionate share of state funding for public transportation.
- **Second**, after the United States Supreme Court heard oral argument on the Patient Protection and Affordable Care Act ("Obamacare") last March, the Institute convened a panel of constitutional experts to discuss the oral argument, the issues raised, the strategy of the parties, and how the Court would decide the case. With Professor Sudha Setty serving as the moderator, Professors Leora Harpaz, Bruce Miller, and Arthur Wolf examined the four key issues.

The panelists explored (1) the Tax Anti-Injunction Act; (2) the individual mandate in the statute; (3) severability; and (4) the statutory mechanism for expanding Medicaid coverage in the states (the 10th Amendment issue). The panelists agreed the Court should uphold the individual mandate, the central issue, based upon the precedents under the Commerce Clause.

As it turned out, the Court focused on issues (2) and (4). No one predicted that Chief Justice Roberts would write the majority opinion upholding the individual mandate, not based on the Commerce Clause, but upon the taxing power. Indeed the majority limited the reach of the Commerce Clause.



- **Third**, in the spring, we also hosted the Sixth Annual Fair Housing and Civil Rights Conference. Drawing 250 persons, it was our most successful iteration of this popular and widely-attended annual event. Professor Sheryll Cashin delivered an exceptional keynote address, which set an uplifting and energetic tone for the Conference. At Georgetown University, Professor Cashin teaches Constitutional Law and Race and American Law, among other subjects, and writes about race and inequality in America. Her current work in progress is a book about the future of American race relations and multiracial coalition building.
- **Fourth**, in April, we cosponsored the appearance of Attorney Odette Wilkens, the Executive Director of the Equal Justice Alliance, a non-profit organization that is seeking to repeal the Federal Animal Enterprise Terrorism Act ("AETA"). The AETA restricts the freedom of speech and assembly for social justice activists who share the ideology of animal welfare. It unfairly brands as terrorism any activities that interfere with the operations of an animal enterprise or of any entity that deals with one. Such activities may include website posts, peaceful vigils, nonviolent civil disobedience, undercover investigations, and whistle-blowing. Attorney Wilkens discussed the AETA and its deleterious effect on our civil liberties.

Photo (top left) The Joint Committee on Transportation; (top right) the Patient Protection and Affordable Care Act Panel; and (bottom right) the Sixth Annual Fair Housing and Civil Rights Conference