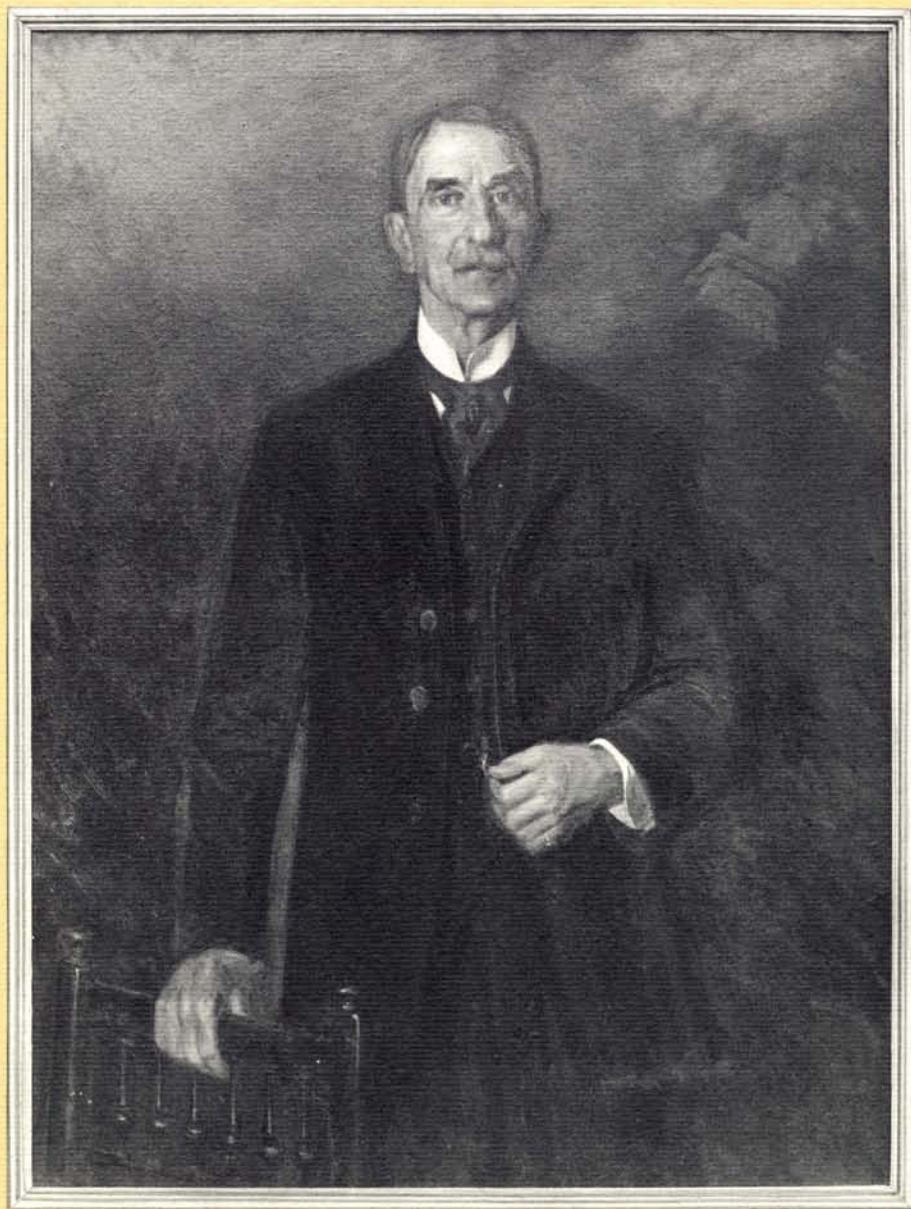


STANFORD LAWYER

Winter 1967



The Law School Arms



One of the standard heraldic background elements has for centuries been a conventionalized representation of ermine, which in medieval times was restricted to royalty, but which later became a symbol of the judiciary office. On the Law School arms a vertical strip, or pale, of ermine is overlaid on a purple background, purple being the color symbolizing the legal discipline and appearing on the academic robes of lawyers. In the flags and arms of the seven schools of Stanford University there is a common element—the characteristic triple frond of the Palo Alto redwood tree, the tree so long associated with Stanford. In the Law School's flag and arms, the Stanford cardinal redwood frond is superimposed upon the strip of ermine. Thus, the Law School's flag and arms import a combination of Stanford, law and justice.

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STANFORD LAWYER Winter 1967

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Editor: Kathleen McInerney

Cover picture: Portrait of Nathan Abbott, 1854-1941, Professor of Law and first head of the School, from 1893-1907. Painting of the portrait of Dean Abbott was made possible through the initiative and generosity of the School's Historical Committee under the Chairmanship of Perry Moerdyke '39.

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AN ANNIVERSARY MESSAGE FROM THE DEAN



This year marks an important birthday anniversary for the Law School. The Class of 1968 is the School's 75th graduating class.

In recognition of the School's 75th year, this issue of "Stanford Lawyer" bears on its cover the portrait of Nathan Abbott, the first head of the School and the guiding figure in its early development. When the Law Department first opened its doors in 1893, it had an unusual faculty of two. One was the University librarian. The other was Benjamin Harrison, former President of the United States, who taught international law. But Nathan Abbott was Stanford's first full-time professor of law. A gentle, scholarly man whose major interests were Latin poetry, the subtleties of 14th century land tenures and his garden, Abbott assembled around him the School's first small faculty and imparted to it from its very beginning a standard of rigor and commitment to excellence that most schools attain, if they attain them at all, only after a long period of internal development. Nathan Abbott remained head of the School until 1907 when he left Stanford to become a member of the Columbia law faculty, leaving behind him an unpayable debt of gratitude.

Some things have changed at the Law School since 1893.

Stanford law students used to be drawn mainly from the immediate vicinity; today the School's students are from every part of the United States. Admission to law study at Stanford in 1893 was not keenly competitive; this year 1,700 students will apply for the 150 places in next fall's entering class. In 1893, because of the size of the University's endowment, tuition was zero; now the University's endowment per student has dropped from first in the nation to 27th, with endowment income today

paying for only 18% of the operating costs of the University as costs have risen. Tuition charges in fall 1968 will be \$1920 and will doubtless continue to rise.

Living alumni who hold a law degree from the Law School number about 3200, of whom about 70 were graduated in the School's first quarter century, about 750 in its second, and about 2,450 in the last 25 years.

The faculty has moved from the era of great remembered names of Hohfeld and Huberich, through that of Cathcart and Vernier, to that of the men who are the School's current professors *emeriti*—Walter Bingham, Marion Kirkwood, George Osborne, William Owens, Harry Rathbun, Harold Shepherd and Lowell Turrentine. Taking their place in the classroom is a young and still growing faculty of great strength and promise.

Beginning from nothing, the School developed over the years an excellent working library. Today it has stepped up to a long, expensive task of assembling a legal research collection of first quality through escalation of current acquisitions and the start of a pursuit for additional needed volumes that were published at an earlier time.

The same order of progression may be seen in the School's physical facilities. Originally homeless, with a couple of classrooms assigned to it in the inner Quadrangle, the Law School achieved physical recognition of its coherent self when in 1949 it moved into the remodeled administration building. Now, a generation later, with students, faculty and books overflowing the present law building, the School is looking forward to having its first home specifically designed for Law School use and for its own needs—a building to house 500 students, a faculty of 40 and a library of 500,000 volumes. If the necessary financing can be found, it is hoped that construction of the building will begin in the fall of 1969, with a targeted completion date of 1971.

There have been changes at the Law School over its 75 years of institutional life. But its most important element—Nathan Abbott's conception of the Stanford School of Law as a small school of the highest professional and scholarly excellence in the law—has not changed, and will not change as the School moves past its 75th anniversary and into its future of centuries.

Ray M. Mauney

One of the important measures of a law school must be its offerings in property law, including the strength of its faculty, its curriculum, the opportunities it allows for the application of classroom knowledge in both the theoretical and practical realms and its library holdings.

The Law School has a tradition of fine scholars and teachers in real property law, beginning with Nathan Abbott and including Dean Marion Rice Kirkwood and Professor George Osborne. The current faculty includes five members who teach various aspects of the broad and growing field of property law. First-year property courses are taught by Professors Moffatt Hancock and Charles Meyers; Professor Hancock is deeply interested in conflicts of laws and has published widely in the field. Professors Charles Meyers and Howard Williams are the coauthors of the seven-volume standard treatise on oil and gas. (They alternate teaching that subject and real estate transactions every year.) Professor John Henry Merryman specializes in problems of land use controls and urban planning and, in addition, has published a number of works on the civil law, which he also teaches. Dale Collinson shares instruction in the field of future interests with Mr. Williams.

First-year law students are required to take Property I, a basic course offered in the spring term. Consideration is given to estates in land, divided interest, relationships between landlord and tenant and commercial transfers of land, including real estate contracts. Students study deeds, title insurance and the recording system. Finally, they consider private restrictions on the use of land, public regulations of

land use and land use planning. Second-year and third-year students may choose from courses in oil and gas law, mortgages, trust and estates, real estate transactions, water law and land use controls.

Aside from the publication of student material in property law in the *Stanford Law Review*, recent and upcoming publications by the School's students include an article by John Brooks, Jr. '66 on "Legal Problems of the Geothermal Industry" in the *Natural Resources Journal*, Vol. 6, 1966, an article by Stephen Hill '66 on rhoeatophyte control—to be published during the winter of 1967-68 by *The Land and Water Resources Review* (of the University of Wyoming)—and an article on developments in water-distributing organizations in the West, which is scheduled for publication during the winter of 1967-68 by Peter Rosenow '67 in the *Natural Resources Journal*.

One of the School's newer seminars is Community Development Laboratory, an interdisciplinary course in which law students participate with students from the departments of engineering, business and architecture. The participants work together to devise a general plan for the development of some nearby city or town. Often, the Laboratory seeks to develop action proposals that city officials can submit to the appropriate agencies for the relief of pressing community problems.

During the academic year 1965-66, law students joined architectural and engineering students in a six-month study of the town of Morgan Hill, a rural community 18 miles south of Palo Alto. Of particular interest to the law students were matters of zoning and the responsibilities and rights of citizens in community planning. Seven law students and four architecture

students drew up the final plan, which they presented to the town of Morgan Hill in the spring of 1966.

In 1966-67, in Community Development Laboratory, seven law students and eleven advanced architectural students spent the fall semester drawing up a plan for the town of Alviso. Working under their advisors, Professors Charles Meyers and John Henry Merryman of the Law School and Thomas T. Williamson, Menlo Park architect and lecturer in architecture at Stanford, the group concentrated on programs calculated to make Alviso into a fresh-water port, as it was years ago. There has also been discussion of the merits and drawbacks attendant upon annexation of Alviso to San Jose. Lastly, the group investigated the advisability of applying for a Demonstration Cities Planning Grant. At the end of the fall semester, the students prepared a preliminary report. A new group, consisting of the original members from the schools of law and architecture and one student each from the schools of business and engineering spent the 1967 spring semester studying the town further and prospecting action plans. The group recommended to Alviso city officials and citizens that the town consider consolidation with San Jose and prepared a draft contract insuring that Alviso would receive the benefits promised. That contract has since been adopted by the San Jose City Council. In addition, a Model Cities application was prepared and filed and is pending in Washington, D. C.

In the spring of 1966, ten law students and ten business students took part in the Law School and Business School Seminar on Housing and Urban Development. They attempted to project the future of

Hunter's Point, a temporary wartime housing development at the southernmost tip of San Francisco. The community is populated almost exclusively by minority groups and was the scene of an outbreak of riots in September of 1966. For the seven weeks between the opening of the Law School's spring semester and the Business School's spring quarter, law students studied and wrote reports on the principal legal institutions in Hunter's Point in the fields of housing and urban renewal. When the law students were joined by business students, the group was divided into six teams, each having from four to six members. Each team conducted interviews and took surveys among Hunter's Point residents. A seventh team coordinated the work of the other six and compiled a consensus report. The report, noting the existence of a powerful barrier to easy solutions in a community as complex as Hunter's Point, urged that immediate measures be taken to improve relations between the Point and the City in September 1967.

Those familiar with the School are aware of the general need for strengthening of its library resources. In the area of the law of real property, however, the School can report a substantial increase in its holdings, thanks to a \$44,000 grant awarded in late 1966 from the Title Insurance Company and Trust Foundation. The grant has been designated for the acquisition of land law materials.

The quality of faculty and students, the roster of courses, a vigorous program of student participation in the legal life of the community outside the classroom and a good and growing library all speak well for the Law School's property curriculum.

COMMENCEMENT 1967

One hundred forty men and women were entered into the ranks of Stanford Law School graduates in a dual commencement on Sunday, June 18. The Class of 1967 attended the first portion of the all-University exercises at Frost Amphitheater, then marched to Dinkelspiel Auditorium for Law School ceremonies.

The assembly heard Professor John McDonough remind the graduates that the "unique function and special responsibility of a lawyer is to think." He added:

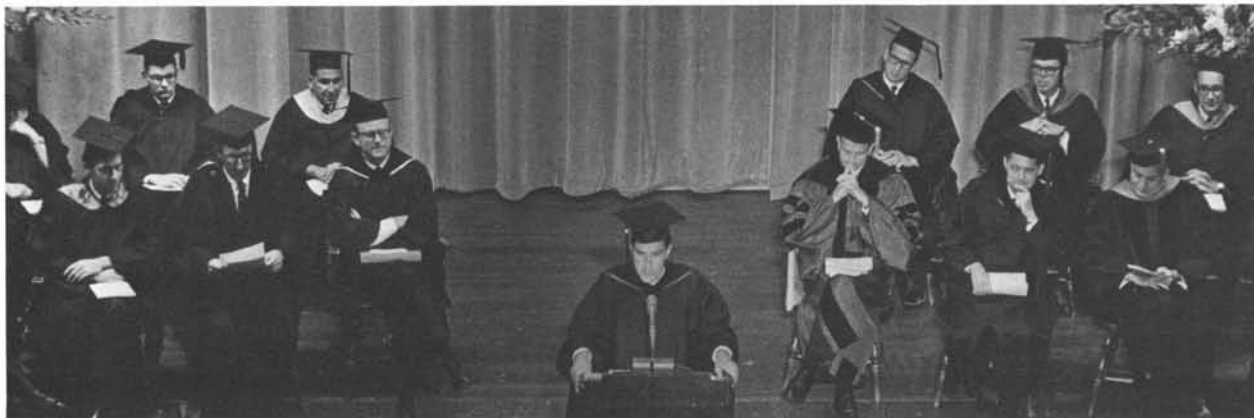
It will help a good bit if you like being overworked, underpaid, generally harried, and frequently involved in contention if not controversy. It will also help if your spouse and children don't really like you very much, so that they are willing to settle for relatively little of your company. It will be a great help if you have considerable capacity to suffer fools—and if you have or develop the hide of a rhinoceros.

Stephen Mathias Tennis, who as the graduating student of the School with the highest cumulative

grade point was this year's Nathan Abbott scholar, delivered the student address. Speaking on the general theme of a law school education teaching one *how* to think, he drew laughter when he quoted the May 1967 issue of "Harper's" magazine as saying of the country's law professors: "They are mostly terrifyingly bright, and they appreciate it."

Degrees were conferred by Dean Bayless Manning. Awards were presented and honors announced as the candidates came on stage. Following presentation of the Abbott award to Mr. Tennis by the Dean, Chesney Douglas Floyd, Order of the Coif, Urban A. Sontheimer Award winner, Lawyer's Title Award winner and Rocky Mountain Mineral Law Foundation Award winner, held the stage, the spotlight and a rapt audience on the verge of applause for some minutes. The Sontheimer third-year award is made annually to the graduating student whose academic performance is the class' highest, save for that of the Nathan Abbott scholar. The Lawyer's Title Award, presented by Professor Charles Meyers, was given for Mr. Floyd's outstanding record in real property courses. The Rocky

Steven Mathias Tennis, 1967 Nathan Abbott Scholar, addresses commencement gathering.



Mountain Mineral Law Foundation Award, presented by Professor Howard Williams, was earned by Mr. Floyd's paper of exceptional merit on a phase of mineral law. Mr. C. C. Dietrich, general counsel for the firm awarding the prize, represented the foundation and met with Mr. Floyd after the ceremonies.

Other awards were made earlier and announced during the ceremony. Robert S. Fastov, who was the 1966-67 chairman of the Legal Aid Society, received the Lawrence S. Fletcher Life Membership from the Stanford Alumni Association. This prize is given to a third-year student judged to have made an outstanding contribution to the life of the Law School. Five Marion Rice Kirkwood Moot Court prizes went to: David Fox, Kristina Hanson (for oral argument and for the best brief), William McCarren and Richard Whitmore.

They were awarded by Dean Manning on February 7 at the Competition. Roscoe D. Jones, the 1966-67 president of the Northern California and Nevada Alumni Society, which donates the prizes, presented them to Dean Manning and was on hand to congratulate the winners.

Commencement procession June 18, 1967.



ulate the winners. Three *Law Review* prizes were given on May 6 at the *Review's* annual banquet. The Irving H. Hellman, Jr. Award went to Charles Traeger; the *Stanford Law Review* prize was awarded to John Messing; the *Stanford Law Review* Board of Editors prize was awarded to Raymond Sebastian.

Preceding the ceremonies at Frost, Dean and Mrs. Manning hosted the graduates, their families and the faculty at their home. Over three hundred guests enjoyed an outdoor luncheon on a comfortable, if slightly windy, June afternoon.

Since the inauguration of separate ceremonies for the graduate and professional schools of the University, the number of students participating in commencement ceremonies has grown significantly. Over 70% of the class of 1967 took part in commencement.

After the Dinkelspiel ceremonies, many of the graduates and their guests lingered over refreshments, which were served in the lobby of the auditorium. There was exhilaration—and there was doubtless nostalgia—as yesterday's students, the Class of 1967, left the School to become lawyers and alumni.

Professor Meyers presents Lawyers Title Award to Chesney Douglas Floyd. Looking on is the Dean; reading award, Professor Dale Collinson.



PRESIDENT STERLING ADDRESSES ALUMNI GROUP

President Sterling



When I was going to St. Ives
I met a man with seven wives.
Each wife had seven sacks.
Each sack had seven cats.
Each cat had seven kits.
Kits, cats, sacks and wives—
How many were going to St. Ives?

Not cats, wives, bags or St. Ives moved President Wallace Sterling to verse at the Northern California and Nevada Alumni Society meeting on April 28. Rather—the number ‘seven’. For seven letters make up the word ‘emeriti’ and the Law School’s seven emeriti made up the roster of honored guests at the Society’s annual dinner. Noting that in ancient times seven pillars were in the temple of wisdom and that in modern times seven is the number revered by craps-shooters, President Sterling began a gracious tribute to the seven men. A delighted audience heard the following observations:

Of *Joseph Walter Bingham*, alias “Smokey Joe,”—He accumulated and dispensed useful and durable knowledge about the law of water rights; about international law as applied to Pacific Coast fisheries and about wills.

I have often wondered if Walter’s knowledge of the law of water rights did not serve him occasionally as a *secret weapon*. My wondering began more than 30 years ago when I used to see Walter Bingham, Percy Martin (history), Bert Whitaker

(economics) and other faculty members at the Encina pool for a midday swim. They swam competitively among themselves. Walter set and held several records. I accept the fact that he was a good swimmer, but those records make me suspect a secret weapon.

I am told that Walter was not always on time for class—or should I say always not on time—and that sometimes he asked to borrow a case-book from a student and inquired what case was to be taken up that particular day. I am also told that, once in action, his gifts for exposition and argument propelled him into periods of brilliance which his students recall with gratitude and awe. But I gather that none of Walter’s attributes contributed more to the climax of the spirited discussions over which he presided than his readiness to cite as authority in the case a learned article which he himself had written.

Of *George Edward Osborne*—Just as Walter Bingham was known to his students for his reluctance to engage in controversy or to cite himself as an authority, so was George Osborne known for the gentleness of his voice. As a graduate student in history, I actually audited a course on personal property while meditating in the Memorial Church. In the church, George could be more clearly heard from across the inner quad on weekdays than could the preacher from the inner pulpit on Sundays. And at the same time as I audited that personal property course, I got a refresher course in Latin. I had not known theretofore that there were so many cases involving the acquiring of title to wild animals; nor had I learned before the Latin names of so many wild animals. I thought it would be fun to keep score of George’s references to wild animals to see if, by frequency of reference, I could identify his favorite. The identification was easy. His favorite animal is called *a fortiori*, which means, in colloquial translation, “of course, of course!” but which, in terms of *ferrae naturae*, means ‘tiger.’

No wonder, then, that toward the close of his teaching career at Stanford, George’s class pro-

claimed Tiger Day, and presented him with a scroll and the very long tail of a stuffed tiger. It follows, *a fortiori*, that this became and remains a treasured possession.

Of *William Brownlee Owens*—Here, too, is a record of public service in humanitarianism, of service to his profession, and of committee assignments at Stanford. And here, too, I beg leave to single out one particular committee assignment: how many of you know that Bill Owens was Stanford's Faculty Athletic Representative to the now defunct Pacific Coast Conference for 17 years—1926-43—and president of the N.C.A.A. from 1937-40?

As I reflect on that assignment and on those days, I also reflect on lines from Wordsworth's sonnet:

Milton! thou shouldst be living at this hour:
England hath need of thee: . . .
The homely beauty of the good old cause
Is gone; . . .

Bill, may I make a parenthetical personal request: the next time you supplement your *Forms and Suggestions for California Practice*, would you please extend your coverage to intercollegiate athletics, with particular attention to those *Annotations* which might serve Stanford best?

Among Bill Owens' nonlegal interests and attainments I would mention two: a skill with tools applied to wood, and a flair for acting. I'm not sure that he ever played in "East Lynne," but I do know that he played in *Seven*—(did I say *seven*?)—"Seven Keys to Baldpate," and I believe also in "Arsenic and Old Lace." But it is for his real-life role as Professor of Law, now Emeritus, that I ask you to join with me in saluting him.

Of *Harry John Rathbun*—I have a question about Harry's career. My question may derive from the fact that I was once an historian, hopefully trained to observe chronological sequences and relationships. I note that Harry switched from being a corporate executive to being a professor of law in the year 1929. And, given the academic calendar, that switch must have occurred at least

a month before October of that year. Harry, with all possible impertinance, may I ask you, "How big a financial killing did you actually make?" I here and now publicly suggest to Dean Manning that this question deserves an answer as the Stanford School of Law wrestles with present needs and looks to the meeting of future needs.

One more word about Harry—and this not an impertinent but a grateful word. As Stanford has tried in recent years to enhance the quality and character of student life in residence halls, Harry has said yes to my invitation to serve as Master for a group of men's houses. We all knew of his interest in the ethics and standards of personal conduct. This interest continues to serve Stanford students, and for that and other services the University is grateful.

Of *Harold Shepherd*—Try as he might, he has never been able to get Stanford out of his system. As evidence, I offer his academic career: from Stanford to Wyoming, then back to Stanford for *seven* years; then he became really peripatetic: 2 years at Chicago; 4 years at Washington, in Seattle, as Dean; 2 years at Duke, also as Dean;—then home to Stanford in 1949 as Professor. I once tried to bolster my ego by thinking that it was the news late in 1948 of my election to the Stanford Presidency that persuaded Harold to return in 1949, but in what is for him a unique moment of transcending inhumanity, he categorically denied any causal relationship between these two events.

For a variety of reasons, I have long since decided not merely to forgive but also to forget this damage to my pride. In the first place, Harold Shepherd knows much more about contracts than I do, and I didn't want him probing into mine: "at the pleasure of the Trustees" is tenuous enough. In the second place, I happen to know that Harold had difficulty getting admitted to Stanford. Stanford's registrar had never heard of his high school in Paris, Idaho—or, for that matter, of the town either. In the third place, he is a gourmet cook and an expert wood carver; to carry a

grudge against a gourmet cook is sheer folly; to carry a grudge against an expert wood carver is to court danger. In the fourth place, it is impossible to harbor anything but affection for a person such as Harold, admiration for his professional attainments, and gratitude for his service to Stanford.

Of *Lowell Turrentine*—Like that of his colleagues, Lowell's record of public service, of service to his profession and to Stanford, is eminent. One item of his service to Stanford bears particular mention. He was a member of a University committee on the grading system. The committee, and Lowell's membership on it, had a life of one year. That was just over a decade ago. I doubt that such a short life of such a committee would be practicable today — more's the pity! In any event, I am going to suggest to Herb Packer, in his capacity as Vice Provost for Academic Programs and Planning, that he get Lowell to divulge his secrets for shortening the lives of committees on grading systems.

We all regret that Lowell could not be present tonight. But I present him to you *in absentia*.

Of *Marion Rice Kirkwood*—I am not going to recite the organizations which Marion Kirkwood has served as member and officer — some of them bearing strange names like Order of the Coif—or the range of his consulting and professional work, or the record of his public service to community and nation.

But I *am* going to indulge in a few observations for the record. When Marion Kirkwood became Dean of the Stanford School of Law in 1922, the law faculty included the following: Professors Whittier, Cathcart, Vernier, Bingham and Osborne. Just a group of namby-pambies. Not a strong personality in the lot. *Dean*, you say! I say that he was a ruddy orchestra conductor. And a year later he added Harold Shepherd. Imagine! And if ever there was evidence that time mellows, I give you what Harold Shepherd wrote, years later, about that collection of soloists to which he added another voice, and about the man conduct-

ing the cacophony: "It was but natural," Harold wrote, "that sharp differences of opinion... should exist and be expressed with vigor." It was but natural! Well, if one thing can be natural, so can another. It was but natural that Marion Kirkwood's own strength, patience and wisdom should have blended those solo voices into a chorus which brought distinction to the School.

A second observation: during the past several years, I have read more than one Stanford University budget, including those of the 1920's and 1930's. In those earlier budgets there were line items for salaries, occasionally for library funds, now and then for a secretary or two. Funds for stationery, postage and research were on a catch-as-catch-can basis. On one occasion, when President Wilbur was in Washington as Secretary of the Interior, the Law Faculty recommended to the Acting President a program of modest cost. The Acting President felt that he could not authorize the requested expenditure, but he did authorize Dean Kirkwood to assure the law faculty that the University would underwrite the cost of a telegram to Washington, D. C., whereby the matter could be referred to Dr. Wilbur. Ah, me! No Dean ever asks *me* for permission to send a telegram!

A third observation—this one out of personal experience. When I returned to Stanford in 1949, Marion Kirkwood was Chairman of the Faculty's Advisory Board — a Board which reviews appointments to the University Faculty and is available to consult with the President on University affairs. No new President could have had greater good fortune than to have Marion Kirkwood as counsellor-in-chief and, sooner than later, a very good friend. And for this good fortune, Marion, I thank you.

And, concluded the President: "It would please each of us to think that each of them viewed with some favor our efforts to serve the University and its School of Law, and, in so serving, further to advance the purpose of law and learning which they advanced so far and so well."

"However many times I try to explain the nature and function of law reviews to anyone outside the legal profession," says Volume 20 editor Bill Lake '68, "the reaction is sure to be one of skepticism; more often than not, the skepticism is verbal." And indeed the law review is an anomaly in the academic world, unique both as a professional tool and as an academic institution. Karl Llewellyn called it "unrivalled by anything in the world of intellectual education."

The overwhelming majority of published scholarship in the legal profession appears in law reviews. The student-run review is among the most esteemed—and useful—of publications for all members of the legal profession—lawyers, legislators and the judiciary. The law review stands alone by its nature in comparison with any other professional or academic institution.

Reviews are wholly student-run, yet the best of them can call upon leading authorities and academicians and on the finest students and scholars for material. They enjoy total faculty support, yet have complete autonomy. In short, they are vital in the legal world without being in any way subservient to it. This calls for inordinately hard work on the part of the reviewer. A law student ordinarily spends at least forty hours a week on his review work, apart from his regular schedule of classes and class assignments. Membership in a review is thus far more than an extracurricular activity; it is virtually a complete education in itself.

Stanford Law Review in 1967-68 is in its twentieth year, a juncture that Editor Lake calls "comfortable old age." Compared with Harvard's eighty-one years, Columbia's sixty-seven years and Yale's seventy-six years, the *Review* is hardly old. Yet the term applies well in the sense that *Stanford Law Review* can take its place with even the oldest reviews in terms of established scholarly reputation, continuity and the prospect of a vigorous future life.

The *Review* publishes one volume a year, consist-

ing of six issues of about 200 pages each. Distribution is made between November and June. Current circulation is about 1,700, the subscribers including attorneys, judges, law libraries and major law firms, both national and international.

About twenty-five highly ranked students are invited to membership yearly. They return to school in mid-August and begin learning the work of the *Review* including familiarization with the "Bluebook" of citation rules. The "Bluebook" also contains an overview of the *Review* as an institution and of the new member's role as a participant.

Before classes begin in September, the new member has completed for publication, under the guidance of a third-year editor, his comment on a recent development in the law. Within his first year on the *Review* and after primary editing by a reviser and final editing by one or two recent developments editors, the new member will see his comment in print. In the process, he has become well versed in citechecking, proofreading and manuscript preparation. Later, the student will, in a similar but more demanding process, prepare a case note of substantial length for publication. According to Bill Lake:

Through this process of continual, mutual criticism and evaluation, *Review* members not only learn to appreciate their own talents and weaknesses, but become capable of making an accurate assessment of the capability and dedication of those with whom they have worked. This familiarity is vital to the selection, each year, of the ten individuals who will become the officers of the *Review* for the next volume. In early spring, one member of the second-year class is elected by a majority vote of the entire *Review* to serve as President. The president-elect then selects, with the help of recommendations from the outgoing officers, the officers who will serve as editors and administrators for the next year of the *Review*.

The student writing that constitutes about half of the contents of each issue is designed to serve

a particular function for the legal profession, one made uniquely appropriate by the circumstances in which this writing is produced. It is an exercise in in-depth research, in which the student writer's mandate is to tap all possible sources of information relevant to his topic—legal library materials, empirical findings, field interviews and surveys, and the literatures and faculties of non-legal academic disciplines. The written piece thus produced can bring to bear on a legal subject a creativity, a breadth of resources and an amount of time not available to the practicing lawyer or judge.

A special issue on the constitutionality of the 1967 Voting Rights Act, written by Warren Christopher, first president of the *Review* and current Deputy Attorney General of the United States, started off Volume 18 in September 1965. The June issue was dedicated to Dean Marion Rice Kirkwood. Faculty articles came from Professors Merryman, Hancock, Franklin and Ehrlich. Alumnus Judge Ben.C. Duniway '23 of the Ninth Circuit, U.S. District Court of Appeals, was also a contributor.

Volume nineteen, a typical volume, published articles on numerous subjects, including enterprise liability, trends in enterprise liability, oligopoly power under the Sherman and Clayton acts, statutory modification of inverse condemnation and cooperative apartment transfer. The *Review* carried Professor Charles Meyers' "The Colorado River" and Joseph W. Bartlett's ('60) "Variable Annuities: Evolution and Analysis." Student work covered such topics as conflicts of interest and union pension fund investments, gift taxation of interest-free loans, simplified taxable income, community property, and qualification of a specific portion of a trust for marital deductions.

The June issue of Volume 19 was devoted entirely to international law. The *Review* feels that there is a need for more exposure to the many problems in the broad field of international law and hopes to provide a forum that will serve both practitioners and scholars. The prospect of producing an international issue on

an annual basis has been received enthusiastically. The inaugural issue last June contained articles on a wide variety of topics by both scholars and practitioners, as well as student work and book reviews.

The faculty has been vigorous in its support of the *Review* without in any way exercising control. Students can count on members of the faculty to suggest topics and do critical readings on incoming material that lies within their fields. They can be counted on as well to respect the autonomy of the editors in the selection and preparation of items for publication.

Among the *Review's* strong points, according to Volume Nineteen's article editor, Steven Tennis '67 is its lack of "set institutional patterns, allowing the *Review* to respond more readily to felt needs of the legal profession." The international law issue was an example of such catholicity of interest.

In keeping with the School's seventy-fifth anniversary celebration during the coming year, the *Review* will devote issue 3, appearing in February 1968, solely to alumni writings.

On May 6, Professor Charles Meyers acted as master of ceremonies at the *Review's* nineteenth annual banquet. The Irving Hellman, Jr. Law Review prizes were awarded to John H. Messing, Raymond F. Sebastian and Charles Traeger. Certificates of membership on the Board of Editors were presented to third-year members.

Again to quote Karl Llewellyn:

Certainly it is impossible that the student-run review, lacking either maturity, or continuity of leadership, could have maintained itself against that competition of experienced faculty editors which has now been in the field for years.

Llewellyn's words are here meant to underscore the fact that, despite the apparently insoluble problems inherent in their production, student-run reviews have in fact done better than simply maintain themselves in the face of competition; they have prospered. *Stanford Law Review* is no exception.

BOARD OF VISITORS AND ALUMNI CLASSES AT THE SCHOOL

The annual Board of Visitors Meeting and the first Law School reunion of several classes were held in conjunction at the School in early April. The Board of Visitors met formally on Friday, April 7, though many of the members remained for the Saturday luncheon honoring the School's first head, Nathan Abbott. Some, who were members of classes convening for the reunion, celebrated with their classes on Saturday night. Registration for the reunion began on Friday, April 7. The two-day event ended with class dinners at various locations on the Peninsula on Saturday night. On Thursday, April 6, new members of the Board registered and were hosted at the Faculty Club by Dean Manning. Mrs. Manning was hostess to the wives of new Board members at the Manning home. At the same time, Reunion Chairmen for each

Reunion Chairmen (left to right): Oscar Trippet '27, Norman Baldwin '46, John Cranston '32, Dean Manning, Harold Shepherd '22, William Mitchell '47, William H. Rehnquist '52.



Professors Emeriti and guests at Abbott luncheon. Left to right: William Owens, Mrs. Shepherd, Dean J. Keith Mann, Mrs. Patty Brenner, Robert Powell (Hastings), Harold Shepherd '22, Lowell Turrentine, Mrs. Owens, George Osborne, Mrs. Powell, Walter Bingham.





Mrs. Rufus Kimball, daughter of the late Nathan Abbott, and Stanford President Wallace Sterling at Faculty Club reception preceding the Nathan Abbott Memorial Luncheon.

of the returning classes and law student Reunion Aides, each of whom was responsible to one of the Chairmen for coordinating activities for class dinners and special events, gathered for cocktails and dinner at the home of Assistant Dean and Mrs. Robert Keller.

On Friday, the entire Board of Visitors met in general sessions and in committees. Luncheon for Board members and their wives was held at the Mannings.

Friday the reunion began. They came from the classes of '22, '27, '32, '37, '42, '47, '52, and '57. A special group, the Honored Reunion Members, included all who had been graduated from the School fifty years or more. In spite of dreary weather—the rainiest April in many memories—the reunion was by

at SLAC.

At a reception for the Board of Visitors, Miss Peggy Gale serves Charles Page '58.



at "Sunset."



Friday luncheon at Women's Club.



Alumni arriving at "Sunset" magazine. Foreground, two Reunion Aides, Russ Boraas, second-year (left), aided the Class of '57; Jeff Mason, second-year (right) aided the Class of '52.



all accounts a success. From Friday's buffet luncheon to Saturday night's class dinners, alumni brought themselves up to date with one another, with the Law School and with legal education at Stanford.

The Friday luncheon, which was to have been held under the trees at Bowman Alumni House, was moved indoors to the Women's Club. A campus singing group, the Mendicants, was enthusiastically received. Dean Manning spoke informally on the current programs at the School on Friday afternoon. On Friday evening, after a joint alumni-Board of Visitors dinner at the Cabana Motor Hotel, visitors attended the Second-Year Moot Court Finals. Judging the Competition were Hon. Shirley Hufstedler '49, California District Court of Appeal, Hon. Robert F. Peckham '45, U.S. District Court, Northern California, and Hon. James R. Browning, U.S. Court of Appeals, Ninth Circuit. Joseph Dennin was awarded first prize for the best oral argument; Shannon Cline got the Judges' vote for the best brief.

On Saturday morning, Dean Manning conducted an informal question-and-answer session for the Board and alumni followed by faculty reports from Professors Meyers and Ehrlich.

In many ways, the highlight of the reunion—along with the reunion dinners on Saturday evening—was the Nathan Abbott Memorial Luncheon on Saturday, honoring the School's first professor and head who did so much in his years at Stanford, 1893-1907, to set the course of the Law School. President Sterling greeted alumni and guests at the noon reception in the Red Room of the Faculty Club. Dean and Mrs. Manning shared the head table with Dean Abbott's daughter.

*A. Stevens Halsted '32, Sharp Whitmore, Tom King '59 and Augustus Mack '28.**



Board of Visitors members John Sutro, Augustus F. Mack '28 and David L. Davies '27.*



*As "Stanford Lawyer" was in press, word was received of the tragic and untimely death of Mr. Mack.



ter, Mrs. Rufus Kimball of Palo Alto, and her grandson, Tom Kimball '66, who is currently practicing law in San Francisco. Also at the head table were President of the Board of Visitors John E. Lauritzen '32 and his wife. Very special guests occupied the two auxiliary head tables. At one were the School's emeriti, along with Professor and Mrs. Richard R. B. Powell of Hastings College of Law; Professor Powell is a former student of Dean Abbott, and Mrs. James Brenner, widow of the late Professor Brenner. At the other were the Honored Reunion Members who were joined by Reunion Aides Steve Harbison '68 and Malcolm Hawk '67 and also by Mrs. Robert Keller. Dean Manning paid tribute to the late Dean and called upon one of Dean Abbott's former students, Professor Ralph Lutz '06. In a testimonial, brief and moving, Professor Lutz spoke volumes about Dean Abbott and about the spirit of Stanford Law School. He ended with the modest appraisal of the law students of his day as being of "very fine caliber—almost as good as the great men gathered here today."

Dean Manning unveiled the splendid portrait of the School's first head—a copy of the original that hangs at Columbia University, where Nathan Abbott taught after leaving Stanford.

And that officially—but only officially—ended the Law School's first reunion. During Saturday afternoon, alumni visited with students and professors. Many took a bus tour of the Stanford Linear Accelerator. Saturday night there were parties at various locations on the Peninsula. Two groups, the Honored Reunion Members and the Class of '42, celebrating its 25th reunion, held their dinners at the Faculty

Outgoing Board of Visitors President John B. Lauritzen '32 chats with Wendell Carlsmith '28 and Stuart Kadison '48 at annual Board Meeting in April.



Reunion Class of '42 Chairman Robert Curtiss chats with Mrs. William Owens. Seated clockwise at the table are Emeritus Professors Owens, George Osborne and Lowell Turrentine (Mrs. Curtiss is at left). Foreground, Reunion Aide Dick Ragsdale '69.



'22



'42



'42



'52



'27



'47



Club. Other classes held their reunion parties at restaurants in the area.

The consensus seems to be that no one outdid the pre-18 group for Law School spirit. One alumnus, Mr. George Ditz '13, trustee emeritus of Stanford, left his party at the end and stayed on with the Class of '42, regaling them with stories. Perhaps we may then best leave an appraisal of the reunion to Mr. Ditz, who wrote to Dean Manning afterward:

The *first* Law School alumni Reunion truly was a conspicuous success. The programs were interesting and instructive. I am persuaded that your efforts and those of your faculty colleagues are well rewarded by an awareness with the graduates of the present standard—and the future needs of the School.

Prof. Harold Lutz reminisces about former teacher Nathan Abbott before investing of Abbott portrait.



Joint festivities for Board of Visitors, reunion alumni and Moot Court board before Friday night finals of Marion Rice Kirkwood Moot Court Competition.



THE CASE FOR LEGISLATIVE REVISION OF THE LAW OF EVIDENCE:

AN ADDRESS TO CONTINUING LEGAL EDUCATION MEETING OF THE OREGON BAR

March 30, 1967
John R. McDonough

Professor McDonough is currently on a leave of absence while serving as Assistant Deputy Attorney General of the United States.



The question which I propose to discuss today is whether it would make sense for the bench and bar of Oregon to undertake the kind of legislative revision and restatement of the law of evidence that we have recently accomplished in California. To provide a basis for consideration of that question, let me tell you briefly about our California experience. The Anglo-American law of evidence is largely a judge-made product, supplemented in most states by an overlay of legislation which partly codifies and partly displaces or supplements the decisional law. Substantively, the law of evidence consists largely of exclusionary rules, many of them apparently developed because of concern that juries might be misled if relevance were the only criterion of admissibility. In many states there are

substantial gaps in the law of evidence, simply because the appellate courts have not had occasion to deal with particular questions, or confusion because they have dealt with them somewhat obscurely or inconsistently. Moreover, in most states, there are some areas in which the law of evidence is either antiquated or just plain wrong, or both.

If there is any part of the law that ought to be readily accessible, straightforward, simple and clear it is the law of procedure in general and of evidence in particular. This part of our law deals not with peoples' rights but only with the machinery for vindicating those rights. Moreover, most evidence questions arise in the process of trial and the heat of battle, where rulings must be made both immediately and finally.

Over twenty years ago a number of evidence scholars and others came to the conclusion that the American law of evidence fell considerably short of the ideal, both in substance and in its capacity to produce ready answers to difficult questions in the course of litigation. They called for a comprehensive reexamination, revision, and restatement of the law of evidence. The first major response to this demand was the Model Code of Evidence which was promulgated by the American Law Institute in 1942. The Model Code was a sharp departure from the then-existing law, weighted heavily in the direction of admissibility. It turned out to be far ahead of its time and it was not enacted anywhere.

At about that point, the Commissioners on uniform state laws picked up the ball. They produced the Uniform Rules of Evidence in 1953. This was and is a generally sound body of evidence rules which depart far less sharply from traditional law than did the ALI's Model Code.

In California, the Law Revision Commission, of which I was then a member, was directed by the Legislature in 1956 to make a study of the Uniform Rules of Evidence to determine whether they should be adopted in our state. Now, as we all of course know, when any group of lawyers is asked whether the work-produce of any other group of lawyers is entirely acceptable the answer usually is "no." This case was no exception. Thus, what our Law Revision

Commission ultimately did was to draft its own Evidence Code and recommend that it, rather than the Uniform Rules of Evidence, be adopted. And so the California Evidence Code was enacted in 1965, with a delayed effective date until January 1, 1967. Of course, we borrowed heavily from the URE in drafting the Evidence Code, but we also departed from it in a number of particulars, both in substance and in form.

It must be acknowledged that a substantial objection can be raised when anyone proposes to codify a large and diverse body of law that has theretofore existed primarily in decisional form. This is that the Legislature cannot possibly anticipate all of the situations and questions that will arise in the future and promulgate in advance rules that will apply fairly and sensibly to each of them. It is arguable, therefore, that it is better to leave the growth and development of that particular body of law to the common law method: the promulgation of narrow rules to fit particular cases and the gradual expansion, modification and refinement of those rules as specific new cases arise. It may also be contended that to cast a body of law in the form of black-letter propositions that can be changed only by the ponderous process of legislative amendment will stultify its capacity for growth and development.

It is true that there are hazards in undertaking a legislative revision and restatement of any body of law as large and complex as the law of evidence. Almost certainly, some mistakes will be made, both of omission and commission. There is also undoubtedly some risk that an undesirable element of rigidity will be imported into the law. But these quite legitimate doubts and concerns do not, I think, necessarily carry the day. Rather, what they do is raise two questions: (1) Are there substantial offsetting advantages in a legislative revision and restatement of the law of evidence? and (2) can measures be taken to minimize the risk of undue rigidity in the law which appear to be inherent in such an enterprise?

As to the second of these questions, we provided two answers in connection with the new California Evidence Code. In the first place the Legislature did

not wholly occupy the field. The Code includes a number of provisions permitting our courts to make new decisional rules of admissibility—for example, they are specifically empowered to create new exceptions to the hearsay rule. (They may not, however, make decisional rules excluding evidence which the Evidence Code makes admissible.) In the second place, the Law Revision Commission has retained the subject of evidence on its agenda and proposes to keep the Code under study and to recommend changes, from time to time, as “bugs” come to light in the course of its use. Hopefully, with both the courts and the Legislature thus enabled and encouraged to give continuing attention to further improvements in our law of evidence, codification will not prove to be a straightjacket.

The other question is a larger and more important one: are there sufficiently substantial advantages in a legislative revision and restatement of the law of evidence to justify the time, effort and risks involved? To provide a basis for considering that question, let me tell you some of the things we were able to accomplish through the enactment of our Evidence Code, leaving it to you to decide whether they make at least a *prima facie* case for the kind of codification that we undertook.

It should be noted at the outset that the new California Evidence Code is primarily a restatement rather than a revision of the law of evidence. Now, that might appear at first blush to be an argument against codification. The fact is, however, that while we were able ultimately to conclude and assert in most instances that what we proposed was merely a codification of existing law, that assertion was often possible only after exhaustive research, a careful piecing together of holdings and dicta in judicial opinions on the one hand and obscure sections of our Code of Civil Procedure on the other, and the resolution of numerous doubtful questions concerning which lawyers and judges might well have drawn varying conclusions over the years were the matter not now settled by legislative enactment. Thus, while the Evidence Code's clarification and restatement of the law of evidence on these points probably makes no substantive

change, it should save California trial lawyers and judges countless hours of research and argument, to say nothing of obviating or simplifying appeals.

There is a related advantage to a comprehensive restatement of the law of evidence, even when it does not involve substantive change. This is that such an undertaking forces the draftsmen of a proposed Evidence Code to make an unusually comprehensive, careful and refined analysis of the subject. The result is to bring to light subtle but important distinctions that many of us either never did grasp fully or else have long since forgotten. Thus the Law Revision Commission was able to say in several instances, not altogether facetiously, that while we were restating the California law of evidence, it would probably come as a surprise to a good many California judges and lawyers to learn just what the California law of that particular subject was.

For example, our new Evidence Code distinguishes carefully between the two different situations that may arise when the admissibility of a proffered item of evidence turns upon the resolution of a preliminary question—judge or jury? The answer is, sometimes the judge, in which case he hears all evidence offered by both sides relating to the preliminary fact before ruling and then decides that matter once and for all—as, for example, when the question is whether parties are married as bearing upon whether a claim of marital privilege may be made. In other cases, the jury determines the preliminary fact, the judge being required to admit the proffered evidence if there is sufficient evidence to support a finding of the preliminary fact even though the judge himself does not believe that it is established—as, for example, when the preliminary fact is the personal knowledge of a witness or the authenticity of a document. In such cases, the judge need not admit conflicting testimony concerning the preliminary fact before ruling on the admissibility of the proffered evidence and he must, on request, instruct the jury to disregard the proffered evidence if they conclude that the preliminary fact is not established. In codifying the law of evidence this kind of distinction in handling questions of preliminary fact

must necessarily be thought through and made explicit. As a result, while there may be no substantive change in the law itself, there may well be a change in its understanding and application because of the clarification which codification produces.

Still another advantage to be derived from a codification of the law of evidence, even though it produces little or no substantive change, is the opportunity it affords to deal with several related matters both comprehensively and uniformly. Perhaps the best example we found of this was in the law of privilege as related to various types of confidential communication—marital, attorney-client, doctor-patient, etc. There, we discovered a variety of questions which were substantially identical as to each of the several privileges involved—questions, for example, relating to the scope of the privilege, the circumstances in which it arises, who is the holder of the privilege, who may claim and waive it, what exceptions to the privilege there should be, and so forth. Yet, we found in our California statutory and decisional law answers to some of these questions in respect of some privileges and not in respect of others or different answers to the same questions insofar as different privileges were concerned. Dealing with the subject comprehensively rather than on a piecemeal basis, we were able to determine upon uniform answers to parallel questions and to cast those answers in identical statutory language—an accomplishment which could have been accomplished only after many years, if at all, by the process of judicial decision.

Codification of the law of evidence also deserves serious consideration as a vehicle for law reform. It is true that a commission which undertakes to draft a code of evidence is likely to end up largely restating the law of evidence—or at least we did. But we also found that there is room for fresh analysis on a number of matters and for a variety of innovations based on both principle and common sense. We decided, for example, that there were in our California law encrustations of formality that could safely be dispensed with insofar as proving the authenticity of official documents is concerned, with a considerable streamlining of the processes of proof. In other cases we concluded

that particular rules of evidence either always were wrong or, if they once were right, had long since outlived their usefulness.

Let me give you just two examples of innovations in our new Evidence Code which I believe are sound and which would be unlikely to have come about except in the course and context of a legislative revision.

When in our endeavors we came to the subject of rebuttable presumptions, we of course confronted an issue that has long been the subject of a vigorous debate among students of the law of evidence. Some authorities assert that a presumption always shifts the burden of proof (the so-called Morgan view). Others contend just as vigorously that a presumption never does more than shift the burden of introducing evidence, or "going forward" (the so-called Thayer view). Under the Thayer view, a presumption disappears from the case entirely once the person against whom it operates has introduced sufficient evidence to support a finding against the presumption, without regard to whether that evidence will be believed by the trier of fact. The Morgan view, on the other hand, is that a presumption is not wholly dispelled by the introduction of such evidence but, rather, continues to have the effect of requiring the judge to instruct the jury to find in accordance with the presumption, unless and until the jury is persuaded that the opposite is true.

Which position did we take on this controversial issue? We took both positions! The Evidence Code says, in effect, that the Thayer view is correct as to some presumptions, which the Code defines as presumptions affecting the burden of producing evidence, but that the Morgan view is correct as to other presumptions, which are defined as presumptions affecting the burden of proof. Some rebuttable presumptions are classified by the Code as either one or the other and standards are provided for the classification of other presumptions by the courts.

Now, of course, you may disagree on the merits with this whole scheme of classification. But if, as I believe, we are on the right track, I submit that this

is the kind of major innovation in the law of rebuttable presumptions which could only have been accomplished in the course of a comprehensive legislative overview of the entire subject.

Another example of what may be accomplished in the course of a legislative revision of the law of evidence may be found in what our new Evidence Code does in respect of judicial notice. There, we made little change, if any at all, with respect to what matters may be judicially noticed. But we made a number of procedural changes concerning judicial notice which are designed both to clarify the functions of court and counsel and to ensure that all parties will be apprised at all times as to what may, will, or will not be noticed. These procedural innovations, which are designed simply to bring the phenomenon of judicial notice within the general ambit of procedural due process, are accomplished through nine carefully drafted and closely integrated code sections, supplemented by several pages of draftsmen's comments. Here, again, it seems to me, is the kind of substantial improvement in the law of evidence that would be virtually impossible to achieve except through the legislative process.

Other examples could be given, were time and your patience to permit, of the opportunities which a full-scale revision and restatement affords both to clarify and to improve the law of evidence. Of course, I must be careful, in arguing this *prima facie* case, not to claim too much. Not every opportunity to clarify or improve the law is fully availed of. Analysis of the problem is too often faulty, perception of the true answer too often wanting. Even where there is insight, draftsmanship may fail to capture and communicate it. And, of course, in a legislative process of revision there must be compromise—too often simply because the right principle does not command the necessary votes. In short, perfection is hardly to be expected. But improvement—even substantial improvement—is possible. And an evidence code in being and in use can provide both a significant forward step and a vehicle for further improvement through both judicial and legislative effort.

I therefore respectfully invite your attention to our experience and to the question whether it might serve as an example for you to follow.

LL.B.-M.B.A. PROGRAM

Under a new joint program initiated at Stanford last fall, students are able to earn both an LL.B. and a Master of Business Administration degree in four years. Students in the joint program must be admitted to both schools in good standing. They take the full first-year curriculum of both schools. In the second and third years, courses are taken from the elective curricula of both schools. Over 80 per cent of the work normally required for each degree is taken. To complete the two degrees in sequence would require five years of course work. The program is designed to give graduates who enter law practice a clearer understanding of business problems and to give those who enter the business field a better understanding of the legal environment in which the business world operates.

ALUMNI ACTIVITIES

ANAHEIM, CALIFORNIA

During the California State Bar Convention, a luncheon at the Disneyland Hotel was attended by some 200 alumni on September 21, 1966. Judge Ben. C. Duniway '31 spoke on the work of the United States Court of Appeals.

PORTLAND, OREGON

The charter meeting of the Stanford Law Society of Oregon was held on October 11, 1966 at Bart's Wharf, Portland. Professor Moffatt Hancock, Dean Bayless Manning and Assistant Dean Robert Keller attended. Mr. Hancock was the evening's featured speaker. Officer's of the society are: William Dale '48, Portland, president; John Fenner '51, Corvallis, vice president; Brian Booth '62, Portland, secretary; Douglas Thompson '55, Portland, treasurer.

PHOENIX, ARIZONA

Professor Thomas Ehrlich was the guest speaker at a luncheon of the Stanford Law Society of Arizona on October 12, 1966. Edward F. Lowry, Jr. '54, president of the Stanford Law Society of Arizona, arranged the luncheon.

Professor Marc Franklin was the featured speaker at a meeting of the Stanford Law Society of Arizona on May 10. The meeting and breakfast, which coincided with the Arizona Bar Convention, was held at the Biltmore Hotel.

SACRAMENTO, CALIFORNIA

A dinner meeting of the Stanford Law Society of Superior California was held November 3, 1966 at the University Club in Sacramento. Professor Moffatt Hancock was the evening's guest speaker; Bob Keller also attended from the School. Nomination and election of officers and directors took place after dinner. The new officers are: John J. Hannegan '48, Sacramento, president; Franklin K. Gardner '52, Woodland, vice president; George K. Smith '27, Stockton, secretary; William H. Abbott '58, Sacramento, treasurer. Directors are: William R. Mitchell '47, Modesto; George E. Paras '50, Sacramento, J. Calvert Snyder '31, Stockton and Jerome D. Peters '39, Chico.

NEW YORK, NEW YORK

On January 27, graduates of the Law School who are members of the Stanford Club of New York, New Jersey and Connecticut met for luncheon at the Hotel Biltmore. The luncheon was held during the time of the annual meeting of the New York State Bar Association. Bob Keller spoke. The event was arranged by Bruce H. Hasenkamp '63.

The Stanford Law Society of New York was founded on April 20 at a meeting held at the Princeton Club in New York City. The occasion included the presentation of the charter by the Dean, the adoption of bylaws and the election of officers. Bruce H. Hasenkamp '63 was named president, Donald W. Morrison '50 vice president, Walter H. Beebe '60 secretary and Thomas E. Bertelsen, Jr. '65 treasurer.

SAN FRANCISCO, CALIFORNIA

The annual meeting of the Stanford Law Society of Northern California and Nevada was held on April 28 at the Marine's Memorial Club in San Francisco. After cocktails and dinner, the Dean spoke briefly, then introduced Stanford President Wallace Sterling, who presented the evening's honored guests, the School's professors emeriti (see excerpts from the President's remarks, p. 6). Members approved the new Executive Committee nominations for the coming year. They are: Jerome I. Braun '53, San Francisco, president; Vincent Cullinan '36, San Francisco, vice president; Allan E. Charles '27, San Francisco, secretary-treasurer; William T. Keogh '52, Atherton; Hon. Robert F. Peckham '45, San Jose; Robert Rosenberg '56, Oakland.

LOS ANGELES, CALIFORNIA

On Friday, May 10, members of the Stanford Law Society of Southern California held their annual banquet at the Sheraton-Wilshire Hotel in Los Angeles. The Dean was the featured speaker. Members of the 1967-68 Executive Committee were announced. They are: George Bodle '33, president; Byron O. Smith '40, vice president; Allyn O. Kreps '58, secretary; John F. Bradley '57 treasurer. All are from Los Angeles.

SANTA FE, NEW MEXICO

Alumni from Kansas, New Mexico and Oklahoma met for breakfast June 15 at the La Fonda Hotel in Santa Fe. All were attending the Tri-State Mid-Year Legal Institute. Bob Keller attended. Seth D. Montgomery '65 arranged the affair.

SALT LAKE CITY, UTAH

On June 22, during the Utah State Bar Meeting, Reed A. Watkins '56, President of the Stanford Law Society of Utah, arranged a breakfast for the School's alumni attending the convention. Bob Keller attended.

Stanford Law Society of Arizona; from back left: William H. Rehnquist '52, Mrs. Thomas Ehrlich, Professor Thomas Ehrlich, Honorable Walter E. Craig '34 U. S. District Court, Richard M. Fennemore '27, John S. Kittle '66, Peter Baird '66, Edward F. Lowry Jr. '54.



Stanford Law Society of New York; Bruce Hasenkamp, President, with Dean Manning at enchartering.



Stanford Law Society of Southern California; Dean Manning with incoming President George E. Bodle '33 and Ed Renwick '58.



LAW SCHOOL NEWS

J. Keith Mann served as chairman of a three-man arbitration board appointed by President Johnson in March to settle the dispute in the West Coast ship building and repair industry. The board, which announced settlement of the strike in June, included former White House press secretary George E. Reedy and Paul D. Hanlon, Portland attorney and arbitrator.

Charles Mansfield '68 has become the first student from the West Coast to be elected president of the Association of Student International Law Societies. The election took place in late April 1967 in Washington, D.C. at the annual meeting of ASILS, the student branch of the American Society of International Law. Mansfield also serves as executive vice president of the School's International Society.

In a recent article in the "Journal of Air Law and Commerce," James Atwood, a first-year student, examined the "healthy price competition" created by intrastate air carriers. The article was a portion of a paper which shared first-prize honors in the Frank M. Patterson Competition for the best paper at Yale University in political science for 1966. Mr. Atwood took his B.A. from Yale in that year. The excerpt in the Journal was devoted chiefly to a study of Pacific Southwest Airline's San Francisco-Los Angeles air route.

On May 27, the Dean delivered the main address at

Professor Herbert Packer

James Atwood, '69



the annual convention of the Alaska Bar Association held in Fairbanks. Many of the School's Alaska alumni attended. Professor Herbert Packer and the Dean attended an Anglo-American conference on "Training for the Law" held at Ditchley, England, July 4-15. After the conference Dean Manning flew to Germany to deliver two addresses, the first in Hamburg dealing with legal education, the other in Munich, treating the role of legal process in American life. In August of 1967, the Dean returned to the field of state and local government in which he taught for several years to speak before an assembly of legislators from eighteen states brought together under the auspices of the Eagleton Institute of State Government in Miami. His topic was "Conflicts of Interest and the Legislature."

During the annual convention of the American Bar Association, held in Honolulu August 3-5, Professor Joseph T. Sneed addressed Stanford Law School alumni attending the meeting. Assistant Dean Thomas E. Robinson spoke to the Council of the Section on Legal Education and Admission to the Bar on the subject of the implications of the Military Selective Service Act of 1967.

Officers of Law School student organizations for 1967-68 include: *International Society*: Robert Rosch, Granite City, Illinois, President; *Law Association*: Anne Kovacovich, Phoenix, Arizona, President; *Law Forum*: Joseph Dennin, Long Beach, California, President; *Law Students Civil Rights Research Council*: Edward Steinman, Chicago, Illinois, Chairman; *Legal Aid Society*: Read Ambler, Waco, Texas, Chairman; *Moot Court Board*: Jesse F. Bingaman, Silver City, New Mexico, Chairman; *Serjeants-at-Law*: Alan Levenstein, Detroit, Michigan, Chairman; *Stanford Law Review*: William Lake, Altadena, California, President; *Yearbook*: Anthony S. Freedman, New York, New York, Editor; *Law Students' Wives Association*, Donna Carrell, wife of Daniel Carrell '68, Louisville, Kentucky, President.

With financial support from the Federal Aviation Administration and in consultation with both the FAA and the American Bar Association, Professor William Baxter is conducting a special study of the legal

aspects of aircraft noise around airports and of the sonic boom phenomena. Reports on Mr. Baxter's findings will be submitted to the ABA and the Federal Aeronautics Administration.

On January 1, 1967, Associate Dean William T. Keogh '52 retired from the Law School position he has held for five years to return to private practice. Mr. Keogh had been in charge of the School's admission and scholarship programs. He is now in the firm of Keogh and Lundgren in Palo Alto. Mr. Keogh's admissions responsibilities are now being carried out by Assistant Dean Thomas E. Robinson.

A complete set of photographs of members of the United States Supreme Court has been presented to the School. The 95-volume collection is the gift of Harris and Ewing, Washington, D.C. portrait photographers. Presentation was made at the School January 13 by Mr. Bryant Baker, vice president of Harris and Ewing. The collection is a duplicate of the collection displayed in the office of the Marshal of the United States Supreme Court.

The Law Forum's 1966-67 Guest-in-Residence was Thomas C. Hughes, Director of Intelligence and Research for the State Department. Mr. Hughes spent three days at Stanford in November, holding seminars and delivering addresses on United States foreign policy and national security. Much of Mr. Hughes'

Dean Manning, flanked by Mr. Bryant Baker, left, and Mr. Michael Crimi of Harris and Ewing at presentation of photos of Supreme Court Justices.



time was spent informally with law students, though he did visit a number of places on campus, including the Institute for Advanced Research in the Behavioral Sciences and the Hoover Institution on War, Revolution and Peace.

Professors John Merryman and Thomas Ehrlich directed six Chilean law professors in a special seminar on United States legal education this summer. The seminar is part of a three-year program of assistance in the reform of Chilean legal education sponsored by the International Legal Center. This fall, the Chilean professors will continue studies at separate law schools—Berkeley, Harvard, Wisconsin, Yale, NYU and UCLA, then meet in New York for an evaluation of their work.

The International Society of Stanford Law School held a three-day symposium on the role of law in the economic development of emerging nations March 1-3. Among the participants in the meeting were Joseph Greenwald, Deputy Assistant Secretary of State for trade policy; Hans Singer of the United Nations Organization for Industrial Development; Ambassador Vasco de Cũha of Brazil and Professors Kenneth Dam of the University of Chicago Law School, T. N. Srinivasan of the Indian Statistical Institute of New Delhi and Professor Thomas Ehrlich of the Stanford School of Law.

Professor Joseph T. Sneed was elected president-elect of the Association of American Law Schools at the AALS annual convention, held in Washington, D. C. in December 1966. Mr. Sneed assumes office at the December 1967 meeting.

The annual student-faculty picnic and baseball game was held Saturday, May 13 at Flood Park in Menlo Park. The score of the game, according to faculty sources, was 54-0, favoring the faculty. Student commentators called the report spurious. Nor was there a unanimity of opinion on the relative merits of Professor John Kaplan's talents as pitcher and Judge Homer Thompson's ('50) impartiality as umpire. Members of the faculty hit a regulation-sized baseball; students were pitched an oversized ball, "to give them a large enough target to hit," declared one professor. "To give the old guys an edge," countered a student athlete.

A three-year grant from the Association of American Law Schools is enabling students at the School to operate a legal aid program in Palo Alto. In conjunction, studies are being done by second and third-year students as part of a seminar conducted by Professor Jack Friedenthal. The students work in East Palo Alto in cooperation with the San Mateo County Legal Aid Society and the Federal Office of Economic Opportunity.

The Ford Foundation in May awarded Professors Herbert Packer and John Kaplan a five-year grant of \$200,000 for study and research on policy issues relating to the administration of criminal law.

The Hon. Richmond M. Flowers, Attorney General of Alabama, visited the Law School as a guest of the Law Forum on November 2, 1966. Among his other activities, Mr. Flowers held a seminar with law students on legal problems in the South and delivered an address in Cubberley Auditorium on "Law and the Citizen in the Emerging South."

In November 1966, Professor Herbert L. Packer was named a vice provost of the University by the Board of Trustees. Among other duties, he will chair a wide-reaching two-year study of undergraduate curriculum and life at the University. Professor Packer remains a member of the law faculty, though most of his time will be directed to his new administrative duties.

Richmond M. Flowers, Attorney General of Alabama, Law Forum Guest-in-Residence for 1966-67.



Several of the School's eighty-two students and alumni who received scholarship aid from the Chalmers Graham Law Scholarship Fund have contributed to the Fund in Mr. Graham's memory since his death at the age of 71 on March 16 of this year. Mr. Graham, a graduate of the Class of 1923, was a founder of the law firm of Graham, James and Rolph and a well-known admiralty lawyer, was at different times chairman and president of a number of corporations and held the French Legion of Honor medal.

Mr. Justice Brennan, United States Supreme Court, presided at the third-year finals of the 15th Annual Marion Rice Kirkwood Moot Court Competition on February 7. The moot case argument assumed a Supreme Court review of the decision of the California Supreme Court concerning the state's initiative proposal on pay-television. Sitting with Mr. Brennan were Judge Ben. C. Duniway '31, of the U.S. 9th Circuit Court of Appeals, San Francisco and Chief Justice Gordon Thompson '43 of the Nevada Supreme Court. The Judges awarded first prize to David Henry Fox, second prize to William Joseph McCarren and prize for the best brief to Kristina Maria Hanson. Two additional prizes went to semifinalists Miss Hanson and Richard Whitmore. All prizes were donated by the Stanford Law Society of Northern California and Nevada.

Presiding judges at the 1967 Marion Rice Kirkwood Moot Court Competition.



FACULTY AND STAFF APPOINTMENTS

Douglas R. Ayer



Dale S. Collinson



Wayne G. Barnett



Yosal Rogat



PERMANENT FACULTY

Four men received appointments as regular members of the School's faculty beginning September 1966. During the 1966-67 academic year, one man, Lawrence M. Friedman, served as visiting professor.

DOUGLAS R. AYER

Assistant Professor Douglas R. Ayer received an A.B. (1959) and an LL.B. (1962) from Yale, served for a year as law clerk for the late Judge Charles E. Clark, United States Court of Appeals, 2nd Circuit, and in 1963-64 was a Fulbright Scholar at the University of Stockholm. From 1964 until 1966 he practiced in the New York firm of Debevoise, Plimpton, Lyons and Gates. He taught Civil Procedure I, Legal Process and Administrative Law during the academic year 1966-67.

WAYNE G. BARNETT

Professor Wayne G. Barnett came to Stanford from the position of first assistant, Office of Legal Counsel, United States Department of Justice. For the preceding seven years he was assistant to the Solicitor General in the Department of Justice. He has practiced law in Washington, D.C. with the firm of Covington and Burling. Mr. Barnett holds an A.B. (1950) and an LL.B. (1953) from Harvard; he served during 1955-56 as law clerk to Mr. Justice Harlan, United States Supreme Court. During the academic year 1966-67 he taught Contracts, Unjust Enrichment and Remedies II.

DALE S. COLLINSON

Assistant Professor Dale S. Collinson received an A.B. from Yale in 1960 and an LL.B. from Columbia in 1963; he practiced for a year with the firm of Cleary, Gottlieb, Steen and Hamilton in New York City. During the year 1963-64 he served as law clerk to Justice Paul R. Hays, United States Court of Appeals, 2nd Circuit. From 1964 until 1966 he was clerk to Mr. Justice White, United State Supreme Court. During the academic year 1966-67 he instructed International Business Transactions, Federal Jurisdiction and Trust and Estates II.

YOSAI ROGAT

Associate Professor of Political Science and Law Yosai Rogat has been an assistant professor of political science at the University of California at Berkeley, an associate professor of political science at the University of Chicago; he was, for the academic year 1965-66, a visiting lecturer of Jurisprudence at Stanford School of Law. Mr. Rogat received a B.A. in 1947 from the University of California at Los Angeles, a Ph.D. in 1956 from the University of California at Berkeley, both in political science, and a B.A., first class honor (1957), and M.A. (1961) from Oxford

University, also in political science. He teaches Jurisprudence and History of Legal Institutions at the Law School.

Two men received appointments as regular members of the faculty for the academic year 1967-68. One man has been appointed to begin instruction in September, 1968.

KENNETH E. SCOTT

Professor Kenneth E. Scott was born in Illinois in 1928. He took an A. B. (1949) in economics from William and Mary College, an M. A. (1953) in political science-international affairs from Princeton and an LL. B. (1956) from Stanford University, where he was articles editor of the *Stanford Law Review*. He is a member of the California, New York and Washington, D. C. bars.

His principal subjects are Administrative Law and Financial Institutions.

MICHAEL S. WALD

Assistant Professor Michael S. Wald holds an A.B. in political science (1963), an LL.B. (1967) and an M.A. in political science (1967) from Yale, where he was projects editor of the *Yale Law Journal*. During the 1967-68 academic year he will teach Criminal Law.

LAWRENCE M. FRIEDMAN

Visiting Professor Lawrence M. Friedman was born in Illinois in 1930. He received an A.B. (1948), a J.D. (1951) and a LL.M. (1953) from the University of Chicago, where he was an editor of the *University of Chicago Law Review*. He taught at St. Louis University Law School from 1957 until 1961, when he became associate professor and then professor of law at the University of Wisconsin. During his year at the School, Mr. Friedman instructed Legal Process and Unjust Enrichment and Remedies. In September 1968, Mr. Friedman will return to the School under a permanent appointment.

DEAN'S STAFF

In January, 1967 Dean Manning announced the appointment of Thomas E. Headrick as Assistant Dean at the School. He is in charge of special projects and programs at the Law School. Mr. Headrick holds an A.B. in government from Franklin and Marshall College, a B.Litt. in politics and public administration from Oxford and an LL.B. from Yale. He has practiced with the San Francisco firm of Pillsbury, Madison and Sutro and, most recently, served as a management consultant with the Emerson Consultants, London.

Dean Manning announced the appointment of David K. Lelewer to the post of Assistant to the Dean. A 1967 graduate of the School, Mr. Lelewer holds an A.B. in political science from Amherst College.

VISITING FACULTY

JOEL J. FINER

Visiting Associate Professor Joel J. Finer, of the University of Texas, holds a B.B.A. from City College of New York, an M.A. and an LL.B. from Yale. He will teach Criminal Law and Procedure and Appellate Advocacy.

CLARK C. HAVIGHURST

Visiting Associate Professor Clark C. Havighurst, of Duke University, holds an A.B. from Princeton University and a J.D. from Northwestern University. He will teach Securities Regulation and Government Regulation of Business.

LESTER J. MAZOR

Visiting Associate Professor Lester J. Mazor, of the University of Utah, holds an A.B. and an LL.B. from Stanford University. He will teach Criminal Law and Legal History.

ROBERT C. MORRIS, JR.

Visiting Professor Robert C. Morris, Jr., of the University of Minnesota, holds an A.B. from St. John's College (Annapolis) and an LL.B. from Yale. He will teach Corporations.

A NOTE FROM THE STANFORD LAW REVIEW

Contributors to Volume 19 of the *Stanford Law Review* included Professors Collinson, Ehrlich, Kaplan, Meier and Meyers of the Law School faculty and Professors Melville Nimmer of UCLA Law School and Arvo Van Alstyne of the University of Utah School of Law. Another major undertaking in Volume 19 was the appearance of the first issue devoted wholly to international law. Student-written pieces ranged from an analysis of American bond issues to a study of the ICC regulation of motor common carriers. The book reviews in each issue were warmly received and will be a continuing feature of the *Review*.

In Volume 20, in addition to the second annual international law issue, issue three, scheduled to appear in February 1968, will commemorate the Law School's seventy-fifth anniversary and will contain only writings by the School's alumni.

Stanford Law Review provides an alumnus with a vital link to the Law School, helps him to keep abreast of current developments in the law and provides a research source of great usefulness.

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