

STANFORD LAWYER

Winter 1973-74



Stanford Lawyer

Winter 1973-74

Volume 9, No. 1



Outgoing Editor: Nancy M. Mahoney
Incoming Editor: Cheryl Ritchie

CONTENTS

Water Law at Stanford	2
<i>by Charles J. Meyers</i>	
Sex-Role Equality	4
<i>by Barbara Babcock</i>	
Law Alumni Assembly	7
Faculty News	11
News of the School	14
Law Societies	19
Class Notes	21
In Memoriam	32
Homer Spence	

Cover: A microcosm of the School year as shown more fully on pages 16 and 17.

December 1973

The faculty and staff of The Law School send you good wishes for The New Year.

With those greetings comes a special invitation to visit The School and to see our rapidly-rising new buildings. We think your visit will make you proud of legal education at Stanford.

We also hope you will let us know your views on how to improve that education. Our job is to train lawyers to practice law; we need your help to meet that goal.

My wife, Ellen, and I have especially enjoyed our time with alumni throughout the year. We are most grateful for your continuing support of The Stanford Law School.

Tom Ehrlich



Water Law at Stanford

by Charles J. Meyers

Professor Charles J. Meyers spent 1971-72 in Washington, D.C., as assistant legal counsel to the National Water Commission. As part of his work there, he contributed chapters to the Commission's report dealing with improvement of federal-state relations in the law of water, ground water management, interbasin transfers and improving efficiency in water use through legal reform. He participated in the 19th annual Rocky Mountain Mineral Law Institute in July, 1973, speaking to the water section of the Institute on the points of interest to practicing lawyers in the National Water Commission Report, emphasizing environmental protection, better use of existing water supplies, economic evaluation of water resources development, and proposed changes in the law relating to federal-state relations.

With Professor Howard Williams, Professor Meyers is a consultant to the State of Alaska in its mineral resource litigation involving the Alaskan pipeline. He is also conducting a study of the feasibility of establishing a new law school in the Claremont Colleges complex.

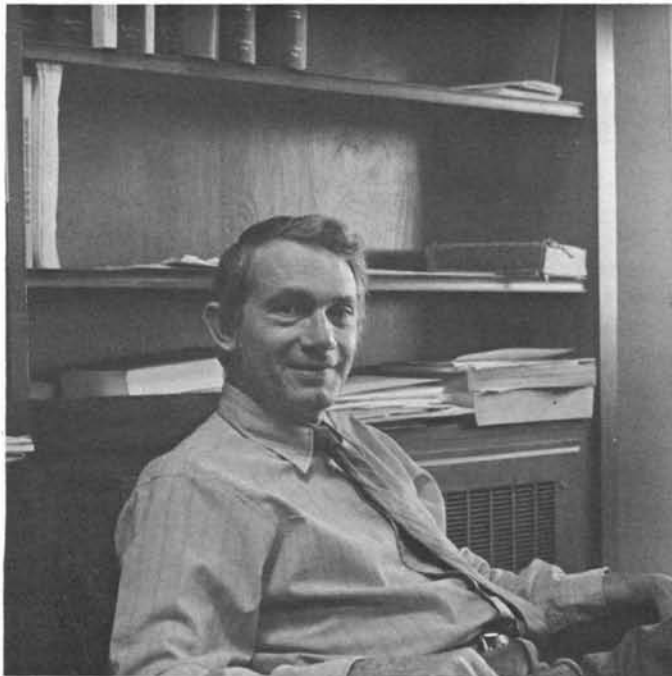
I want to try to give you some brief insights into what goes on in a classroom in one course at the Stanford Law School, taking as my theme the Water Law course I have developed over the years I've been at Stanford. It takes a little bit of history to develop this. I was quietly working away on Oil & Gas Law in New York at Columbia in the 1950s; I used a little water in scotch and for bathing and that was about the extent of my interest in it. One day out of the blue Simon H. Rifkind, an eminent New York lawyer who had been on the Federal Bench and left to go into practice, called me and said that the Supreme Court had appointed him special master in *Arizona v. California* and would I be interested in working for him. I said, "Well, what's involved?" He said, "We're going to try it every summer in San Francisco," and I said "that's enough for me; I'll sign on." That was my introduction to water law. The case, which involved the apportionment of the Colorado River, was tried in 1956, '57, and '58 in San Francisco as promised, and the report was written in '59 and filed in '60. It seemed appropriate during that period to try to learn something about water law, although the California defendants, I think, take the view that we did not learn enough. They lost.

At any rate I continued to work on water law intermittently, with time out for more oil and gas (some would say more gas than anything else), and in 1971 in collaboration with Professor A. Dan Tarlock, a Law School alumnus and a professor at Indiana, a water law course book was produced which embodies the course I had been developing over the years at Stanford.

*Remarks delivered to the Stanford Board of Trustees on September 11, 1973.

What I really learned by being Judge Rifkind's law Clerk in *Arizona v. California* is that there is an awful lot that lawyers have to know that is not found in judicial opinions. An attempt is made in the course book to introduce the student to the economics, politics, and administration of water. Water law lends itself to this treatment because it runs a wide gamut. We begin our book with the basic property systems in water, which are the appropriation system and riparian system. I won't go into much detail, but what we tried to do was not to teach the black letter law of the system but rather its basic structure and how it works economically. Does it encourage investment? Is there a possibility for reallocation of rights to higher uses? In other words, we look at water law systems in the context of economic efficiency, trying to show law students that economics has an influence on the development of the law. Moreover, we try to ask questions about how the law can be improved to encourage a more efficient use of resources—something lawyers should know about as citizens and, from time to time, as decision makers.

The second part of the book contains case studies illustrating the politics of water. One could even, I think, make a pretty strong case that that's almost all there is to water law—politics. Certainly in the case studies we have selected the political element comes through quite strong, with of course a lot of the political questions ending up in court, as deToqueville says we like to do in this country.



One of the case studies is the California Water Plan. We go back to its antecedents, beginning with Los Angeles' venture into the Owens Valley, then consider the Central Valley Project, and end with the Feather River Project. We try to examine the Department of Water Resources, where they get their influence, how they raise their money, the 1960 fight between the north and the

south over area-of-origin protection. We take a close look at the Central Valley Project, which started as a state project, went bankrupt in the '30s, was taken over in 1935-36 by the federal government, and spawned extensive litigation thereafter.

A second case study concerns the Colorado River, partly because I know it best but also because it lends itself beautifully to the interplay between congressional action, executive action, administrative action, and judicial action. The story there goes back to the attempts to negotiate the Colorado River compact which were finally successful in 1922; it took six years to obtain ratification and Congressional approval, with Arizona not ratifying until 1944. Congress enacted the Boulder Canyon Project Act in 1928, which authorized construction of Hoover Dam, and that Act precipitated a whole series of Supreme Court litigations with Arizona trying to keep Hoover Dam off the River. Feelings ran pretty high. In the case of another dam downstream, Parker Dam, Arizona sent troops to try to keep the dam from being built. The 1963 Supreme Court decision in *Arizona v. California* finally set the stage for the most recent political fight over Arizona's use of the River. It was a three-cornered fight, with Arizona on one side, California on another side, and the Upper Basin states on the third side. That fight went on in Congress until 1968 when the Colorado River Basin Project Act was enacted, authorizing the Central Arizona Project, a two billion dollar project now under construction.

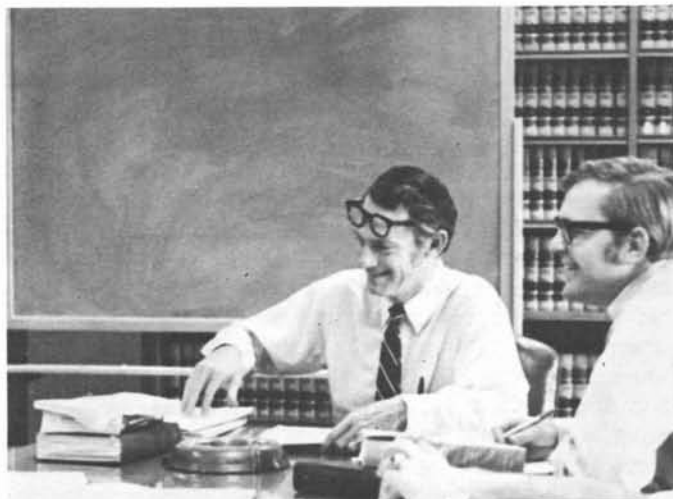
We trace this history through, seeing how California won in Congress some of what it lost in the Supreme Court. We also look at the environmental aspects of these projects and the politics of environmental challenges. Here is where we examine benefit-cost evaluation. The book contains 60 or 70 pages of extracts of writings by economists and political scientists on benefit-cost. Some people, mostly economists, think that it was benefit-cost evaluation that beat the proposed dam in Marble Canyon, a dam that would have run some water into the Grand Canyon National Park. The environmentalists got very excited about it; their economist allies thought it bad economically and produced studies to back up their attacks. Although the studies were excellent, my own guess is that it was advertising not economics that beat the dam. The proponents claimed the dam had great environmental value because people could get closer to the canyon walls by boats on a lake surface. Dave Brower and the Sierra Club responded with full page ads in newspapers all over the country, asking: "Shall we flood the Sistine Chapel so the tourists can get nearer the ceiling?"

For whatever reason, the Marble Canyon project was defeated; we have the students look at all of the weapons used in the fight.

The objectives of the course are to try to bring to bear on an industry, specifically the water industry, some materials from other disciplines—hydrology, economics, political science, engineering. It helps, of course,

to have students from the relevant disciplines in the class. I've been very fortunate to have the support of Ray Linsley of Civil Engineering; several of his students are in the course almost every year. There has been less success in attracting economists and political scientists, but perhaps there is some growing interest there. I would like to see more interdisciplinary classes at Stanford. A university should expose its students to interdisciplinary experiences in which people from different disciplines sit down together, study together, and do projects together. These projects need not advance the state of the art in order to be successful. What is needed is education about how to work with each other, what the language of other disciplines is, what each can contribute and what its limits are.

What we're attempting to do at the Law School this year is to develop a pilot project in environmental studies. A core course in the law of environmental protection, covering both substantive and procedural law as well as some economics, is being offered in the fall. It will be followed by a seminar in the spring, purely interdisciplinary, to design a project for execution in the summer by students of law, engineering, economics, business, and any others we can interest. No project has yet been selected, and much will depend on the kind of persons we can attract. But a range of topics is under



consideration, such as an analysis of the costs, benefits and alternatives of the Peripheral Canal, alternate solutions to the conflict between Truckee-Carson Irrigation District and the Pyramid Lake Indians, or a traffic plan for Stanford University. Whatever the topic, the effort will be to conduct a study that makes some contribution to the solution of a problem and that also contributes to an education in the process of getting disparate disciplines to work together.

Sex-Role Equality

by Barbara Babcock



Professor Barbara Babcock joined the faculty last year after serving as director of the Public Defender Service for the District of Columbia. She is active on the Criminal Law Council of the American Bar Association and is on the Executive Committee of the National Legal Aid and Defender Association. Professor Babcock is writing a book on sex discrimination, to be published in the spring of 1974 by Little, Brown & Company. She teaches courses in women and the law and civil procedure. She has spoken to numerous organizations on the legal struggle for sex-role equality. Following is a partial text of one of those speeches.

One of the most interesting aspects of what we should properly call the renewed struggle for sex-role equality is the extent to which it has been led by lawyers and the focus it has had on the law as an instrument for social education and change. At the very moment when people have despaired of finding even simple justice in the courts, and when the Chief Justice cautions young lawyers about believing too much in the efficacy of litigation to bring about social reform, the women's movement has made rather amazing gains through the use of

the law. Perhaps the most amazing is the most recent—the decisions in *Doe v. Wade* and *Roe v. Bolton*, the abortion cases. As little as five years ago, it would have seemed utterly unbelievable to predict that a decided majority of the Supreme Court would invalidate the anti-abortion laws of 50 states. The majority decision is not written in terms which all feminists would necessarily applaud. The court seems to be far more concerned with the rights of doctors to prescribe appropriate treatment for their patients than with the rights of women to control their destinies. But, this cavil aside, no one can deny that the decision arose from a nationwide litigation campaign which was inspired and directed by women who viewed this as a key issue for the current movement. Literally hundreds of cases of all kinds were brought across the country, with cooperation among people of differing abilities and interests, but united in the idea that there must be access to abortion if women were ever to be truly equal. The attacks on abortion laws in all their forms were varied and creative. In Connecticut, for instance, there was a mammoth class action joining as plaintiffs 1,000 women of all interests and places in life. Some actions were, of course, defenses for doctors who had performed abortions, or counselors who had aided in giving advice. Others were brought by women who sought abortions and had been refused. These cases, their variety and notoriety, created a climate of opinion, a receptivity to the issues—in short, had an educative effect which allowed and, I would suggest “caused” is not too strong a word, the recent opinions, again, a truly astounding accomplishment, brought about through the law and in a very short time.

Title VII

It is equally indicative of the energy and sensitivity of women and their lawyers that the first Title VII case to reach the Supreme Court was not a race or national origins case, but was brought by a woman. Title VII of the Civil Rights Act, as you know, forbids employers and unions whose business partakes of interstate commerce, from discriminating in hiring, advancement, placement or discharge on the basis of race, sex, religion, or national origin. In Florida Ida Phillips applied to Martin Marietta Company for a job in an electronics assembly plant and was told that her application would not be considered because she had pre-school age children. There is no evidence in the record that men with pre-school age children would be similarly disadvantaged. But, you see, the stereotypical notion is that women should be home with the children, or, if they must work, they cannot be efficient because it is they, not husbands or others, who would be responsible for the children during the working day. But the very essence of Title VII is that decisions about hiring and firing are not to be made on the basis of stereotypical notions about all women, all Blacks, or all Native Americans, and their traits, because this is the essence of discrimination. Rather, the law directs that employment decisions be made according to the attributes of the particular person. Again, though the Supreme Court's language in the *Ida*

Phillips case was not exactly a clarion call for equality of opportunity, the result advanced its cause. The Court remanded the case in order for the company to demonstrate that the presence of pre-school age children in the home is so disabling to women on the job as to substantially affect the company's business—a matter of proof which was virtually impossible, and which the Court presumably knew was impossible.

The current Title VII case that most interests me is one brought against a firm which is a scion of the New York legal establishment. The woman alleges that she interviewed for a summer job and was refused when three of her male classmates, two of whom had records and recommendations markedly inferior to hers, were accepted. She further states that her interview consisted of a discussion of the place of women in the firm, which was in trusts and estates, fine detailed work that women are good at. Starting from these simple facts, a very large case has been constructed and brought on behalf of the class of women who have been and are being discriminated against by the firm. The defendants are resisting the suit with their powerful legal resources. Preliminary skirmishing included the firm's declaration that the case could not be a class action, since not one other person had come forward to join the single plaintiff. But the judge in the case was a wise woman—Constance Baker Motley—who responded in effect that in this kind of suit, willing plaintiffs are hard to find. It takes much courage to put yourself and your rejection on the line, because ultimately the defendant's response will be that the woman was not hired because she was not qualified. And indeed, one of the firm's allegations in early motions in this case was to say that the standards for choosing professionals are too indefinable to be subject to review. This contention was also rejected by Judge Motley, and as the suit continues on to trial, it could well become a landmark.

Equal Rights Amendment

Another example of the use of the law to educate and to change in the face of powerful opposition and the force of history is the passage by Congress, and at least 28 states, of the Equal Rights Amendment. Consider the fact that the Amendment has been introduced in every session of Congress since 1943. Consider the cumbersome process of Constitutional amendment. Consider the prestige and determination of the opponents, including Senator Ervin of North Carolina and Professor Freund of Harvard Law School. Again, quite aside from whether you personally like the Amendment, understand it, or think it a fit instrument for achieving equality, you must admire the sheer accomplishment.

The point is not that litigative and legislative change are the only or even the best routes to social reform, but that it is one upon which the current women's movement has focused, and has done so with great success. And, I think that the accomplishments of feminists in the legal arena are a good illustration of the educative effect of the law on society. The increasing acceptance of the idea of women's rights has grown partly from

NATIONAL LAW SCHOOL ENROLLMENT

<u>Year</u>	<u>Total</u>	<u>Women</u>	<u>Percent Women</u>
1950	53,025	1,804	3.4
1955	40,347	1,635	4.1
1960	43,695	1,651	3.8
1965	65,057	2,990	4.6
1970	86,028	7,366	8.6
1972	101,664	12,172	12.0

Figures taken from American Bar Foundation Lawyer Statistical Report—Supplement 1973.

important cases and legislation such as those I have discussed. And in turn, acceptance of the ideas of societal women's rights reinforces the decisions of courts in a range of areas and creates an atmosphere in which the decisions will be accepted and implemented.

Most of all, what I want to convey through this brief account of history, and through some words about the importance of these recent cases, and of the passage of the Equal Rights Amendment, is the respectability and substantiality of the women's rights movement in the 1970's in this country. The belief that the movement is silly—to be laughed at by men, and blushed over by women—that it can be characterized by its most radical fringes, is a real problem which the women's movement, unlike the civil rights movement, has had to face. There were certainly negative reactions to the civil rights movement, but no one ever thought it was a laughing matter.

I think that we will continue to see much of the battle for sex role equality being fought in the courts and legislatures; and this is not only because of the successes of the recent past in these forums, but especially because of the impact present generations of women lawyers will have. The women's movement in law schools is one of the most exciting aspects of the larger picture. The story is first one of numbers—12,172 women in law school last year out of a total of 101,664 law students—compared to 3,000 women out of 64,000 in law school in 1968. And simple numbers do make a difference in atmosphere and in reality. To everyone in the law school the difference between 6 and 30 women in the class is a palpable difference, but most especially it is different for the women involved. Very shortly after their numbers increased, law women were heard from in new ways. They wanted scholarships previously available only to men opened to women; they wanted their schools to do more than accept the women who were as good as men and had the temerity to apply to law school, they wanted the schools to spend money and energy recruiting women. They wanted placement offices to deny interviewing privileges and support to employers who discriminated on the basis of sex—and more, they wanted the schools to reach out affirmatively and develop jobs for women in a field traditionally riddled with discriminatory practices. And finally, they wanted the curriculum to express their new interest in their own history, and in the emerging legal specialty of sex discrimination. These are

all issues that have been raised and fought through in varying degrees in law schools across the country within the last decade.

The course in sex discrimination often entitled Women and the Law has developed rapidly, from its inception at student behest at New York University Law School just four years ago, to this fall when it is being taught at 50 law schools. Three books whose exclusive subject matter is sex discrimination are in the final stages of publication by two major publishers: Little, Brown and West. The courses have usually been student generated. Students have petitioned faculty curriculum committees to add the course and have aided their schools in finding someone to teach it. And as the teacher of the first such course at Yale and at Georgetown Law Schools, I can attest that there is nothing quite like teaching turned-on students what they regard as *their* course. I am often asked whether there are any men in these courses, and sometimes the question irritates me because the tone of it is that the presence of men will somehow validate the otherwise questionable subject matter. But assuming a query free of such overtones, I will tell you that the course is usually about a third men, and that at many schools men have been among the instigators of the course.

Students are quickly taking what they learn in the classroom into the field. Law firms and collectives specializing in sex discrimination cases are in existence in New York, Philadelphia, Washington D.C., Cleveland, and San Francisco—and more are in the planning stages.

I have spoken here today about the history, the present substantiality, and the future of the women's rights movement—without, as you may have noticed, seeking to convince you that it is a good thing, or to win your assent to its causes. This is mainly because I don't know what I would say to accomplish such an end. The *movement* is all of the descriptive words that are conjured up by the word: broad, on-going, changing, forceful, and from what I have seen, people are caught up in it—or join it—not through argumentation, but from some connection made through their own experience, or the reflection on some past experience.

Life in the new day when women have equality of opportunity won't be heaven; but in the women's movement are many mansions. There is room for people of varying persuasions—and much work to do.



Law Alumni Assembly

Leaders of alumni groups met at the School on October 12 and 13 for the third annual Law Alumni Assembly.

The gathering included: Law Society presidents; chairmen of next spring's class reunions, officers, regional chairmen, and class agents of the Law Fund; and class correspondents for the *Stanford Lawyer*. The Assembly is designed to give these alumni a better understanding of legal education at Stanford and to give the faculty and staff the benefit of alumni counsel about that education.

THE ASSEMBLY

Robert A. Augsburger, vice president for business and finance, welcomed the group on Friday morning on behalf of the University. He spoke about the financial structure of the University and its dependence on alumni.

James T. Danaher '58, chairman of the Assembly, introduced Dean Thomas Ehrlich who thanked those assembled for their many contributions to the School. He gave an overview of programs and particularly emphasized the need for continuing contact with practicing lawyers.

The Assembly schedule was divided into two parts—Current Programs and Three Issues for the Future.

Current Programs

- First Year Curriculum
- Advanced Curriculum
- Research

Three Issues for the Future

- Professional Responsibility
- Clinical Training
- Financing Legal Education

CURRENT PROGRAMS

First Year

Professor Bryon Sher described the work of the first year, which consists of required courses in six subjects and one elective. Professor Sher also conducted a model class using an actual problem taken from his first-year contracts course. He cited the School's tradition of strength in the contracts area, including Clarke Butler Whittier, Harold Shepard, and John Hurlbut.

Advanced Curriculum

Three students described the advanced curriculum in terms of their own choices of second- and third-year courses.

Thomas Kildebeck '75 wants to specialize in commercial law. He graduated from Annapolis, served in the Navy, and earned an M.B.A. before coming to the Law School. He is taking basic antitrust and business associations courses in preparation for advanced study in those areas. He is also studying Japanese in anticipation of work in international trade.

Victoria Diaz de Cope '75 greeted the group in Spanish and then told them that their reactions to her greeting probably matched those of most entering students on the first day in Law School. She had taught languages at a high school in Ohio for two years and was then an administrative assistant for a year at Lewis and Clark College. She came to Law School both to gain training for a profession and to add to the number of Mexican-American lawyers. One of her seminars follows up a summer project she worked on with the Santa Clara Sheriff's Office. She was one of 11 interns throughout the country cosponsored by the Police Foundation. Viky's



Paul Ulrich '64, Charles Purnell '49



Richard Stanton '51, Marjorie Evans '72



Leonard Goldman '56, Prof. Moffatt Hancock

Charles Stearns '33, Theodore Chester '47



particular study was on the future utilization of women deputies in Santa Clara County.

Anthony Susko described his interest in the commercial law area as evidenced by his fall course schedule consisting of business planning; business torts; taxation, corporations and shareholders; conflict of laws; and, in the Business School, business and the changing environment.



Victoria Diaz de Cope,
Thomas Kildebeck

Research

Professor Mauro Cappelletti, who divides his time between Stanford and the Institute of Comparative Law in Florence, talked to the group about two of his policy-oriented research projects in two areas of judicial administration. The first is aimed at developing and analyzing data concerning the duration and costs of litigation, and, more generally, the efficiency and accessibility of "justice," particularly in civil cases.

The second line of his research concerns the quality of justice—how and to what extent are fundamental guarantees, such as judicial independence and the right to be heard, assured to litigants.

Both lines of research involve comparative analysis in a number of countries chosen from among the three major legal families—common law, civil law, and socialist law.

Professor Cappelletti used the issue of court delay to illustrate the methods and objectives of his research. He said that judicial reforms in Austria and Sweden have reduced the duration of civil cases—from the date of filing to final disposition—to two months, as compared to many months, or even several years in other countries, including the United States. One goal of his study is to pinpoint the reasons for the success of these reforms and for the failures in other countries.

Remember *Hadley v. Baxendale*? It's probably the most famous case in contracts. But little was actually known about the background of the 1854 decision—its economic, political, and social setting—until a study this summer by Professor Richard Danzig. He described the

results of his research to the Assembly. Professor Danzig, supported by a grant from the American Bar Foundation, went to the Public Records Office in London to analyze cases of the period, to the British Museum for nineteenth century legal texts, and talked to several English historians for background material. He also examined court records and local papers of the period in Gloucester, England, where the case was tried. As a result, he developed about a dozen hypotheses soon to be presented in an article.

One of the insights commented on by Professor Danzig was that the Industrial Revolution increased the complexity of commercial transactions, pyramiding exchange relationships on top of one another, thus making damages both more difficult to compute and more extensive. This posed problems for both businessmen and the courts. Businessmen, he suggested, wanted a constraint on damages because in 1854 their personal liability for business damages was unlimited. This pressure to promulgate rules restricting damages was compounded by a judicial desire to announce rules that would make the outcome of litigation more predictable, thus inducing more frequent settlement.

Finally, Professor Marc Franklin discussed his research in New Zealand last year, related to that country's new accident compensation statute. The act reaches a broad range of accidents, not just those involving automobiles. Although it was too soon to study the new act in actual operation, Professor Franklin was able to analyze the prior accident situation in some detail as a basis for a future study of the actual impact of the statute.

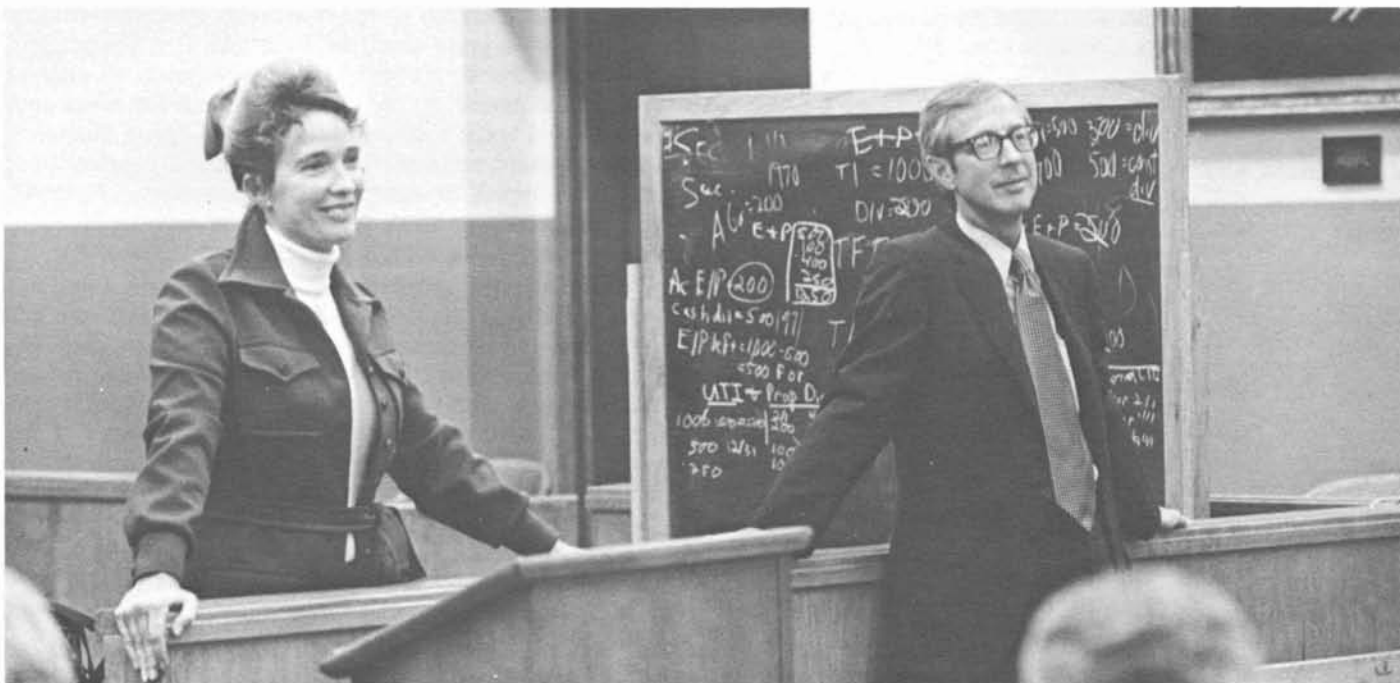
THREE ISSUES FOR THE FUTURE

Professional Responsibility

Professor Howard Williams discussed his own seminar concerning the legal profession and the range of issues on legal ethics examined in that seminar. He also explained that many substantive courses consider questions of legal ethics in the context of their subject areas. He cited a number of examples from his own course in trusts and estates to illustrate the point. He stressed that it is impossible to advise a client properly without full awareness of the standards of professional responsibility. Those standards are not always clear, said Professor Williams. When is it solicitation, for example, to tell a client that further legal work is needed because changes in the law necessitate changes in the arrangement of the client's affairs? This is the kind of question raised in the trusts and estates course.

Clinical Training

Professor William D. Warren discussed the development of clinical law training at the School. He then went on to describe a clinical seminar in the commercial field that he and Ms. Rose Elizabeth Bird are offering this year. The seminar starts with two demonstration tapes of lawyers interviewing the same client who is considering bankruptcy. This is followed by readings and class discussions in this area of the law. Each student then researches a new problem and makes a separate videotape, which is later analyzed by the student, Ms. Bird and Mr. Warren.



Rose Bird, William Warren

A similar procedure is followed in a consumer protection case and the student analyzes techniques and skills that are used in counseling, negotiations, and depositions.

Ms. Bird, a senior trial deputy in the office of the Santa Clara County Public Defender, also teaches a criminal defense seminar in which the students actually try misdemeanor cases. She said that videotape is an invaluable aid in training students. She demonstrated her point by showing some tapes: a student interviewing a hostile witness, a negotiation session with a prosecutor, and the counseling of a client with a consumer protection problem.

Financing Legal Education

Associate Dean Joseph Leininger discussed the financial condition of the School. He emphasized the problems of generating needed income and outlined the alternative courses that may be available to provide that income.

The Assembly then adjourned to hear Professor John Kaplan argue both sides of the presidential tapes case, as reported in the News of the School section of this issue.

Law School Admissions in 1978

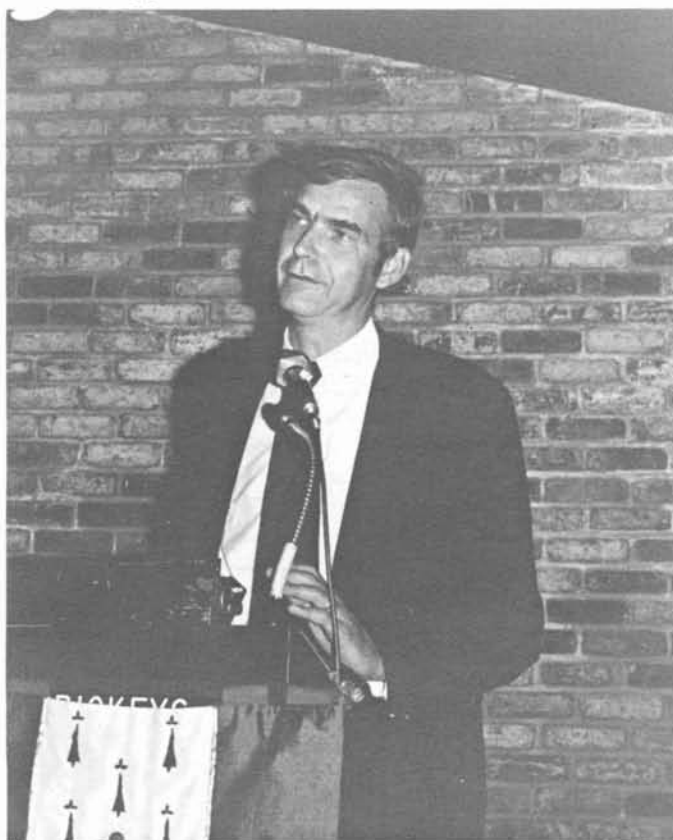
Fred Hargadon, dean of undergraduate admissions, spoke to the Assembly after dinner on Friday evening about the current problems facing college admissions offices—problems that will be faced by law schools in four years. He underscored the need to look at demographic data in the years to come. In the 1960's there was a much greater increase in the number of 14- to 24-year-olds in this country than there had been between 1890 and 1960. But that growth has leveled off in the 1970s. Dean Hargadon then talked about some of the implications of this shift.

He also told of some of the difficulties facing Stanford admissions officers, citing a few recommendations received on behalf of applicants:

"The weakness he possesses is the lack of his own potential."

"She is the kind of girl who should be every boy's first date."

"He can do a continuous headstand for one hour without support."



Fred Hargadon

Faculty News

Barton Writes on Arms Control

Professor John Barton spent the summer continuing work on a book concerning legal aspects of arms control. He visited a number of developing countries to gain their perspective on the problem he is analyzing. He is also helping to prepare a general text on arms control and is writing a volume about energy problems with Professor Thomas Connolly of the Engineering School.

Thomas Ehrlich

This summer Dean Ehrlich and two co-authors finished a supplement to their volumes on *International Legal Process*. Dean Ehrlich also worked on a book about international economic law with Professor Lowenfeld of New York University School of Law.

Franklin's Torts Studies

Professor Marc Franklin spent spring semester 1973 as a Fulbright research scholar at Victoria University of Wellington in New Zealand studying that country's new statutory approach toward compensating victims of most personal injury accidents. He is also the author of a recent article on liability for diseased and faulty blood transfusions, "Hepatitis, Blood Transfusions and Public Action," 21 *Cath. Univ. L. Rev.* 683. Professor Franklin's Comment on Vermont's 1971 Statute, "Duty to Aid the Endangered Act," appeared in 25 *Stan. L. Rev.* 51. He noted that a duty to give reasonable assistance is "common in Europe, and a special physicians' duty exists in New South Wales, but the Vermont statute is unique in American law."

Gould Wins Employment Discrimination Case

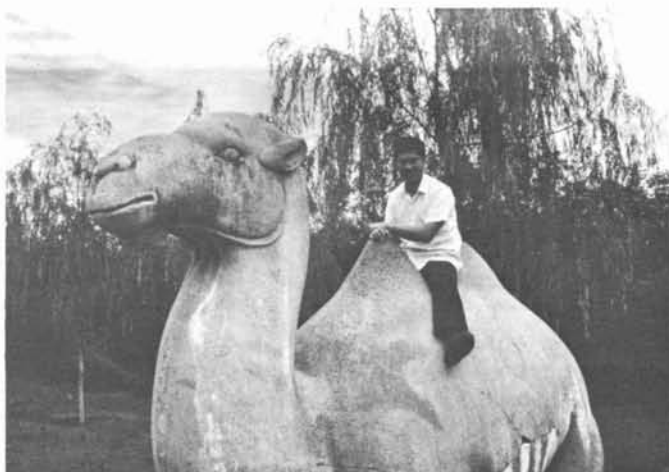
Professor William B. Gould spent the past summer working on a major study of racial discrimination in labor-management relations. Professor Gould, an expert in labor law who joined the Law School faculty in 1972, hopes to finish the book this year. This fall he won a landmark decision as chief counsel in an employment discrimination case under Title VII of the 1964 Civil Rights Act. The suit was begun when Professor Gould was teaching at Wayne State University Law School. The trial judge in the case awarded \$4 million punitive damages against the Detroit Edison Company and an additional \$250,000 against a union. Back pay was awarded for (1) incumbent employees; (2) rejected applicants; and (3) those with skilled trades experience and education who would have applied but for Edison's discriminatory reputation.

Campus Judicial Panel Headed by Keogh

Associate Dean William T. Keogh has been named chairman of the Campus Judicial Panel for 1973-74 by University President Richard W. Lyman.

Mr. Keogh succeeds Professor William Cohen as chairman of the panel, which makes recommendations in student disciplinary cases to the President. The Panel includes three faculty members and three students.

A 1952 Stanford law graduate, Keogh became associate dean in 1961. He resigned to practice private law in Palo Alto in 1967, returning to the Law School two years later. A 20-year Army veteran, he was a judge advocate for three years after graduation, then served as chief of international law at the Army's European headquarters from 1955 to 1957. He was military judge for the Army's Ninth Judicial Circuit from 1959 to 1961.



Prof. Li at the Ming Tombs

Li Visits China

Two studies on Chinese Law are in progress by Professor Victor Li who made his second trip to the People's Republic of China last summer. One is on the public health system in China and the other involves enterprise management in China. He and his wife, Diane, are also making a movie on health care delivery based on their most recent trip. Professor Li also lectured to the Summer Alumni College on China.

Kaplan Makes TV Appearance

On November 15, Professor John Kaplan appeared on the "Tomorrow Show," NBC's sequel to the "Tonight Show," to discuss the Marijuana laws, former Vice-President Agnew's resignation, and the Watergate tapes controversy. Kaplan, a specialist on marijuana and drug laws generally, is the author of the widely-acclaimed *Marijuana, The New Prohibition*.

Mann Appointed to Aerospace Special Panel



Cost of Living Council Director John T. Dunlop named Associate Dean J. Keith Mann to a special panel to assist in disposing of aerospace wage cases. William E. Simkin, former director of the Federal Mediation and Conciliation Service, heads the panel, created on September 13, 1973. Also serving is Ralph Seward, professional labor arbitrator and impartial chairman for Bethlehem Steel and the United Steelworkers of America.

The basic case arose from a January 5, 1972, decision by the Phase II Pay Board to reduce by 17 cents per hour the wage rate increases specified in certain collective bargaining agreements and memoranda for about 120,000 aerospace workers, some of whom are represented by the International Association of Machinists and Aerospace Workers and the United Auto Workers. The aerospace companies directly or indirectly involved in the dispute are Boeing, Lockheed, LTV, McDonnell-Douglas, and North American Rockwell. On June 21, 1973, the United States Temporary Emergency Court of Appeals remanded the case to the Council for "further consideration." The unions had previously appealed the Pay Board decision.

After discussions with representatives of the parties at which the various agreements and understandings on the issue which exist in the industry were discussed, the panel issued guidelines as bases for negotiation of the matter. The panel reconvened on October 30 for a report by the parties as to the progress of negotiations and terms of their settlements.

Richard Markovits

Professor Markovits is currently working on a series of studies analyzing the effects of various legal policies on the allocation of investment in the economy and the effects of legal policies relating to the preservation of potential competition.

John Henry Merryman

In October, Professor Merryman attended an international seminar on legal education in Perugia, Italy, where he gave a paper comparing legal education in the civil law world with legal education in the United States. Prior to the Perugia conference, Professor Merryman met with the Director of the United Nations Social Defense Research Institute in Rome to develop a research program investigating the international traffic in stolen and illegally exported works of art. The Institute, an agency of the United Nations, is concerned with deviance and crime and their control.

In September, Professor Merryman led an informal seminar on comparative law at the Faculty of Law at the University of Bergen, Bergen, Norway.

Sneed on Court of Appeals

Former Stanford Law Professor Joseph T. Sneed was appointed in August to the United States Court of Appeals for the Ninth Circuit in San Francisco. Judge Sneed came to Stanford from Cornell in 1962. He taught and wrote in the tax field, and in the words of Dean Ehrlich, "quickly established himself as one of the most effective teachers, productive scholars, and delightful colleagues on our faculty." While at Stanford he was active in both the American Bar Association and the Association of American Law Schools, and was elected president of the latter body in 1968. During his presidency he established the arrangements that ultimately led to one of the most significant reports on legal education in recent years, the so-called Carrington Study.

Judge Sneed left Stanford in early 1971 to become dean of Duke University School of Law. In 1972 he was chosen as deputy attorney general of the United States, and was in that post until his appointment to the bench.



Visiting Faculty

Five visiting faculty members are teaching at the School during the fall term this year and two others will come for the spring term.

Phoebe Ellsworth

Visiting Assistant Professor of Law and Psychology Phoebe Ellsworth was born in 1944. She received an A.B. (1966) from Radcliffe and a Ph.D. (1970) from Stanford. She was an assistant professor of psychology at Stanford, 1970 through 1971. Since 1971, Ms. Ellsworth has been an assistant professor of psychology at Yale.

Owen M. Fiss

Owen M. Fiss of the University of Chicago was born in 1938. He received a B.A. (1959) from Dartmouth, B. Phil. (1961) from Oxford where he was a Fulbright Scholar in philosophy, and an LL.B. (1964) from Harvard. He was law clerk to Judge Thurgood Marshall, United States Court of Appeals for the Second Circuit from 1964 to 1965, and law clerk to Justice William Brennan, United States Supreme Court, from 1965 to 1966. Mr. Fiss was special assistant to the United States Assistant Attorney General, Civil Rights Division from 1966 through 1967. He served as acting director of the United States Office of Planning Coordination in 1968.

Geoffrey C. Hazard

Geoffrey C. Hazard received his B.A. (1953) from Swarthmore College and his LL.B. (1954) from Columbia. He was Reviews Editor of the *Columbia Law Review*. From 1954 to 1957 he was associate attorney at Hart, Spencer, McCulloch & Rockwood, Portland, Oregon. He served as executive secretary of the Oregon Legislative Interim Committee on Judicial Administration from 1957 to 1958. Mr. Hazard was an associate professor at the University of California at Berkeley from 1958 to 1961 and professor from 1961 to 1964. He was professor of law at the University of Chicago from 1964 to 1971. He held the post of executive director of the American Bar Foundation from 1965 to 1970 and is Reporter for the ABA Committee on Standards of Judicial Administration. Since 1971 he has been a professor of law at Yale Law School.

Douglas A. Kahn

Professor Kahn was born in 1934 and received a B.A. (1955) from the University of North Carolina and a J.D. (1958) from George Washington University. He was case editor for the *George Washington Law Review*. Mr. Kahn served as an attorney for the Civil and Tax Divisions of the United States Department of Justice from 1958 to 1962, and was an associate attorney with Sachs and Jacobs in Washington, D.C. from 1962 to 1964. Professor Kahn has been at the University of Michigan since 1964.

Dietrich A. Loeber

Visiting Professor Dietrich A. Loeber of the University of Kiel, Germany, was born in 1923 in Latvia. He received a J.D. (1949) and a J.S.D. (1951) from the University of Marburg, Germany, and an M.A. (1953) from Columbia. Mr. Loeber was a Senior Research Fellow at the Max Planck Institute from 1958 to 1966 when he joined the University of Kiel. His principal subject is Socialist Legal Systems.

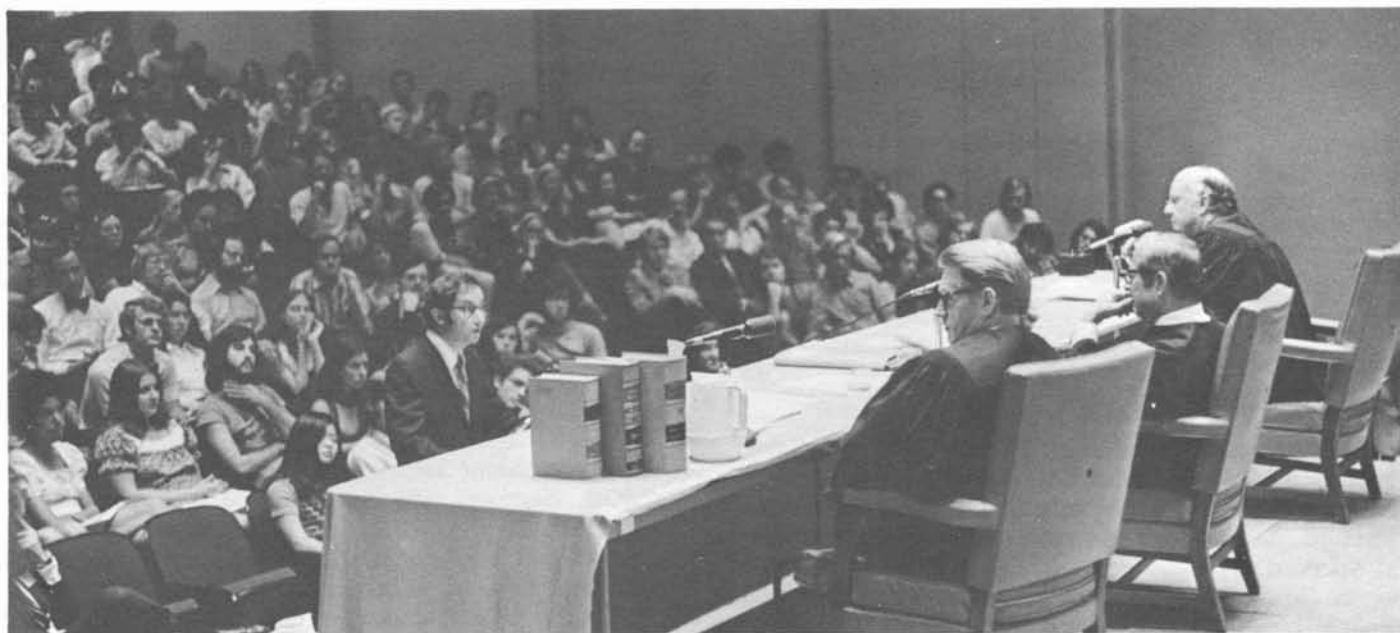
Stanley Siegel

Visiting Professor of Law Stanley Siegel was born in 1941. He received a B.S. (1960) from New York University and a J.D. (1963) from Harvard. He was Attorney in the Office of the Secretary of the Air Force from 1963 to 1966. He has been acting as Reporter for Corporate Law Revision for the Michigan Law Revision Commission since 1968 and was consultant on the Postal Reorganization, United States Post Office Department from 1969 to 1971. He has been at the University of Michigan since 1966.

Hon. Charles E. Wyzanski, Jr.

Herman Phleger Visiting Professor of Law Charles E. Wyzanski, Jr. was born in 1906. He received an A.B. (1927) and LL.B. (1930) from Harvard, and has been accorded several honorary degrees. He was an associate attorney with Ropes, Gray, Boyden & Perkins from 1930 to 1933. He served as law clerk to Judge Augustus N. Hand from 1930 to 1931 and to Judge Learned Hand in 1932. He was solicitor for the Department of Labor in Washington, D.C. from 1933 to 1935 and Representative of the United States at the 71st and 72nd sessions of the governing body of International Labor Organization in Geneva, Switzerland in 1935. Judge Wyzanski was special assistant to the Attorney General of the United States, staff of the Solicitor General, Department of Justice from 1935 to 1937. He was appointed United States District Judge for Massachusetts in 1941, served as Chief Judge, and is now Senior Judge.

News of the School



Kaplan Argues Two Sides

The first program of the year for the Moot Court Board was a model appellate argument. On October 12, 1973, Professor John Kaplan argued both sides of the presidential tapes case before a panel of Justice Stanley Mosk, California Supreme Court, and Judges Robert Peckham and Charles Renfrew of the United States District Court for Northern California. Arguments were based on the briefs submitted by each side in the actual case.

The Stanford Daily introduced its story on the event with the following quotes:

"The only privilege the President has claimed—confidentiality—has clearly been waived," argued John Kaplan, Esq., counsel for Special Watergate Prosecutor Archibald Cox.

"This is a case," replied John Kaplan, Esq., counsel for the President, "where satisfying one's curiosity can place this court in the position of dealing a serious blow, not only to the President, but to the nation as a whole."

"His arguments were delivered with equal facility, equal enthusiasm, and almost equal conviction. They were addressed, however, to different concerns.

"The argument on behalf of Cox—to release the tapes—rested on a contention that the confidentiality of Presidential conversations has been waived by the President's permission to his former advisers to testify about the content of those conversations.

"The argument on behalf of the President—not to release the tapes—was based on a much broader concep-

tion of Presidential privilege, a much looser conception of 'confidentiality' and fear of infringing on the President's constitutional powers."

Members of the Moot Court organization also sponsored an oral practice seminar with the help of local attorneys on November 12 to 15.

Environmental Law Society

Thirteen members of the Environmental Law Society worked throughout the summer on three research projects and prepared their findings for publication during the fall.

The projects, funded by grants from the Wallace Alexander Gerbode Foundation, the Alamo Foundation, and the Nicholas B. Ottaway Foundation, Inc., involved studies of growth-control techniques, interstate environmental problems, and California's Williamson Act, which provides tax incentives for preserving open space.

This was the fourth summer program conducted by the Society. Past projects have examined urban sprawl in San Jose, highway planning, and private timber regulations. Last year's California Land Use Primer, a handbook describing ways to control land use, is now in its fourth printing.

The growth control study covered such topics as phased zoning, bans on building permits, and conditions attached to the extension of utilities into new developments. The interstate environmental problems project began with a detailed analysis of the Truckee River System in California and Nevada and explored ways in which developments in one state affect environmental quality in another.

The third project was a continuation of a 1972 Environmental Law Society of the California Property tax system. The students prepared a detailed critique of the Williamson Act and explored alternative methods of preserving open space. They worked closely with the legislative consultant to California's Assembly Select Committee on Open Space Lands.

Mock Trial

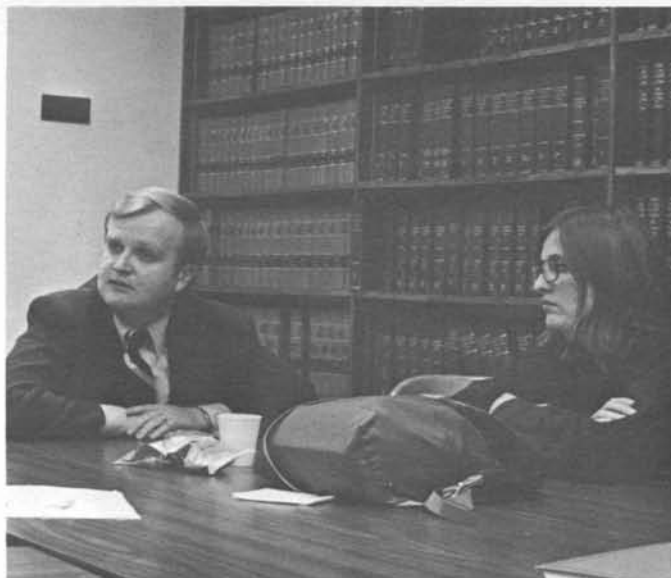
Serjeants at Law held its first mock trial of the year on October 25. The case, *Loose v. Loose*, dealt with a child-custody dispute concerning which of the estranged parents should raise their two children. Bob McNair and John Livingston acted as counsel for plaintiff Randy Friday. The defendant, Debbie Handel, was represented by Diane Balter and Michael Duncheon. The Honorable Sidney Feinberg of the Palo Alto Municipal Court presided. Expert psychiatric testimony was provided by Dr. Robert Malcolm of Stanford, and Barbara Angstman testified as the defendant's mother.

Primary planners for the trial were Serjeants Board members Kinsey Haffner and Randy Dunn, who assumed the major task of developing and refining all facts and characters involved in the case.

Serjeants at Law provides a forum for law students interested in developing trial-advocacy skills. The trials are unrehearsed and give each student an opportunity to argue within a basic framework of facts.



Bob McNair (left) argues for the plaintiff. Below: Michael Duncheon and Diane Balter represent Debby Handel (far right).



Malcolm Hawk '67 discusses his work in the Department of Justice.

Alternatives in Practice Program

In an effort to acquaint job-hunting students with the opportunities available outside the usual law firm route, the Law Forum sponsors a series called Alternatives in the Practice of Law. Representatives from organizations such as I.B.M., Pacific Gas and Electric, the California State Court of Appeal, the Natural Resources Defense Council, a district attorney's office, the Department of Justice, and U.S. Steel hold informal conversations with students on the positions available for lawyers. These are usually done over lunch on a day the representative is interviewing at the School.

During the fall interview season, some 200 employers visited the School. This represented 165 law firms, 25 public agencies and 10 corporations. About 4,000 interviews were held.



John Livingston questions his client, plaintiff Randy Friday.

Registration

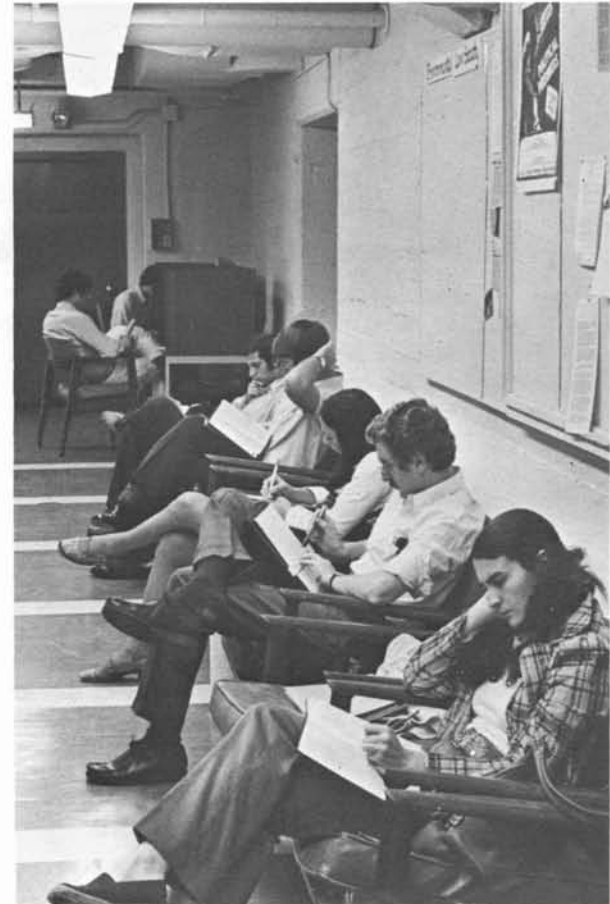
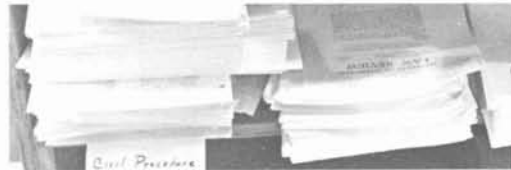


September





Supper



Study!



International Society Readies for Competition

The International Society is preparing to compete in the Jessup International Moot Court Competition in March. David Clarke, Michael Miller, and Robert Barnard, all third-year students, are in the process of choosing two more members to complete their five-man team. Mindful of the success of last year's team, which won an award for best brief in the Western Regionals, the Society has high hopes for this year's team.

Again this year, the Society is contacting Stanford graduates abroad in an effort to secure summer clerkships for law students wishing to work in international law. Last year the Society found jobs for students in England, France, and New Zealand.

Legal Aid Society

The Legal Aid Society officers explain the Society's program to new students as "an opportunity to help people with their legal problems and to learn a lot about the actual practice of law. Students work with an attorney on all aspects of a case, from initial interview, through investigation and research and drafting a complaint to actual litigation. Besides the practical benefit of training in legal practice, students also gain a sense of the kinds of legal problems that face poor people.

"Criminal work involves all phases of criminal defense, from interview to appeal. Civil work covers a wide range of problem areas, including landlord/tenant, debtor-creditor relations, consumer cases, and employment problems. Students are expected to work about ten hours a week."

Susan Nagel



Mrs. Susan Nagel, who joined the Law School staff in 1961, died on September 28, 1973. Mrs. Nagel became Law School Registrar in 1967 and held the post until last year when illness forced her to change positions. During 1972-73 she was administrative assistant to Associate Dean William Keogh. At a memorial service on October 2, Dean Keogh spoke for himself and others. Following are excerpts from those remarks.

"Professionally, Susan was bright, thorough, precise, diligent and possessed of an enormous capacity for driving effort. She was sensitive, she was loyal and oh so very kind—to everyone. Susan brought to the Stanford Law School a formidable strength. She saw beyond the details and understood the administration of this great institution to be a service subordinate to and in direct support of the task of educating law students. She was an administrator

who saw excessive red tape or the technical log jam as a failure of administration and not as its necessary by-product.

"... I do not wish that my sentiment alone be recorded. Colleagues, known to you, also wish to share with you their thoughts.

"Professor Charles Meyers states, "Susan was one of those unsung heroes—heroine in her case—of the Law School who make it really work. . . .

"From Professor Gerald Gunther, . . . She had a sense for the important, she cared about all those around her, she gave a damn for the School and for the human beings that constituted it. . . .

"Bayless Manning, former dean of the Law School, . . . As registrar and as officer for admissions she was not where the sun of applause often shines. But all of us who shared administrative responsibilities of the School knew how reliant we were upon her knowledge, dependent upon her energy, and indebted for her singleminded dedication to the welfare of the School. . . .

"Professor Keith Mann writes, . . . she was respected by the students because they knew that any one of them would get a fair hearing; she was diligent, precise, conscientious and orderly. . . .

"Betty Scott says, . . . Her compassion for her fellow human beings—especially those in need—was a second nature with her, seemingly effortless and unassuming.

"Professor Wayne Barnett—It was to her that we turned with whatever problems of administration might confront us; and it was from her that we obtained our relief.

"And Dean Tom Ehrlich, . . . Day in and day out, she responded to all comers with cheerful good humor backed by careful analysis of the particular problem—what facts were needed to form the basis for judgment and what policies were involved in making the judgment. . . . She could be counted on—always."

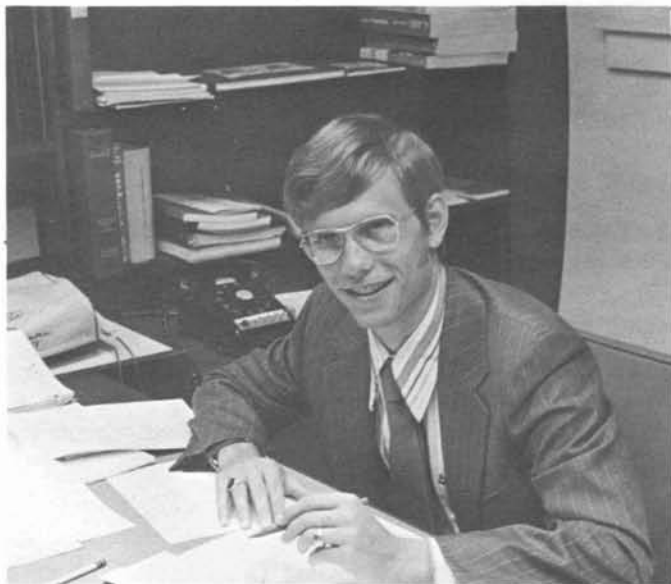
Clinical Opportunities at the School

During the fall semester, 25 third-year students were away from the Law School on externships, ranging from Palo Alto to Hamburg, Germany and Florence, Italy. The program was begun in 1969-70 with ten students.

Until 1970 the externship program provided the only clinical experience at the School. According to Joseph Leininger, director of the program, "Students now also have an opportunity to take clinical seminars in defense, environmental law, law enforcement, family and juvenile law, legislation, professional responsibility, trial advocacy, with more direct and continuing faculty supervision of student work than is possible in an externship situation." Opportunities are also available for directed research in many areas such as corporate regulation.

Externships during the fall were with judges, a police department, two United States senators' offices, a public defender office, a juvenile probation department, and the Joint Committee on Internal Revenue Taxation, among others.

New Law Fund Director



Lloyd W. Lowrey, Jr. joined the staff on August 20 as director of the Law Fund. He graduated from Stanford Law School in 1971, having done his undergraduate work at the University of California. After graduation from the Law School, he joined the General Counsel's Office of the United States Postal Service. Lloyd and his wife Carol have a baby girl Susanna born August 9, 1973, just before their arrival at Stanford.

Bruce Hasenkamp left his job as staff director of the Law Fund at the end of August.

Gary Bayer, who had been devoting his full attention to the Law School's capital campaign, will continue that work and will also assume the added responsibility of coordinating the Law School's fund raising and alumni-relations efforts as assistant dean for development.

Law Societies



Seth M. Hufstедler at State Bar luncheon

ARIZONA

Professor William Cohen was the guest of the Society at a luncheon on November 8. He discussed his study of no-fault insurance, which was adopted last year by the National Conference of Commissioners on Uniform State Laws. He is also consulting with the United States Senate Commerce Committee on the drafting of a federal no-fault bill. Sam P. Applewhite III, '52 president of the Society, chaired the meeting.

GREATER EAST BAY

Dean Thomas Ehrlich was the guest of President Richard C. Stanton '51 and other Society members at a luncheon on November 14.

MIDWEST

Professor Robert Rabin was in Chicago for a meeting of the Midwest Law Society on November 30. He spoke about appointment of professors to the Law School faculty. Roger A. Vree '69 is president of the Society.

NEVADA

President Samuel W. Belford, II '62 hosted a dinner meeting of the Society on November 28. Dean Ehrlich brought greetings and news from the School.



Mrs. R. S. Barnes, John Hurlbut, Jr. '64, Marjorie Mize Le Gaye '45, Seth M. Hufstedler '49, Tom Ehrlich, Shirley Hufstedler '49, John Armagost '56 at State Bar luncheon

NEW YORK

Dale L. Matschullat '70 invited Society members to an informal cocktail discussion on November 5 with Professor Richard Danzig concerning the reform and modernization of urban police departments. Professor Danzig teaches contracts and a clinical seminar on innovations in police departments.

NORTHERN CALIFORNIA-NEVADA

At the invitation of President Robert F. Peckham '45, Society members attended a luncheon meeting in San Francisco on November 28. Guest speaker was the Honorable Joseph T. Sneed.

ORANGE COUNTY

Stanford Law alumni were invited to lunch in Anaheim on September 12 during the California State Bar Convention. Robert S. Barnes, '49 President of the Stanford Law Society of Orange County, presided at the meeting. Seth M. Hufstedler '49, president of the California State Bar, spoke on appellate-court reform to an audience of about 175 alumni.

OREGON

David Miller '67 invited all Stanford lawyers attending Oregon's State Bar Convention to a cocktail party on

October 11, 1973. The event was a joint affair with "our Berkeley Brethren of Boalt." Steve Corey and Bob Mautz, both members of the Board of Visitors, discussed the most recent Board meeting with those present.

PENINSULA

Hon. Joseph T. Sneed spoke to the Society on November 7 about "Reflections on a Whirlwind Tour along the Potomac." Marvin S. Siegel '61 is president.

SANTA CLARA

Professor Barbara Babcock spoke to alumni after dinner on November 29. John Field Foley '56 presided.

SUPERIOR

Dean Thomas Ehrlich brought the film, "Stanford Lawyer," to a meeting of the Society on November 8. After the showing he answered questions about the School. William R. Mitchell '47 is president.

UTAH

R. William Bradford '59 invited Dean Ehrlich to show the movie, "Stanford Lawyer," to members of the Society at a luncheon meeting in Salt Lake City on November 29.



Donald C. Wallace, Jr. '51
Stuart L. Kadison '48
Alma C. Kays '47
Marjorie Mize Le Gaye '45
Robert S. Barnes '49

REMEMBER THE 1969 REUNION (OR COMMENCEMENT) ?



Your reunion chairmen want you to reserve
April 5 and 6 for the 1974 reunion.

- 1924 — Philip Grey Smith
- 1929 — Robert Beardslee, Jr.
- 1934 — Nathan Finch
- 1939 — George Whitney
- 1949 — James Tucker and Ben Parkinson
- 1954 — Richard Snell
- 1959 — Andrew Kjos
- 1964 — Richard Farman
- 1969 — Charles Piper