

# Stanford Lawyer



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**George E. Osborne**  
**1894-1977**

# Stanford Lawyer

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While the *Stanford Lawyer* was at the press, the School received word that Emeritus Professor George E. Osborne died on April 10 in San Francisco. He was 83. He had been in ill health for some time with a heart ailment.

A nationally prominent scholar of mortgages and property law, Professor Osborne was a member of the Stanford law faculty for thirty-five years prior to his retirement in 1958. From 1953 until his retirement he held the William Nelson Cromwell endowed chair.

Professor Osborne graduated, Phi Beta Kappa, from the University of California at Berkeley in 1916 and received his LL.B. in 1919 from Harvard, where he was editor-in-chief of the *Harvard Law Review*. He received his J.D. there in 1920.

After leaving Harvard he taught at the University of West Virginia, starting their law review. He also taught at the University of Minnesota before joining the Stanford law faculty in 1923.

Among his most notable publications are his *Casebook on Property Security*, published in 1940; his classic, *Osborne on Mortgages*, which was published in 1951 and is part of West's hornbook series; and *American Law of Property*, a seven-volume text which he co-authored and published in 1952.

During World War II he was a mediator and a public panel member of the National War Labor Board. He served as chairman of the Railway Carrier, Lumber and Timber Products, Clay Products and other industry commissions to set minimum wages.

In 1949 President Truman appointed him to be the public panel member of the Railway Emergency Board in the engineers' and firemen's diesel manpower cases. He served in a similar capacity two years later in the non-operating unions' union shop case.

Following retirement from the Law School in 1958 Professor Osborne taught at the University of California's Hastings College of Law until 1975.

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# A Message from the Dean



The placement process is a three-headed creature—not as bad as the Hydra, which was a monster with nine heads, but worrisome enough for students, employers, and our Placement Office. In the mind of many students, employers are interested in grades only, to the exclusion of everything else. To many employers, the students are too choosy; they wish to practice in Palo Alto or at least no farther away than San Francisco. From the perspective of the Placement Office, both groups are misinformed, but setting the record straight is not easily done.

Placement at Stanford is a growth industry. Last fall 305 firms, corporations, government offices and other employers interviewed here—a record number for the School. Geographically, the entire nation was represented. Of the 155 to 165 graduating seniors seeking permanent employment (plus the 125-150 second-year students interested in summer positions), nearly all those using the Placement Office received offers; yet a number of employers were disappointed.

For those employers who were unsuccessful in recruiting our students, I have several suggestions to make. First and foremost, do not limit your interviewing to the top ten or fifteen percent of the student body. Grades are important, but they should not be dispositive. Based on Law School Aptitude Test statistics, our student body is drawn almost exclusively from the top three percent of students applying to law school. What law school grades reflect is the faculty effort to evaluate this very fine group of students on an even more refined basis, and while there is a difference between the top and bottom ten percent, it is not the difference that I experienced at Columbia fifteen years ago. And the differences in the middle are slight indeed. My own experience with Stanford stu-

dents in seminars suggests that nearly all of them are very capable students who will make competent lawyers, to say the least, and very good to outstanding lawyers in most cases.

One way for law firms to test my proposition is to institute a summer program, if they do not already have one. Without much risk, a firm can find out how good Stanford law students are, and if my proposition is correct, the firm has a leg up in hiring a first-class beginning lawyer a year or so later. Even if no permanent arrangement is made, most second-year summer clerks have good experiences and serve as useful ambassadors for their firms to other students.

Several firms have been experimenting with a first-year summer clerkship program and have found it to be as beneficial as their second-year program.

The second major point I would make concerns information. Just as I urge students to take courses for grades (rather than Pass-Fail) and to provide a grade-sheet to prospective employers, I would urge law firms to prepare a factual brochure giving full information about themselves. The chief complaint I hear from students is that they must make very important career decisions based on incomplete information.

The firm should, with some specificity, describe its practice, identify representative clients, outline training programs for new associates, as well as salary and advancement policies, and specify hiring criteria used in making employment decisions. I am convinced that not only students but employers will benefit, for the match between prospective employee and employer will be better because the information is better.

As most lawyers will agree, the placement process is an anxious time, regardless of what side of the desk you are on. Students are making—many for the first

time—vital career decisions. Employers are similarly making decisions upon which the quality of their services and hence their future depend. The School is eager to do whatever we can to ease those anxieties and make that decision-making process go as smoothly as possible. Certainly a full exchange of information will go a long way toward meeting that goal.

The Placement Office has in recent months instituted several new programs which should also improve the placement process by better preparing students for interviewing and for making informed career choices. The Office has relied heavily on alumni advice and participation in implementing these programs and it is gratifying to note that alumni response has been superb.

An oft-quoted aphorism of Justice Holmes has application even to placement: "The life of the law has not been logic; it has been experience." We believe that every graduate has something to offer students by way of his or her own experiences in the practice of law. We urge all of you to make yourselves available to students and to offer them the wisdom that only experience imparts.

To emphasize our belief that placement is a vital part of the educational process at the School, we have dedicated a major portion of this issue of *Stanford Lawyer* to the subject. Several graduates have been generous enough to share some experiences drawn from their own varied careers. We hope you will enjoy them; they are well worth reading. Moreover, we hope that as you read about placement at the School and the concerns of the interviewers and the interviewees, you will consider ways that you, either personally or as a representative of your firm, your company or your agency, can improve the placement process. We are eager to learn from you. ■



# Preferential Admissions After Bakke

The Supreme Court of the United States recently agreed to review the judgment of the California Supreme Court in *Bakke v. Regents of the University of California*,<sup>1</sup> and will thus address the most important issue of racial policy to confront the nation since 1954 when it put an end to state-mandated segregation. The narrow issue in *Bakke* is the constitutionality of a racially preferential admissions procedure used by the medical school of the University of California at Davis. But the decision will have implications for admissions procedures at hundreds of colleges and universities as well as for the hiring policies of thousands of public and private employers, many of whom have been ordered by courts and government agencies to engage in so-called "reverse-discrimination."

## The Bakke Decision

Admission to the medical school of the University of California at Davis depends heavily on applicants' college grades and performance on an entrance examination. Because relatively few blacks, Mexican-Americans, Native-Americans, and Asian-Americans met its regular admissions requirements, the medical school adopted a special procedure designed to admit about 16 minority applicants into its entering class of 100. Only minorities who were "disadvantaged"—based on such factors as family wealth and occupations—were eligible for admission un-

der criteria that placed less emphasis on college grades and test scores and more on subjective evaluations. The special procedure was challenged by Allan Bakke, a rejected white applicant with very high grades and scores, who claimed that if the 16 minority positions had been awarded according to the usual standard, he would have been admitted to the medical school.

The medical school's minority admissions procedure presents complex questions of public policy—whether it is well designed to serve important social objectives, whether its benefits outweigh the various harms it might cause, and whether it is fair. It also presents a constitutional question—whether it is consistent with the equal protection clause of the Fourteenth Amendment. In general, questions of social policy are no business of courts', but lie in the exclusive domain of state policymaking institutions such as the Regents of the University of California, or the state legislature if it chooses to intervene. State policies may seem socially misguided and even morally repugnant and yet present no real constitutional questions. But sometimes the constitutionality of a policy depends on how "good" it is thought to be. This is true, for example, whenever a court applies the so-called "compelling state interest" standard, under which a law will be sustained only if it is essential to achieving very important ends.

A major issue in the *Bakke* case was whether the medical school's minority admissions procedure should be subjected to the "compelling interest" test. Bakke pointed out that this was the

usual constitutional test for laws that discriminated on the basis of race, and urged the Court to adopt it. The University countered that this demanding test had been developed to deal with discrimination against minorities and had no application to a policy that discriminated in their favor. The University argued that the test was designed to protect politically impotent minorities from the dominant race—from being treated and branded as inferior. Where a policy operates in favor of minorities that have been the traditional objects of discrimination, the University urged, there is no reason to suspect that the policymaking process was tainted by prejudice, or that either minorities or whites like Bakke would endure racial stigma. Bakke's position was that, whether or not the policymaking process was tainted or anyone stigmatized, the Constitution prevents the state from bestowing benefits on citizens because of their race—at least in the absence of extraordinary necessity.

The California Supreme Court adopted Bakke's position, and therefore turned to the underlying question of policy: whether the medical school's preferential admissions procedure was necessary to promote important state objectives. The University argued that only a racially preferential policy could integrate the school and the medical profession, and that integration was both an end in itself and a means of achieving other important ends. For example, the presence of minority students in the medical school would sensitize their classmates to the needs of medically impoverished minority communities; minority doctors were more likely than others to practice in such communities and would also serve as role-models to increase the aspirations and achievement of minority youth.

The California Supreme Court as-

Some of the issues considered in this essay are examined in greater depth in Professor Brest's recent article, "In Defense of the Antidiscrimination Principle," 90 Harv. L. Rev. 1 (1976).

1. 18 Cal.3d 34, 132 Cal. Rptr. 680, 553 P.2d 1152 (1976), cert. granted, 45 U.S.L.W. 3555 (1977).

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sumed for the sake of argument that these were legitimate and important goals—“compelling interests”—but was not persuaded that a preferential admissions policy was the only way to bring more minorities into the medical profession. The Court suggested four other possible means that did not require basing admissions on an applicant’s race: the University could increase the overall size of its medical schools, modify the regular admissions criteria to place less emphasis on grades and test scores, recruit aggressively and provide remedial education to disadvantaged students of all races, or design a preferential admissions program for “disadvantaged” applicants without regard to their race. Because the University had not demonstrated that its legitimate interests could not be achieved by non-discriminatory means, the Court held that the medical school’s racially preferential admissions program was not proved necessary and therefore violated the Fourteenth Amendment.

#### **The Decision Assessed**

These, then, are the three major issues presented in the *Bakke* case: whether an admissions procedure that discriminates in favor of minorities should be judged by the compelling interest test or by some lower constitutional standard; whether the medical school’s admissions procedure promoted compelling state interests; and whether the procedure was necessary to promote those interests.

The extensive and well-reasoned scholarly debate on the first of these issues suggests that it is one about which reasonable people may differ. My own view is that, although even reverse discrimination poses some dangers of reinforcing white prejudice and making the preferred minorities feel inferior, the policies underlying the compelling inter-

est test are so attenuated that preferential admissions procedures should be judged by a lower constitutional standard.

Reasonable people can also disagree about the subtle moral and factual grounds for the supposition that racial integration of the medical school serves compelling state interests. I touch on some of these problems below.

Whatever may be said for the Court’s treatment of the first two issues, however, its discussion of the third is naive, and its proposed alternatives to a racially preferential admissions procedure have a decided air of unreality about them. Since very few minority applicants meet the regular admissions criteria, only an expansion of the State’s medical schools to many times their present size could hope to achieve a significant increase in minority enrollment. Of course, the existing admissions criteria are not immutable, and more accurate predictors of success as a medical student and competence as a physician can surely be developed. But refining and validating such criteria is a complex and slow process. Moreover, there is no reason to assume that more accurate predictors will increase minority admissions, and the Court’s suggestion that the school might place more emphasis on interviews, recommendations, and an applicant’s character invites all sorts of other discriminatory abuses, including covert evasion of the Court’s ruling.

The Court’s other suggestions — aggressive recruitment and remedial education of disadvantaged applicants and a special admissions procedure for the disadvantaged without regard to race—

are indeed plausible ways to increase the enrollment of *disadvantaged* students. But it is not at all clear whether they would significantly increase the enrollment of *minority* students. For under almost all criteria of disadvantage—save, perhaps, a criterion of language disability—the absolute number of potential white disadvantaged applicants far exceeds the number of minorities; and whites will surely take advantage of whatever preferential admissions criteria are available to them. One can only guess at the numbers, but it would not be surprising if the medical school at Davis would have to allot more than half of its hundred places to “disadvantaged” students to maintain its enrollment of 16 minorities in each class.

One other aspect of the decision in *Bakke* deserves mention. The constitutional rules that prohibit discrimination against minorities not only forbid regulations that classify on the basis of race, but also forbid the state from adopting nonracial criteria for the purpose and with the effect of discriminating. For example, a state university may not adopt stiff admissions criteria, neutral on their face, for the *purpose* of excluding minority applicants. Although *Bakke* purported to treat reverse discrimination by the same constitutional standard as discrimination against minorities, the Court indicated that the University might consciously develop nonracial criteria for the purpose of increasing the admission of minority students.

At first glance, encouraging the University to achieve indirectly what it may not do directly appears inconsistent or even disingenuous. But there may be a point to it. The use of nonracial admissions standards, even though designed to achieve racial goals, avoids what one writer called the “dirty business” of official inquiry into the race of applicants,

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and it also blunts the psychological impact of being rejected—or accepted—under a racial criterion. Whatever one's view of the Court's constitutional novelty, however, it may ultimately prove irrelevant because, to reiterate, it is doubtful that any nonracial criteria can achieve substantial minority enrollment.

#### **The Future**

Many preferential admissions programs were instituted hastily, reactively, and with little reflection about their underlying goals and the validity of their factual assumptions. However the Supreme Court of the United States decides *Bakke*, this is the time for institutions of higher education to confront some tough issues that they have evaded for too long. The most difficult of these is the question which the California Supreme Court avoided by assuming "for the sake of argument" that a racially preferential admissions program serves compelling state interests: just how legitimate and important are the interests ostensibly served by such a program? Although an extensive discussion of this question lies beyond the scope of this article, it is worth mentioning some of the issues that must be addressed.

First, one must ask to what extent preferential admissions is designed to compensate the particular applicants who receive their benefits, and to what extent the applicants are admitted in order to benefit others in the society. If preferential admissions is viewed as compensation solely for being disadvantaged, there is no reason to prefer a black or Chicano applicant to a disadvantaged white. A racial preference seems justifiable only if admissions is viewed as compensation for past discrimination either by the institution adopting the program or by other institutions in society. There is, however, no necessary

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correspondence between the individuals who were discriminated against and those who benefit from preferential admissions. Making this connection requires either adopting some theory of "group justice"—which like the notion of "collective guilt" seems inconsistent with our traditional views of individual rights and responsibilities—or tracing the disadvantaged position of minority applicants to harms done their forebears. Not only is that a speculative inquiry, but racial discrimination is just one of many sorts of injuries that our society has inflicted on its members. Why should a minority's claims to compensation for past discrimination be preferred to the claims of other persons—many of them white—whose present position results from past economic exploitation and other social injustices?

The forward-looking, instrumental rationales for preferential admissions programs present different problems. For example, is it self-evident that minority lawyers and doctors are more likely than others to serve disadvantaged communities; or that the increase in minority professionals brought about by preferential admissions will significantly affect the aspirations and achievement of minority youth through the process of role-modeling; or that the normal admissions criteria "underpredict" the academic success and professional competence of minority applicants? These are questions of fact, the answers to at least some of which may be suggested by social science research.

A somewhat different instrumental rationale is based on the belief that many

minority citizens will view abandonment of preferential admissions as an abandonment of universities' commitment to racial justice. In addition to its psychic costs, this perception may provoke destructive responses. Although this rationale has a stronger basis in fact than some of the others, it has difficulties of its own. If preferential treatment based on race is not required, or is even disfavored, by principles of justice, should an institution nonetheless retain a preferential program to avoid erroneous perceptions of injustice and their harmful consequences?

These difficult questions of policy and justice are as much the concern of Stanford as they are of the University of California. Because private universities exist as public trusts and play such important roles in the life of the nation, they cannot in conscience avoid examining the policies underlying their admissions procedures. And, pragmatically, the rules that are ultimately applied to public institutions through the Constitution will almost surely be incorporated into existing civil rights legislation to bind private institutions as well. ■



**Professor Brest joined the Stanford law faculty in 1969. He teaches constitutional law and civil procedure.**



by John Henry Merryman

# THE REFRIGERATOR OF BERNARD BUFFET



The French artist Bernard Buffet was invited to decorate a refrigerator to be auctioned in Paris for the benefit of charity. He painted a composition composed of six panels: three on the front, one on the top, and one on each side of the refrigerator. He considered the six panels parts of one painting and signed only one of them. The refrigerator was duly auctioned along with nine others, decorated by nine other artists, at the Galerie Charpentier. Six months later the catalog for another auction included a

"Still Life with Fruit" by Bernard Buffet, illustrated and described as a painting on metal. Inspection showed that the painting was one of the panels decorating the front of the refrigerator. In 1960 the artist brought an action against the owner-consignor to prevent the separate sale of the panel, and the court so ordered.

Guille, a painter, agreed to deliver to Colmant, a dealer, his entire future production for a period of ten years, at a rate of at least twenty paintings a month.

The contract provided that the works furnished to the dealer would be signed with a pseudonym and that the painter would not sign the earlier works still in his possession. There was no evidence that the artist entered the agreement under duress or that he lacked capacity to contract. A dispute eventually arose, and the dealer sued the artist for breach of contract. The Court of Appeals of Paris held in a 1967 decision that the dealer could not prohibit the artist from using his real name in connection with works he created, despite the terms of the contract.

In 1893 Lord Eden commissioned the American artist James McNeill Whistler, then living in Paris, to paint Lady Eden's portrait. Through intermediaries they agreed on a price "between 100 and 150 guineas." Whistler eventually completed the portrait, which he exhibited (with Eden's approval) at the Salon du Champs de Mars with the title "Brown and Gold, Portrait of Lady E. . . ." Meanwhile Lord Eden had sent Whistler a check for 100 guineas, which Whistler took as an insult (although he cashed it). On the return of the painting to his studio after the exhibition, Whistler painted out Lady Eden's head and painted in another and refused to deliver the painting to Lord Eden, who sued to require restoration of the portrait, delivery, and damages. The court of appeal held that Lord Eden was entitled to restitution of the 100 guineas he had paid and damages for breach of contract, but that he could not compel restoration of the portrait or its delivery.

These three decisions illustrate three aspects of "the moral right of the artist," which has had its major development in France but is a part of the law of most European and Latin American nations. The moral right is classified as a right of *personality*, and thus is distinguished from property rights. Copyright, for example, is a property right which protects the artist's pecuniary interest in the work of art. The moral right, on the contrary, is one of a small group of rights intended to recognize and protect the individual's personality. Rights of personality include the rights to one's identity, to a name, to one's reputation, one's oc-

cupation or profession, to the integrity of one's person, and to privacy.

The moral right of the artist has been put into statutory form in France and in many other nations, and it is regularly included in international conventions on the topic of copyright and related rights of authors and artists (for example, in the Berne Convention, to which the U.S. is not a party). Like other statutory rights, it continues to grow and develop through judicial interpretation and application, and it is certain that the moral right, still comparatively young even in the nation of its origin, has not reached anything like its full development.

**T**he moral right of the artist is a composite right. The *Buffet* case involved one component: the right of integrity (of the work of art), also sometimes called the right to respect of the work. The notion is that the work of art is an expression of the artist's personality. To treat one of the six panels of the refrigerator-painting as a separate work distorted and misrepresented the artist's intention. The owner of the refrigerator could keep and enjoy it. He could dispose of the entire painting. He was not permitted to take it apart and dispose of it piece by piece.

The *Guille* case involved a second component of the moral right, the right of paternity. This is the right of the artist to insist that his work be associated with his name. In France and in some other nations the artist cannot waive this right so that, as in the *Guille* case, the artist can insist that his paintings be attributed to him even though he has contracted to the contrary. The artist can also insist that his name not be associated with works that are not his creation.

The *Whistler* case is an example of the artist's right to withhold the work, sometimes referred to as the right of divulgation. This gives the artist the absolute right to decide when (and whether) a work of art is complete and when (and whether) to show it to the public. Even though knowledgeable third persons might conclude that a work of art is for all practical purposes complete, and even if their judgment is supported by the artist's conduct with respect to the work, the artist still can insist that the work not be shown or treated as complete.

### The Right of Integrity

Although these components have a

common basis in the notion of moral right, and are therefore in a certain sense inseparable, I will focus on the right of integrity. A closer look at the way it has taken form in decisions of European courts exposes a number of fascinating questions about the social value of works of art and artists. Such questions are decided quite differently in the United States than in Western Europe and Latin America.

Charles Millet, a son of the nineteenth century painter J. F. Millet, intervened in a suit between two publishers over which had the right to publish a reproduction of Millet's popular painting "The Angelus." Millet claimed that both publishers' versions distorted and falsified his father's work and that, on the basis of the moral right, their publication should be prohibited. The court so held, in a 1911 decision, referring to the "superior interests of human genius" which dictated that the work of art be "protected and kept as it emerged from the imagination of its author and later conveyed to posterity without damage from the acts of individuals with dubious intentions guided by some transient fashion or profit motives."

In 1948 a French theatre commissioned Fernand Léger to design stage settings for the opera "Bolivar" with music by Darius Milhaud. Léger worked on the commission for a year and the opera premiered in 1950. In 1952 it was again produced, but with Scene III of Act II (The Crossing of the Andes) excised. Léger brought an action against the theater, arguing that suppression of the setting for part of the opera without his consent impaired his moral right. The court agreed that the stage design constituted a work of art to which the moral right attached but said that the composer and the producer also had rights, including the right to control the production. Still, the court ordered that all advertising for any future performance of the opera include a statement that the stage settings were by Léger and that the setting for "The Crossing of the Andes" was not shown because of the removal of that scene from the production.

In 1971 the Galeries Lafayette, a Paris department store, used reproductions of works by the painter Henri Rousseau in its window decorations. A granddaughter of the artist sued on counterfeiting, copyright, and moral right grounds, seeking repression of the reproductions and damages. The court had no difficulty

\*This article was adapted for *ART News* from one with the same title published in the May, 1976, *Hastings Law Review*. Substantial portions of the text and all of the footnotes in the original have been deleted. The article is reprinted here with the permission of *ART News*.



in finding that the reproductions, which employed different colors and altered images, violated the right of integrity.

In 1950 the Venice Biennale, which customarily arranged an important one-man show to run concurrently with the exhibitions at the national pavilions that were the Biennale's feature, drew together works by the Italian artist Giorgio De Chirico from public and private collections for a retrospective exhibition. None of the paintings belonged to the artist, but he brought an action to prohibit the exhibition. His principal argument was that the show misrepresented him by over-including his earlier paintings and under-including the later ones.

The Court of Appeal dismissed the claim on technical grounds. Unfortunately, it did not really deal with De Chirico's argument. One cannot help wishing that the Court had reached the issue. It seems undeniable that an exhibition can be stacked, whether deliberately or not, so as to misrepresent the artist's work. This could adversely affect the artist's reputation and thus arguably impair his moral right. But to ask a court to intervene is to suggest something close to, if not indistinguishable from, censorship. Just as one would be reluctant to suggest judicial suppression or "editing" of a book that, in the selection of paintings illustrated and in the text, misrepresents a painter's work, so one ought to avoid similar suppression or "editing" of an exhibition. The case is a lost opportunity to discuss whether there is a convenient line to be drawn between the kinds of mistreatment of the artist's work that ought to be legally prevented and other kinds for which, in order to protect freedom of expression or other overriding social interests, no such legal remedy is available.

*Felseineiland mit Sirenen*, a German case decided in 1912, was an action by the artist to compel restoration of a mural in a house whose owner had commissioned the work and then, without the artist's consent, had altered it. The case is famous for a remark made by the judge on a question not before him—whether the owner would have been liable if he completely painted out the mural, rather than merely altering it. In a brief passage, without reasoning or authority and, in all probability, without thorough argument by counsel, the judge suggested that destruction of the mural would not have violated the moral right. But on the question before him he

held that alteration did violate the right.

A painter, Lacasse, was commissioned by the local priest to paint frescoes in a chapel in a small French town, without the knowledge of the Bishop, the owner of the chapel. Eventually the Bishop heard that the frescoes had been done, inspected and found them of dubious taste, decided that even modification would not make them acceptable, and ordered them effaced. The artist objected, and litigation ensued. The court found the case to involve a conflict between the right of the artist and the right of ownership and, in this case, found in favor of the owner. Accordingly, there was no liability for effacement of the frescoes. This case was decided in 1934.

Two years later another action arose involving destruction of a work of art. In this case Sudre had been invited to decorate a public fountain in his native village and executed a statue of a woman wearing the local costume. Apparently the sculpture was not properly maintained (the court spoke of mistreatment by children and birds) and finally the City Council decided, without a serious attempt at restoration, to have the sculpture removed and destroyed. On a visit to the village Sudre found the pieces of his broken statue used to fill holes in the road. He brought an action against the City Council and was awarded substantial damages. The court found that the destruction violated the artist's moral right.

It is interesting to note that these total destruction cases present a question that has not yet been clearly resolved in any jurisdiction in which the moral right exists: Does the total destruction of a work of art, as distinguished from its distortion or mutilation, violate the artist's moral right? One instinctively assumes that destruction is worse than mere damage—particularly if the damage is repairable—but the opposite may be true. A damaged or altered painting continues to exist and, in its imperfect form, to misrepresent the artist's work. Destruction is sometimes less serious. For example, where the artist's production is very large and the piece destroyed not an outstanding example of his work the loss to his reputation and honor may be insignificant. But where the work is part of a small total artistic production, or is one of only a few examples of that

period in the artist's work, or is an example of his most highly regarded work—perhaps his masterpiece—then it seems clear that the interests protected by the moral right are impaired by destruction.

On balance the argument that destruction violates the right of integrity seems persuasive. It is supported by analogy to the case of the publisher who buys an author's manuscript and then destroys it or merely refuses to publish it or to allow others to do so; a remedy based on the moral right is available to the author in such a case under French law. Even more significant is the argument that destruction nullifies other rights of the artist, including rights that are in some nations perpetual and inalienable (such as the right of paternity) as well as more limited rights (such as the right of reproduction and the *droit de suite*) ordinarily retained by the artist.

How would United States courts have decided these "right of integrity" cases? It is likely that all would have gone against the artist. The moral right of the artist, and in particular the right of integrity of the work of art, simply does not exist in our law. Indeed, our law is so discouraging that few artists attempt to get judicial protection of this kind. An exception is the New York case of *Crimi v. Rutgers Presbyterian Church* (1949), in which Crimi had been commissioned to do frescoes in a church, had executed the commission, and had been paid. Some years later criticism developed within the church's congregation and eventually the frescoes were obliterated. Basing his claim in part on the moral right of the artist, Crimi brought an action to compel the congregation to have the frescoes restored or removed and to pay damages. The court denied the remedy and explicitly stated that the moral right did not exist under New York law or, so far as it could find, elsewhere in the United States. If Crimi wished to retain such rights, the court said, he would have to do so by contract. It was also held in *Vargas v. Esquire* (1947) that the right of paternity, and indeed the entire notion of the moral right of the artist, does not exist in the United States. A right to withhold the work of art, although not necessarily identical to that exemplified in the *Whistler* case, does, however, exist in our law as a component of the common law copyright.

*Crimi* is one of the few American de-

cisions addressing the moral right question, and its response is unequivocal: there is no moral right in the United States. The Vargas opinion, cited and quoted with approval by the *Crimi* court on the moral right question, states the same view. In a music case, *Shostakovich v. Twentieth Century Fox Film Corp.* (1949) the New York court found no violation of the composer's claimed moral right when, on identical facts, a French court found a violation. There is no basis in any reported litigation involving claims of moral right, or functional equivalents of it, to assume that an American court would have enjoined auction of the Buffet panel or publication of one or the other Millet reproduction, that it would have required published notice of the omission of one scene from the Léger stage settings, that it would have suppressed the Rousseau reproductions, that it would have ordered restoration of the Felseneiland mural, or that it would have awarded damages to Sudre.

**T**he matter is far from academic. There has recently been a controversy about the treatment of the estate of David Smith. According to published reports the art critic Clement Greenberg, an executor of Smith's estate, has stripped the paint from some of the sculptures in the estate and has placed others in exposed positions in order to encourage removal of paint by weathering. Unpainted David Smith sculptures are preferred by collectors and museums and bring higher prices in the art market, but this market preference is inseparable from Greenberg's own activity. He is an influential critic who has had much to do with the growth of Smith's reputation and has consistently favored the unpainted sculptures and depreciated the painted ones. Greenberg's action has been described by some critics and experts as "an act of vandalism" and as "an aesthetic crime." It is clear that Smith would have objected; at one time he was enraged to learn that an owner of one of his painted sculptures had altered it and was further angered to find that he had no legal remedy. In his frustration, he attempted to "disown" the work and made public statements to that effect. But suppose Smith had lived in France or Italy or Germany (or Argentina, Chile, Colombia, Mexico, Uruguay

or Venezuela); he would have been able to compel restoration of the work (and probably could also have received damages).

Who cares? What difference does it make to anyone that an artist's work has been "revised" without his consent? It seems clear that Smith, if he were still alive, would care. His heirs arguably might care and would, in a civil law nation, have standing to object. There is no indication in the published stories that Smith's heirs have attempted to take corrective action, however, and it might be unreasonable to expect them to do so. The unpainted sculptures generally bring higher prices than the painted ones, so the heirs have at best conflicting interests. Even if they contemplate corrective action, they will find that our law provides them with very discouraging prospects of success.

If the artist is dead and his heirs do not object, is there a problem? Is it the purpose of the moral right to protect individual interests alone, and if so what are those interests? If there is, in addition, a more general social interest calling for protection, what is its nature? These are interesting questions, which deserve more thorough consideration than they can be given here. At a minimum, however, it seems reasonable to suggest the following:

- On the level of individual interest there is more at stake than the concern of the artist and his heirs for the integrity of his work. There is also the interest of others in seeing, or preserving the opportunity to see, the work as the artist intended it, undistorted and "unimproved" by the unilateral actions of others, even those with the best intentions and the most impressive credentials. We yearn for the authentic, for contact with the work in its true version, and we resent and distrust anything that misrepresents it.
- The machinery of the state is available to protect "private" rights in part because we believe there is some general benefit in doing so. Thus the interests of individual artists and viewers are only a part of the story. Art is an aspect of our present culture and our history; it helps tell us who we are and where we came from. To revise, censor or "improve" a work of art is to falsify a piece of the culture. We are interested in protecting the work of art for public reasons, and the moral right of the artist is in part a method of providing for private

enforcement of this public interest.

The underdeveloped state of our law on this topic is not surprising. The moral right of the artist is a relatively recent growth in France, where it has had its principal development. By the time the moral right began to develop, French art had been of world importance for nearly a century. By comparison, American art has achieved international recognition only in the last two decades. What someone has rather lyrically called "the triumph of American art" is a very recent phenomenon. Legal change usually lags behind social and cultural change. It has, however, lagged long enough. We are now at the opportune historical moment for consideration of this question: given the cultural importance of American art, should our law be modified in such a way as to protect the integrity of works of art? I believe that the answer to that question is clearly "yes."

It might be argued that the artist can always protect the interests involved in the right of integrity by appropriate provisions in the original agreement of sale of the work, and indeed some artists try to do so. However, for most artists that is not a workable suggestion. They do not, as a general rule, execute formal agreements on the sale of their work. (Perhaps they should do so, but at present few attempt it.) Most have never thought of doing such a thing and would not know how to go at it if the problem were in their minds; others shrink from negotiations and bargaining. Nor is the artist, particularly when young and unknown, in a very powerful bargaining position. If the buyer (or the artist's dealer) resists, it is hard for the artist to insist.

An additional problem grows out of the fact that works of art change hands. Even if the first owner expressly agrees to respect the work, there is no way of securely binding his successors. The notion of a servitude of the sort commonly attached to land by private agreement depends for its effectiveness on notice to subsequent takers; a purchaser without notice of the restriction takes free of it. Such a system works reasonably well for land both because of the system of public records and because of the apperency of many kinds of servitudes to one who physically inspects the land. But there is no equivalent system of public records of transactions affecting paintings, drawings and sculpture. And most works of art would be unacceptably defaced by



any attempt to attach notice of restrictions to them in some permanent and indelible, and at the same time reasonably apparent, way.

For these reasons it seems right to suggest that, if the matter is to be the subject of express agreement, the burden should be on the purchaser. This could most simply be accomplished by establishing a legal right of integrity in the work of art and requiring one who wished to take free of the restriction, or to be subsequently freed of it, to acquire the artist's consent. That, in effect, is the situation under the Berne Convention and in several nations, including Germany.

In France, however, we are confronted by the statutory provision that the moral right is "perpétuel, inaliénable et imprescriptible." What this has come to mean with respect to the right of integrity is that waivers of the right by the artist are not enforceable against him. It does *not* mean that the artist's consent to reasonable modifications of the work is ineffective. The position, developed primarily in the literary and motion picture fields, seems to be that agreement to a specific modification is possible if it seems reasonable and not seriously damaging or distorting to the work. The obvious intention is to prevent the artist from adhering to an agreement he may have been too weak or too innocent to resist.

Thus three major positions can be identified. One is that in the United States, in which the burden is on the artist to extract an agreement from the purchaser, with the real danger that subsequent acquirers of the work will not be bound by the agreement. The intermediate position, in the Berne Convention and the law of Germany, places the burden on the purchaser to acquire the artist's consent if he wishes to modify the work. The third position, in France (and in Italy, which has a comparable rule), places the onus on the purchaser and protects the artist against his own assent unless the modification of the work is a reasonable one to which the artist has specifically assented. There is room for argument about whether the Berne-German or the French-Italian position is the preferable one, but little can be said in favor of the U.S. rule, which leaves the artist with no possibility of adequate protection.

What would be lost by introducing a "right of integrity" into our law? Some-

one has suggested that the right may unduly inhibit interpretations of the work, using the example of a brilliant production of a play that the author finds inconsistent with his intention in writing it. The objection illustrates the difficulty of applying examples drawn from one kind of art, such as drama, to another, such as painting, drawing or sculpture. The performance of a play and the reproduction of a painting are not equivalent, for a variety of reasons. Most fundamentally, a play is meant to be produced, and this necessarily involves interpretation. A painting is meant to be seen, not performed. The proper analogy to reproduction of a painting is reproduction (for example, by publishing) of the text of the play. The moral right of the author would be impaired by a distortion of the play (for example, by substantive changes made in the text without the author's consent) just as the moral right of the painter is offended by unauthorized alteration of his work. The question of the permissible limits of interpretation of a painting (paintings "after" the work of another artist, parodies, *tableaux vivants*, etc.) is clearly distinguishable from the question of the permissible limits of treatment of the original work itself.

It seems unlikely that a right of integrity of works of visual art would impair any respectable social interest. At the core of the right is the rule that the owner cannot alter the object itself—the piece of painting or sculpture—without the artist's consent. Does such a rule seriously impair the reasonable expectations of those who acquire works of art? Do American collectors and museums place a significant value on their liberty to change the artist's product?

The more significant and difficult questions arise as one leaves the core conception and moves toward the periphery—toward claims like those advanced in *De Chirico* and *Léger*. Those cases suggest extensions of the basic right of integrity, and it is significant that in Europe, where the moral right is most advanced, both were decided in a manner that should reassure the most anxious property rights advocate. *De Chirico* was decided against the artist. *Léger* granted only a right to published notice of the alteration.

There remains the nagging question

whether these cases were properly decided. In this connection consider *Felseneiland*, *Lacasse*, and *Léger*, together with *Crimi*. In each case it can be argued that the work of art—murals in *Felseneiland*, *Lacasse* and *Crimi* and stage settings in *Léger*—was ancillary to some principal thing—a home in *Felseneiland*, churches in *Lacasse* and *Crimi*, and an opera in *Léger*. (In *Léger* the Court expressly found that the stage settings were ancillary to the opera.) These cases thus involve conflicts between claims in different things, not conflicting claims in the same thing. It is not a sufficient answer in such cases that the artist has a right of integrity in the work of art; it is also necessary to show that the defendant's interest in other property should yield to that right. In *Felseneiland* the court held for the artist against the owner who had commissioned the murals. In *Lacasse* the court held for the bishop, who neither knew of nor authorized execution of the frescoes in the church. In *Léger* there was a compromise: the producers of the opera could suppress the scene but had to inform the public (and presumably could not destroy the setting for the scene). The result in *Crimi*, however, is troubling precisely because the resolution was so drastic: effacement of the frescoes in the church, even though they had originally been commissioned by and executed for the responsible congregation. Such a result was possible only because the New York Court found no countervailing legal interest in the artist. *Crimi* illustrates an unworthy and intolerable hiatus in our law.

The newly enacted Copyright Act, which goes into effect Jan. 1, 1978, includes no provisions on integrity of works of art. One reason is ignorance—ignorance of the enormous disparity that exists between protection of the integrity of the work of art in other parts of the world and the absence of any remedy in our law. Only after we have conceded that the distance is appreciable can we begin a fruitful dialogue about how to deal properly with the problem it symbolizes. ■

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# PLACEMENT

## THE DELICATE ART OF GETTING WHERE YOU WANT TO GO

Last year nearly 35,000 men and women passed state bars across the nation. California led the states with the largest number of new attorneys: 4,095.

It is projected that at the current rate of increase the number of lawyers will double by 1980; there are already three candidates for every available position. Moreover, the Bureau of Labor Statistics predicts that within the next ten years there will be less jobs actually available in law, making it one of the tightest professional fields of all.

As the number of law graduates continues to increase and the number of available jobs continues to decrease, law schools are quickly coming to realize that in addition to a solid legal education students need training in how to realistically deal with the job market. They need to know how to write a resume, how to interview, how to conduct an effective job search, and perhaps most importantly, how to determine what job is best suited to their particular strengths and interests.

In the pursuit of these vital skills the Stanford Law Placement Office has become an invaluable resource. Under the able direction of Ms. Julie Wehrman, the Placement Office has made significant changes in its mode of operation to reflect the needs of today's job market. Once able to function primarily as a broker between the employers and the students, today's Placement Office must offer instruction in the interview procedure, career advising, as well as extensive

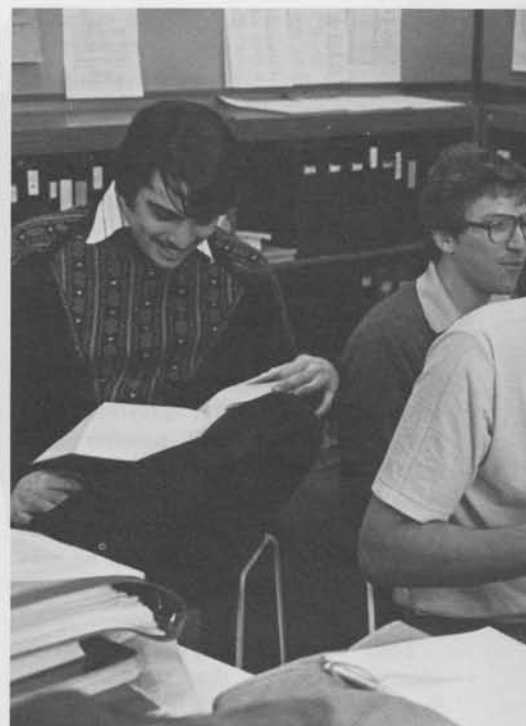


information on a full range of employment opportunities—from descriptions of firms, government agencies, and corporations to clerkship, teaching and public interest opportunities, and a host of non-legal positions. The Stanford Law Placement Office strives to give students not only complete information on job opportunities but also the necessary skills and confidence to successfully compete for these positions.

### The Interview Process

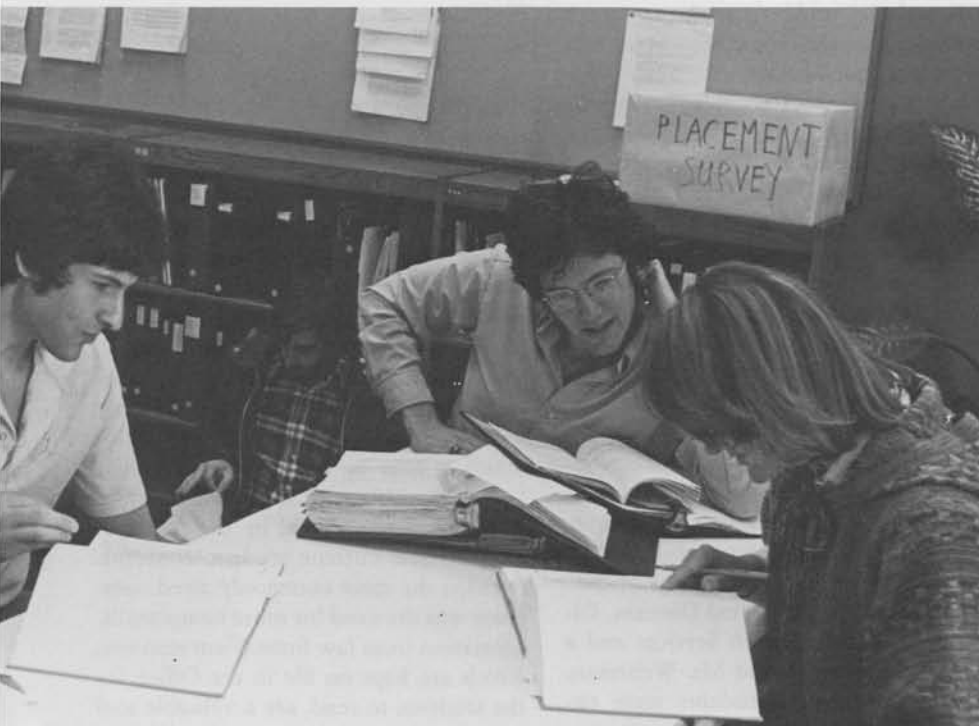
Each year approximately 60% of the second- and third-year students find their jobs through the Placement Office. Most of the hiring is done through the interview process.

This fall a record number of employers recruited at the Law School—305. This figure represents a 75% increase over a decade ago when 175 interviewers



came to the School. As in the past, the majority of interviewers were from law firms—133 from California firms and 123 from out-of-state firms. The remainder included interviewers from 20 corporations, 23 government agencies, 5 legal aid and public interest offices, and one law school dean who was recruiting for teaching positions.

In the light of the gloomy national statistics quoted earlier, these figures suggest reason for optimism and Ms. Wehrman is optimistic. As the current membership chairperson of the National Association for Law Placement (NALP), Ms. Wehrman feels that many of the recent articles on law placement have been overly conservative regarding job opportunities. Stanford students, she asserts, have not experienced any significant decrease in job opportunities since she became Placement Director in 1974.



Although it is too early to provide an employment profile on the Class of 1977, Ms. Wehrman feels that it will closely resemble those of previous years. In the fall of 1975 the Office conducted a survey for the Department of Health, Education and Welfare on the placement of Stanford graduates over the previous five years. Approximately two-thirds of the graduates responded to the questionnaire. Of those who responded, almost 97% had entered law-related jobs upon graduation: 64% in the private sector. The proportion of graduates in the public sector does not remain at 33% over a long period, however, for many in that category hold judicial clerkships or other short-term positions. Other Stanford law studies have shown that by five years after graduation roughly 80% of the graduates are in private sector positions.

Though competition remains keen

among students from the top law schools, Ms. Wehrman feels that Stanford students continue to do very well in the job market. "Placement is primarily a problem of information dissemination—educating students to the opportunities that exist and educating recruiters to the vast amount of talent represented in the Stanford law students." She attributes the increasing number of recruiters who come to the School each year to Stanford's growing national prominence.

"I think students would have an easier time finding jobs," she observes, "if they were more willing to practice outside California." The geographical myopia of Stanford law students has always been a complicating factor in the placement process. Each year approximately half of the graduates take jobs in the state, with the majority dividing between

San Francisco and Los Angeles.

In the last few years more students have interviewed with out-of-state firms, which has resulted this year in an increase in recruiters from out-of-state firms and corporations, with Houston, Dallas, Portland and Seattle showing the greatest increase. Ms. Wehrman views the increase as a positive sign and continually does her own recruiting by traveling around the country and inviting new firms, corporations, and other employers interested in law students to visit the School.

She noted that this fall there was a significant rise in the number of corporations at the School, signaling a growing awareness in the business community of the desirability of the JD degree. Among the new employers represented were an investment banking house, a management consulting firm, a major retailing organization and an electronics firm. These new employers are a welcome addition to the interview season because they enable the Office to provide a wider range of career options for students who are interested in law-related jobs but do not want to join a law firm.

Another "first" this year was an active interest in interviewing first-year students. Eight law firms interviewed eighty-one first-year students for summer positions. Ms. Wehrman sees this growing interest in first-year students as a trend, particularly among law firms. Until the early '70s, the emphasis during interview season was on third-year hiring; since that time there has been a shift of emphasis to the second-year summer clerkship program. Many firms find the summer clerkships a good way to make hiring decisions, and approximately 50% of those students who participate in summer clerkships return to those firms upon graduation. As a result, more second-year students interview each fall than

third-year. Ms. Wehrman estimates that second-year students average fifteen interviews during the season, while third-year average eight.

Ms. Wehrman and many of her counterparts in other law schools now believe, however, that first-year interviewing will eventually equal second-year interviewing in popularity. One reason for the shift is the obvious advantage it can give firms with active summer clerkship programs to attract the best students at the earliest possible time.

### Innovations

This growing interest in first-year interviewing, coupled with the tightening job market and student anxiety about the interview process were the motivating forces behind several new placement programs introduced this fall. Though it is unlikely that the interviewers would have found this year's students significantly different from previous years' in terms of academic accomplishments, it is likely that they would have found them better informed about their career objectives.

Shortly after classes began in September the Placement Office sponsored a three-day career conference entitled, "So You Want To Be a Lawyer." The conference included seven panels which covered small firms, large firms, government agencies, public interest firms and legal aid offices, criminal law, non-traditional alternatives, and interviewing techniques. Thirty attorneys, including twenty-three alumni, participated in the conference. The panels were generally well attended and provided an informal way for students to learn about the broad range of career options open to them.

The conference was the brainchild of alumnus Karl ZoBell '58, a partner in the San Diego firm of Gray, Cary, Ames & Frye. Mr. ZoBell was a participant in a panel discussion on placement in September 1975 during Celebration, the School's week of festivities to dedicate the new buildings. This experience prompted him to suggest to Ms. Wehrman a career conference which would bring students and recruiters together to discuss career opportunities and to find ways to make the whole interview process work better.

Ms. Wehrman and students Eileen Prager and Sharon Wagner spent the following summer organizing the panels. Ms. Prager, who is head of the Student Placement Committee, said the panels

were aimed primarily at familiarizing students with the diversity of career opportunities in law and at providing advice on how to find jobs both through and independently of the Placement Office.

For students interested in polishing their interviewing skills the Office offered video-taped mock interview sessions. Several Palo Alto attorneys volunteered a half day of their time to conduct the mock interviews. Since most of the attorneys had actually interviewed at the School before, their presence lent authenticity to the exercise. Following each twenty-minute interview, the attorney critiqued the student's performance. A few days after the taping session the students met individually with Ms. Wehrman for a play-back session. Among the things discussed in the session were the student's general composure, ease of communication, and the interviewer's reactions.

Students who participated in the program found it to be extremely helpful. Third-year student Rick Alber found that the exercise gave him more confidence during actual interviews. He felt that the program would be especially useful to first-year students.

To help students deal with their anxieties about interviewing, the Office organized an informal group discussion, "Coping with the Interview Process," with David Rosenhan, Professor of Law and Psychology, Dr. David Dorosin, Director of Student Health Services and a clinical psychiatrist, and Ms. Wehrman. During this session students were encouraged to discuss their interviewing experiences and explore alternatives to the on-campus interview process.

One of the most important decisions a young lawyer has to make is where he or she would like to practice. To assist students in that decision, the Office sponsored two programs. "Employer City Meetings" were organized each time several employers interviewed on the same day from a particular city. This year, meetings were arranged for Dallas, Houston and New York. The meetings provided an opportunity for students to learn what practice in those cities is like, as well as the living conditions with regard to housing, climate, cultural and recreational activities.

Along similar lines, "Student City Meetings" were held to allow students who worked in various parts of the country to discuss their working and living experiences. New York City, Los

Angeles, San Francisco and Seattle attracted the most student interest.

Other programs held this year included a panel on judicial clerkships, a panel on corporate legal departments, sponsored by the San Francisco Bar Association, and a series of individual speakers representing various legal careers.

To round out this new series of programs the Office will hold a final seminar this spring: "What I Wish I Had Known About the Interview Season." Ms. Wehrman expects that this session will be especially valuable to first-year students and will help them to better anticipate problems and questions that might arise next fall.

### Alumni Survey

Another way the Placement Office has sought to bring about improvements is through a recent survey of graduates of the classes of 1970 through 1975. The survey asked the respondents to assess the placement services as they remembered them and to suggest what changes, if any, should be made. Unfortunately, the response to the survey was very small, but those who did take the time to reply provided some valuable advice which is now on file in the Office.

It is interesting to note that many of the suggestions offered by the respondents echoed current student concerns. Perhaps the most commonly aired comment was the need for more complete information from law firms. Firm resumes, which are kept on file in the Office for the students to read, are a valuable tool in helping the student assess individual firms. The amount of time required for





partnership, training programs offered new associates, compensations and benefits, i.e. bonuses, dental insurance, vacations, bar association dues, are some of the things alumni felt should be included on the resumes.

On-the-job experience through summer clerkships, externships or part-time work during school was rated as a highly desirable way of assessing one's strengths and career preferences. Several respondents stressed the importance of learning as much as possible about the members of the firm and the firm's clientele before making a decision. As one alumnus expressed it, "A firm that was founded by giants who hired midgets to carry their briefcases does not have a bright future."

Many graduates also emphasized the need for student initiative in the employment process. Though the Placement Office can be an efficient way of exploring a wide range of career opportunities, it cannot meet every student's needs. The responsibility must ultimately rest with each student to find whatever he or she is looking for.

The Office has attempted to supplement its services to reach a greater number of students by organizing a nationwide network of alumni who are willing to discuss their careers and job opportunities in their areas with interested students. Ms. Wehrman feels that alumni participation is vitally important in the placement process and is eager to encourage more of it.

### Minority Placement

A question often asked of Ms. Wehrman is how well minority students do

after graduation. A recent study of the eighty-six minority students who have graduated from the School since 1968, the first year the School had an active minority admissions program, revealed that 28% were in private practice; 28% held government positions; 16% were in legal services and public interest jobs; and 3% were in business. The remainder were in a variety of fields, including teaching, communications, military service, judicial clerkships.

Until recently minority students were generally reluctant to use the Placement Office to find jobs, believing they could conduct a more effective job search independently. Ms. Wehrman finds that increasingly minority students are relying on the Office, a fact she attributes to more active minority recruiting by law firms and hence growing confidence in the Office among minority students.

### Graduate Placement

Another important service provided by the Placement Office is graduate placement. The Office currently has approximately 170 graduates on its mailing list to receive a bi-monthly newsletter listing current job openings around the country. Each letter contains a minimum of twenty-five positions and none are repeated in the following letter. Occasionally graduates will interview at the School but only when interview schedules are not full. Ms. Wehrman has found that many alumni are not aware of this service. She invites all alumni interested in relocating or merely exploring other career opportunities to contact the Office.

### Tomorrow and Beyond

By most standards—and certainly in the eyes of alumni whose years at the School predated the advent of the Placement Office—the employment services provided by the School are outstanding. But, just as the School's curriculum must change to keep pace with the ever-expanding scope of the law, the Placement Office must continually keep abreast of trends and new developments in legal careers. One area that needs increased attention is public service law. To date, the Office has met with limited success in attracting recruiters for public interest and public service jobs to interview at the School. For those students interested in that area of the law, the Office can offer little help. This is perhaps an area in which alumni who are in those jobs could be of assistance to the Office in providing information and counsel to students.

It is not the aim of the School to push students along prescribed career paths. Rather, its objective is to provide the best possible legal training and the most complete information about career opportunities. Interview season is a tense and anxious time for most students. The School cannot eliminate all of the pressures, but it can reduce them by ensuring that career alternatives are fully explored and students receive sufficient counseling to make informed job decisions. Career counseling and training in interview skills are vital parts of the total law school experience that will benefit the student not only through three years of law school but throughout his or her professional life. ■



*Placement Director Julie Wehrman counsels first-year student Paul Fryd.*

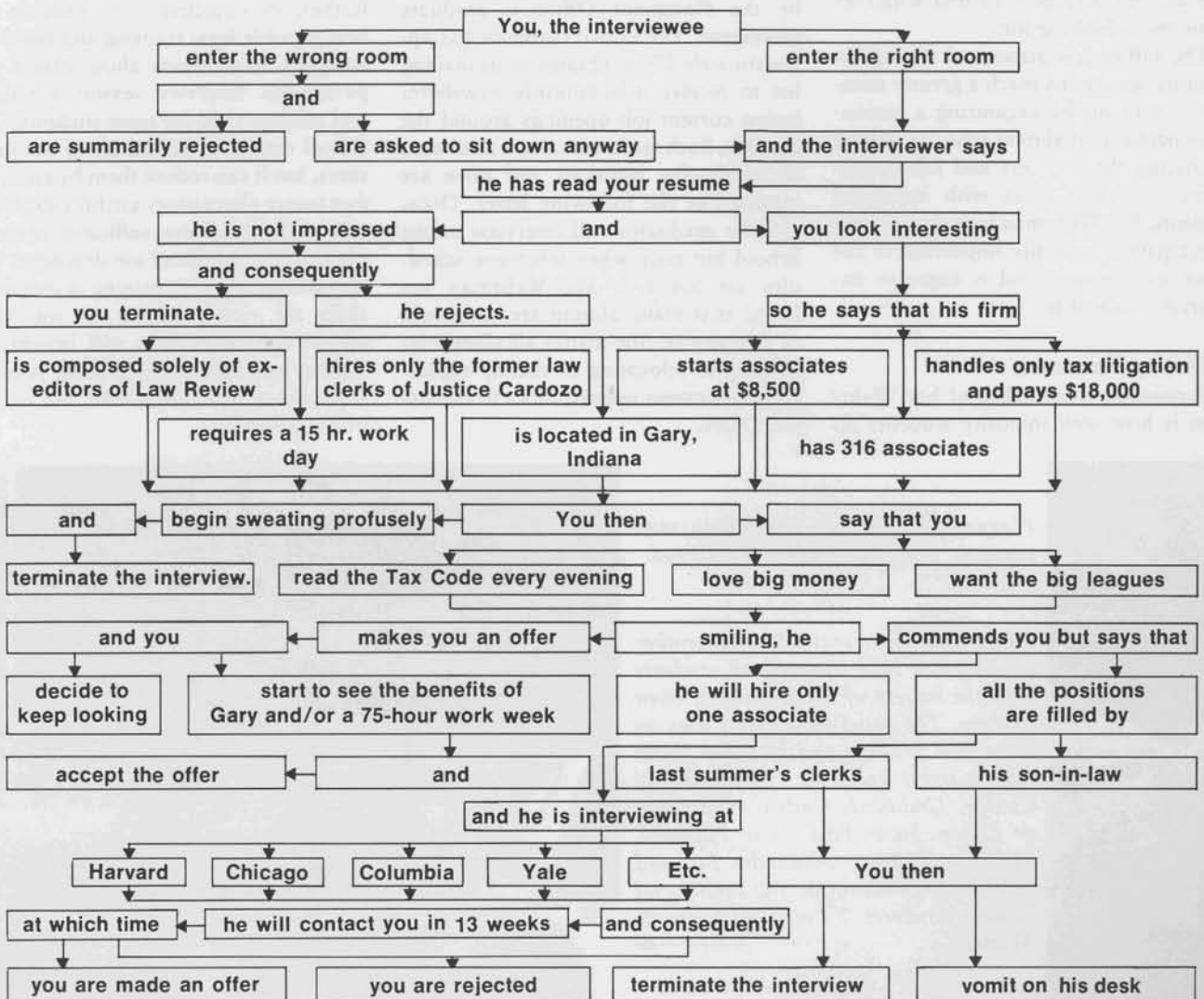
*Prior to interview season last September panels were held to acquaint students with the variety of career options open to them. The panel shown here was on large firm practice and included (from left to right) Frank D. Tatum '50 of Cooley, Godward, Castro, Huddleson & Tatum, Susan Bird '74 of Pillsbury, Madison & Sutro, Alexander Brainerd of Bronson, Bronson & McKinnon, and Robert Vanderet '73 of O'Melveny & Myers.*



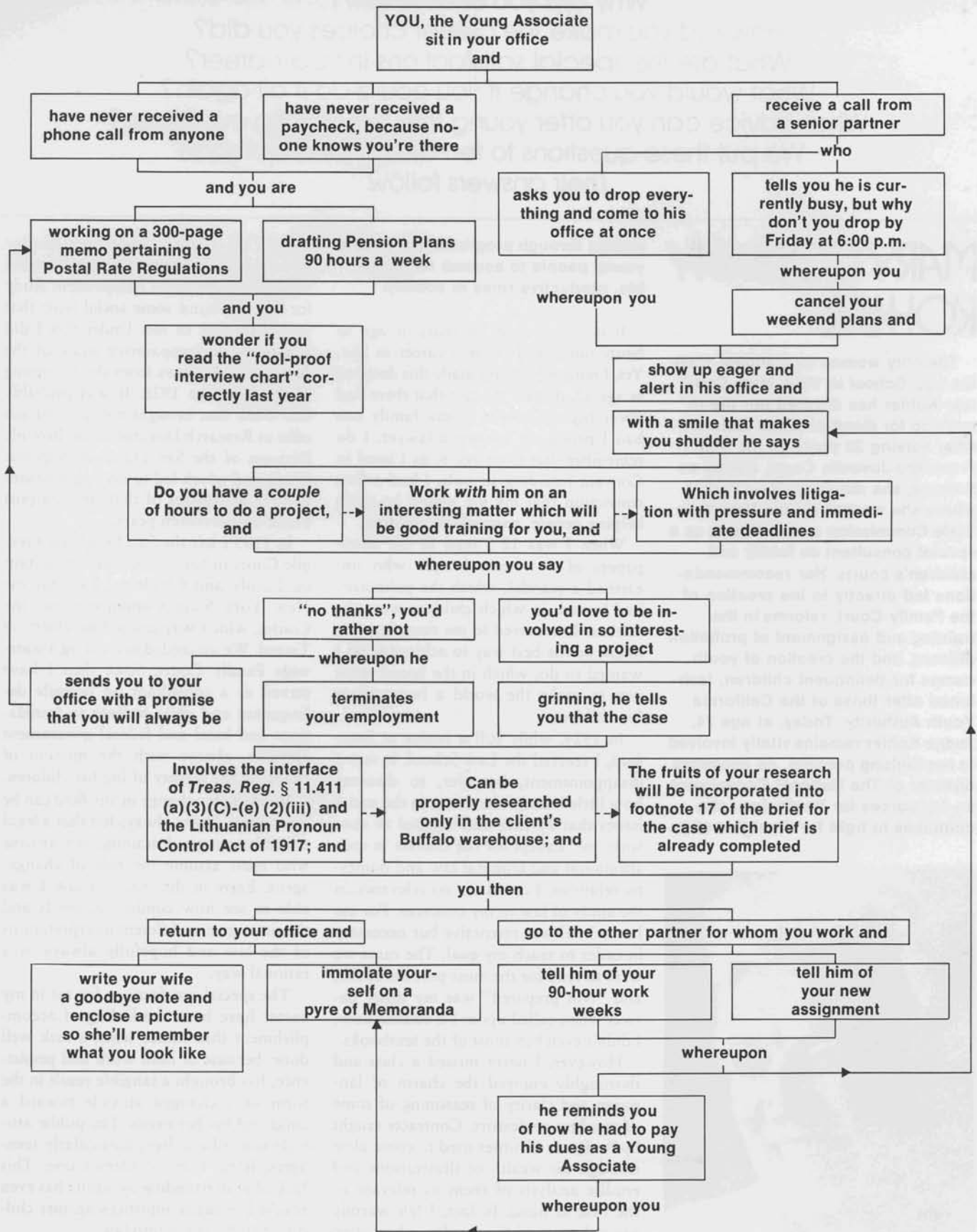
# GETTING THERE IS HALF THE FUN! (?)



Chuck Paturick '74 offers these two penetrating analyses of the placement process. The first is a "fool-proof" guide to easy interviewing, which originally appeared in the November 1, 1973 issue of the **Law School Journal**. The second is a young associate's guide to making it in private practice. Mr. Paturick is a "young associate" with the Washington, D.C. firm of Covington & Burling.



# .....AND AFTER YOU'VE MADE IT!.....





# REFLECTIONS ON BEING A LAWYER

Why did you choose law?

How did you make the career choices you did?

What are the special satisfactions in your career?

What would you change if you could do it all again?

What advice can you offer young lawyers starting out today?

We put these questions to ten alumni and alumnae.

Their answers follow.

## MARY CONWAY KOHLER

The only woman to graduate from the Law School in 1928, Mary Conway Kohler has devoted her life to working for disadvantaged children. After serving 23 years on the San Francisco Juvenile Court, chiefly as Referee, she moved to New York where she worked for the New York State Commission on the Courts as a special consultant on family and children's courts. Her recommendations led directly to the creation of the Family Court, reforms in the training and assignment of probation officers, and the creation of youth camps for delinquent children, fashioned after those of the California Youth Authority. Today, at age 74, Judge Kohler remains vitally involved in her lifelong pursuits. As executive director of The National Commission on Resources for Youth, Inc., she continues to fight for the rights of ju-

veniles through programs that enable young people to assume responsible, productive roles in society.

It is not easy at 74 years of age to figure out why I chose a career in law. Yet, I remember that I made this decision at age 12, despite the fact that there had never been a lawyer in my family nor had I personally known a lawyer. I do remember that from age 6, as I lived in Convent boarding schools, I had a firm conviction that my life would be spent helping people, particularly children.

When I was 12 I read in the newspapers of a woman lawyer who unearthed a scandal, which the politicians had buried, in which children were the victims. It occurred to me then that law might be the best way to achieve what I wanted to do, which in the broad sense was to make the world a better place for children.

In 1924, while still a junior at Stanford, I entered the Law School. It was a disappointment, however, to discover how little interest there was in the social issues that by that time seemed to consume me. Except for the courses in constitutional and criminal law and domestic relations, I could see no relevance in the study of law to my concerns. For me law school was restrictive but necessary in order to reach my goal. The cases we were to read for the most part bored me, and "Not prepared" was my usual answer when called upon. I'll confess now, I didn't even buy most of the textbooks.

However, I never missed a class and thoroughly enjoyed the charm of language and clarity of reasoning of some of our law professors. Contracts taught by Professor Whittier used to come alive through his wealth of illustrations and erudite analysis of them as relevant to the case at hand. In fact, I felt warmly toward most of the faculty. They often

invited me to their homes for Sunday night suppers. Occasionally they would arrange for me to do independent study for credit around some social issue that was important to me. Under this I did a nationwide comparative study of the Juvenile Court laws from the beginning of the Court to 1928. It was probably this work that brought me my first job offer as Research Director of the Juvenile Division of the San Francisco Superior Court and which led to my appointment in 1932 as Referee of that court, a post I held for seventeen years.

In 1953 I left the San Francisco Juvenile Court to become Special Consultant on Family and Children's Law for the New York State Commission on the Courts, which was chaired by Harrison Tweed. We succeeded in creating a statewide Family Court. Since then I have served as a consultant on juvenile delinquency and child welfare to foundations and local and federal government agencies, always with the mission of changing the quality of life for children.

Working for change in any field can be frustrating. I have always felt that a legal education is good training for anyone who must assume the role of change-agent. Early in the study of law I was able to see how conditions, needs and the times give us different interpretations of the law and hopefully always in a rational way.

The special satisfactions for me in my career have been the feeling of accomplishment that comes when a task well done, because of hard work and persistence, has brought a tangible result in the form of a changed attitude toward a child and his/her needs. The public attitude toward children, particularly teenagers, is far from a tolerant one. This lack of understanding by adults has even resulted in many injustices against children being written into law.



In my work on the bench I had to reach beyond the law to be effective. Often I openly fought political leaders for just minimum requirements for children. Thanks to the newly created public interest law groups this battle rages on.

For me there is still work to be done. At present I am Executive Director of the National Commission on Resources for Youth, which was created in 1967 to help young people assume a role of general responsibility in activities which affect others and meet community needs. In this effort we concentrate on early adolescents. Our society finds little use for them and yet there are a myriad of unmet social needs which their time and effort could overcome. By degrees the institutional structures are permitting these teenagers to move in as helpers for the aged, teachers for the young, givers of health care, counsellors to their peers. We like to think we have had some effect in bringing this change.

My advice to young lawyers starting out is first, in choosing a career, do not think in terms of a particular profession, such as law or medicine, but analyze your desires and skills. Do you like people? Do you want to work with people? Or do you prefer working with abstract concepts? Second, analyze your personal needs. Do you have a strong desire for monetary success? Do you need to feel that you have made a difference in the world around you to change the unhealthy and unsatisfactory facets of life, particularly as they relate to the disadvantaged? For instance, if you want to work with people and are sensitive to the injustice you see around you, public interest law firms might offer promise.

Today the opportunities for those legally trained are boundless. For those who are strongly motivated and know what they want to do, I would say don't be too worried about making that "right decision" about your first job. So much of what happens to us is by accident and beyond our control. What does matter is how we handle what confronts us.

## VINCENT CULLINAN

**Except for service in the Navy, Vincent Cullinan has practiced in San Francisco since he graduated in**

**1936. During a career that spans more than four decades he has been an active participant in state bar activities, serving as secretary, treasurer and president of the Bar Association of San Francisco; vice president and treasurer of the State Bar Board of Governors; and chairman of the State Bar Commission to Study the Bar Examination Process. On the occasion of his election as president of the San Francisco Bar Association, his former partner and fellow alumnus, the Honorable Ben. C. Duniway (Class of 1931), wrote in the January 1967 issue of *The Brief Case*: "[Vincent Cullinan] really believes in the ideals of our profession, not just as lofty abstractions, but also as rules that lawyers must live by." Mr. Cullinan is a partner in the firm of Cullinan, Burns & Helmer.**



I was graduated from the Law School in 1936. I have been asked to write a few words of advice to graduates about to enter the practice of the law. This request is probably on the assumption that one of the Class of '36 is probably too old now to give bad example and therefore must be able to give good advice. I hope this short message may not disprove both assumptions.

On our graduation, the country was in a severe depression. A young lawyer was lucky to find a place to work and many accepted jobs without pay. Economic gain was not so much the motivation as was the desire to become part of a system that must be designed to bring justice as best as possible to all the people and at an economically justified cost. This was the challenge then; it is now.

Some law students know exactly what

they want to do in the practice. These are rare. The law life of most is going to be molded by chance. Some aspire to a specialty but circumstances often effect a long concentration in a quite different field of law. The direction is sometimes caused by the needs of a particular clientele in a small office or by assignment to a department in a large office. Most lawyers eventually settle down into a kind of practice they enjoy. It is rare that you meet a person who regrets his decision to become a lawyer.

Many graduates ask whether they should seek a position in a large office or a small office. There are many benefits to each. In the small office you are necessarily in direct contact with clients right from the start, you will work very long hours and you will be without the benefit of a number of associates specializing in various fields—but you are pretty much your own boss at an early age. In the large office, you have more manpower to call on, more diverse expertise at hand and your individual workload will in general be less than in the smaller office. The large offices have retirement plans; most small offices do not. In the large office you'll have to retire at an age when you may wish to continue; in a small office you may have to continue when you'd like to retire. Mine is a small to medium office and therefore I'm biased slightly in that direction but a partner in a large firm would undoubtedly recommend the large firm. You'll be happy in either.

Our legal system is a long way from perfect but it is the best that the mind of man has thus far created. Most of those in the legal profession are still working for improvements. The new lawyer's active participation in the organized bar is an obligation which must be assumed if standards are to be maintained. The lure of the legal profession is that we have a stewardship which requires a spirit of public service dedicated to the protection and enforcement of the rights—and the correlative duties—of individuals and governmental units in our society.

## FRANK D. TATUM, JR.

**Frank (Sandy) Tatum has practiced law with the San Francisco**

firm of Cooley, Godward, Castro, Huddleson & Tatum since his graduation in 1950. As a Stanford undergraduate, he excelled in both academics and athletics. He received an A.B., with great distinction, in engineering in 1942 and was elected to Tau Beta Pi and Phi Beta Kappa. That same year he was the individual national intercollegiate golf champion and a member of the NCAA golf championship team. He was chosen to be a Rhodes Scholar in 1947, receiving a B.C.L. from Oxford in 1949. Upon receipt of his J.D. the following year, he was accorded Order of the Coif. Mr. Tatum continues his interest in golf as a member and vice president of the Executive Committee of the United States Golf Association. He also chairs the Championship Committee with the responsibility of organizing the nine national championships, including the U.S. Open. His professional activities include serving as president of the Legal Aid Society of San Francisco from 1973-75 and chairman of the San Francisco Bar Association's Judiciary Committee in 1975; he is presently chairman of the Association's Judiciary Search Committee.



Law practice appealed to me for a number of reasons, many of them very subjective and difficult to identify. I liked the prospect of participating in the administration of justice. The problem-solving facet of law practice appealed to me. I was attracted by the relative independence enjoyed by lawyers. It was comforting to anticipate that my destiny would be dependent upon how effec-

tively I could practice law rather than upon such factors as the whims of shareholders, the biases of bosses and the vagaries of the market place.

My career choices were simplified by the basic desire to be able to identify myself as a lawyer. Such identity for me involved much more than a degree. To me, it meant developing that combination of skills and experience only available from an active law practice. I looked, therefore, for a firm with a practice and a makeup that gave promise of providing as broad an experience with law practice as I could find. My sense was that I could thereby maximize my choices with regard to an ultimate career and provide the best experience base for making the choice.

I have found law practice very satisfying. It is gratifying to be able to help people in a broad variety of ways. The practice consistently calls on the best that is in me. The variety and the challenge does not diminish as the years pile up. If anything, my enthusiasm intensifies. I am grateful for my associations with my professional colleagues and with my clients. Law practice for me has been a long succession of very good years.

I do not mean to imply any special prescience when I say that if I had to do it all over again, I would not do anything differently. That simply is the fact. The route I took worked for me. I am acutely conscious of how fortunate I was to locate with a group of people whom I like and respect and with whom I have thoroughly enjoyed practicing law for more than 25 years.

My advice to young lawyers is this: look upon law practice as a form of public service, because it is; become a professional in the best sense of that term; conduct your career so as to command respect, not only for you as a professional, but for the profession that you practice; prepare to work very hard; anticipate that the rewards in terms of real fulfillment will more than justify all the effort, and, indeed, all the sacrifice involved in earning the distinction of being an accomplished lawyer.

## SANDRA DAY O'CONNOR

A 1952 graduate of the Law School,

Sandra Day O'Connor began her career as deputy county attorney for San Mateo County and civilian attorney for the Quartermaster Corps. She was in private practice from 1957 to 1965, when she became assistant attorney general of Arizona. In 1969 she was elected to the Arizona State Senate. She was voted majority leader of the Senate in 1972 to become the first woman elected to a leadership post in the Arizona legislature. That same year she was named "Woman of the Year" in Phoenix. Since 1974 she has been a judge on the Superior Court, Maricopa County. Judge O'Connor is married to John J. O'Connor III '53, a partner in the Phoenix firm of Fennemore, Craig, von Ammon & Udall.



*"Although men flatter themselves with their great actions, they are not so often the result of a great design as of chance."*

LA ROCHEFOUCAULD

One's life story is often determined in large part by one's initial selection of a particular course of study. Such selection may result more by chance than by design. My decision to enter law school was a decision made rather casually. While at Stanford as an undergraduate majoring in economics, I took a delightful course in business law taught by Professor Harry Rathbun, a warm, interesting teacher who brought his subject to life for his students.

In those days Stanford Law School accepted some applicants for admission to the Law School after three years of undergraduate school. This was a practice which I favored then and which I



still favor. I applied at the end of my junior year and was admitted, thereby enabling me to earn my undergraduate degree upon completion of my first year in law school. My application was prompted by my enjoyment of the business law class and my need to earn sufficient credits to graduate with an A.B. degree.

A year of torts with Sam Thurman, criminal law with John Hurlbut, and real property with Marion Kirkwood convinced me that I truly enjoyed the law and its constant challenges.

After two more years at the law school, it was time to take the Bar Exam and look for a job. I interviewed with the larger firms in Los Angeles and San Francisco. While I had been on the *Stanford Law Review* and had been elected to the Order of the Coif, at that time women simply could not get an offer from any of the larger firms. However, public employment was open to women. I obtained a position as a deputy district attorney for San Mateo County. It was a completely enjoyable situation for me, and I soon developed a fondness for work in the public sector. When I followed my husband to West Germany during his military service, I again worked in government, this time as a civilian attorney for the Quarter-Master Corps. Subsequently, in Arizona, I engaged in private practice, and then became an assistant attorney general. Eventually, my interest in government caused me to serve a number of years as a State Senator.

It is sometimes said that laws are like sausages: they are better when you do not know how they are made. Having seen how laws are "made," I decided to see how laws were interpreted and enforced. As a result, for the past two years I have served as a Superior Court Judge.

My Stanford legal education has opened many doors along varied pathways. For one who enjoys the law and is willing to work, the opportunities are there.

## SAUL COHEN

**Saul Cohen, a 1953 graduate of the School, practiced law in Los Angeles until 1970 when he and his family decided to move to Santa Fe, New Mexico. The announcement the Co-**

**hens sent to their friends reporting their move carried an excerpt from Rene Dubos' *So Human an Animal*, which included, "At heart, we often wish we had the courage to drop out and recapture our real selves . . . . Since we rarely experience anything directly and spontaneously, to achieve such a situation would require the courage to free ourselves from the constraints that prevent most of us from discovering or expressing our true nature." In Santa Fe Mr. Cohen pursues a variety of interests characteristic of a modern-day Renaissance Man. He is an expert on Sherlock Holmes and Justice Holmes, a bibliophile, sculptor, art collector, and sometime instructor in Greek folk dancing and clear thinking. He also practices law full time with the firm of Olmsted & Cohen.**



I became a lawyer because I didn't know what else to do. When I realized that my previous choice of psychiatry was largely motivated by the feeling that if I were one of them they couldn't lock me up, I began to consider law. I examined the recommended pre-legal curriculum and concluded that the goals of a pre-legal education—to obtain a broad liberal education—would involve taking those courses which I would take if I were attending college for the fun of it, whereas a pre-med program required subjects that were not of much interest to me.

I was not happy in law school, finding it extremely difficult to study and being unable to avoid the feeling that much of what went on was unreal. I did find the third year to be most satisfying, perhaps because most of the tension was gone. I

somehow made it through, took the bar exam and then spent one year traveling and working in Europe. On my return to Los Angeles, where I had been born and raised, I went to work for a lawyer in Beverly Hills, where I was exposed to legal problems in the entertainment industry and concluded that it was an interesting area in which some expertise would be particularly useful. I went to work for a large theatrical agency and was in its legal department for about 18 months. I then received an offer from a lawyer in general practice who represented a number of prominent personalities in the entertainment field and left the corporation to work for him, later becoming a partner.

I found that for my particular temperament private practice was much more satisfying than working in a corporate legal department. I am certain that both corporate legal work and work for a government agency, which is comparable, have their rewards and satisfactions, but I have found that a part of the real appeal of the practice of law is the independence of private practice.

I later formed a partnership with another lawyer and we practiced together for some seven years until, having fallen in love with New Mexico, my family and I moved to Santa Fe where I have been practicing for six years.

If I had it to do all over again, I would pick rich parents. Barring that, I don't know of any alternative choices I would have made, except possibly to have moved to Santa Fe earlier. But, in a sense, it was having been successful in Los Angeles that made the move possible.

Perhaps the principal satisfaction from the practice of law is the feeling that the advice that I give and the work I do is good. Counseling people is very satisfying. I enjoy the variety of challenges presented by law practice. Being a lawyer gives one a certain competence which is useful in furthering the purposes of almost any civic or charitable organization, and this ability to contribute to the community in which one lives is a great source of satisfaction.

For the young lawyer who likes contact with people, who likes things to be on a human scale, and who enjoys such outdoor sports as backpacking and skiing, I would recommend practice in a small or medium size town. I think practice for a couple of years in a city for the purpose of sharpening one's skills would not be amiss, but practice in an area

where you know all the other lawyers, the judges, and frequently the litigants, has its own special satisfactions.

If there is anything a young lawyer should try to learn it is how to think clearly and how to express himself clearly, both in writing and orally. I confess that I am frequently appalled at the quality of the written work which crosses my desk. He—or she—should also learn how to find the Courthouse.

There are some things that can only be learned by experience and all the clinical law programs in the world are no substitute for a kind of intuition, awareness and knowledge that perhaps can best be summed up by the word “wisdom.”

## RODERICK M. HILLS

**Following graduation from the Law School in 1955, Mr. Hills served as law clerk to Justice Stanley F. Reed of the United States Supreme Court. He was in private practice in Los Angeles from 1957 to 1962, when he, along with his wife and three other lawyers, founded the firm of Munger, Tolles, Hills & Ricks. In 1969-70 he was a visiting professor to the Harvard Law School. In 1971 he became chairman of the board of Republic Corporation and participated in a four-year effort that saved the corporation from bankruptcy. He left his law firm in 1975 to become counsel to President Ford. In this post he handled White House business involving various CIA in-**



**vestigations and was chairman of the President's effort to reform federal regulatory agencies. Five months later he was named chairman of the Securities and Exchange Commission, a position he held until recently.**

As I prepared these remarks, it occurred to me that it was about twenty years ago to the day that I first made what seemed then to be my own career commitment. After 20 months in the hardworking, idealistic, but temporary life of a law clerk in Washington, it was then time to choose the organization with which to spend my professional life.

From my second year in law school to that seemingly fateful day—a four-year period—I made the usual number of tentative decisions. After flirting with San Francisco, and then New York, my thoughts were centered on two large firms, one in Washington and the other in Los Angeles, my home area.

The decision came suddenly. Mr. Justice Frankfurter, impatient with my rambling discussion on the subject with his law clerks, snapped that a young man should go to his roots and take a chance with a smaller firm. That afternoon I talked with a relatively small firm in Los Angeles and quickly made what I believed then to be the final job decision of my life.

No matter that the Justice advised others to seek fame in big firms in new cities. His advice was better than the criteria I was using.

Two things are clear to me today about my decision-making of twenty years ago: First, I was obsessed with getting the job that was hardest to get rather than with finding the job that would give me the broadest experience and opportunities. Second, after having worked through college and law school, with all of the attendant financial uncertainty, I was determined to go where the road ahead was predictable, an equally foolish standard.

As I now begin the process of choosing a career again, one clear thought has survived the 20 years: it is foolish to look too far to the future; the unpredictable events will have a far greater and better impact on one's life if one reacts to them than can the factors we study so carefully in making our choice.

That does not argue for automatic rejection of an offer from a well-established firm that offers predictable progression to most of its recruits. The point

is that such a choice should be based on the unique experience it may offer for the next few years and not for the certainty that exudes from the comfortable success of the older partner.

Choose to make your own mark not to follow the path of others. There are no role models, and no teachers of what you can be. That will be determined by your own relative boldness.

Ralph Waldo Emerson wrote:

“If the finest genius studies at one of our colleges and is not installed in an office \* \* \* in the cities or suburbs of Boston or New York, it seems to his friends and to himself that he is right in being disheartened.

A sturdy lad . . . who in turns tries all the professions, who teams it, farms it, peddles, keeps a school, preaches, edits a newspaper, goes to Congress, buys a township, and so forth in successive years, \* \* \* is worth a hundred of these city dolls . . . for he does not postpone his life but lives already. He has not once chance, but a hundred chances.”

\* \* \*

“Insist on yourself; never imitate . . . Where is the master who could have taught Shakespeare . . . [or] instructed Franklin.”

Clerkships, large law firms and prestigious corporations have too long been the presumed mark of instant accomplishment for new law graduates. They do teach and protect a life of near certain financial and societal success but if such careers have expanded the real opportunities for some, I suspect they have narrowed the potential for an equal number.

While in his 92nd year, the founding partner of one of the most prestigious Eastern law firms was dismayed at the notion that I would work for his firm: “Build your own life,” he demanded.

The point is simple: The jobs that are ignored on the bulletin board, the one's that offer less prestige and less certainty today, are just as likely to give the success of “self-reliance” later.

## WILLIAM H. ALLEN

**William Allen received his LL.B. in 1956. He was president of the Law**



**Review for that year. Following graduation, he served as law clerk to Earl Warren, Chief Justice of the United States, an experience he described in the Spring 1972 issue of *Stanford Lawyer* as one "I prize above almost any other I have had in my life." In 1957 Mr. Allen joined the Washington, D.C. firm of Covington & Burling, where he has since remained, practicing mainly federal administrative law. He is chairman of the Committee on Judicial Review of the Administrative Conference of the United States and of the Legal Ethics Committee of the D.C. Bar.**



The other day my son, who is a student at the Law School, told me that his antitrust examination was more economics than law. I sympathized. I sympathized and I was grateful—grateful that I had gone to law school before law teachers decided that their students needed to learn more than law.

On reflection, I was grateful also for the nature of my practice.

My general area of practice is what is referred to as public law. I have not specialized in a particular branch of public law. The public law specialist must learn more of the law in narrow scope—antitrust, the Natural Gas Act, the Interstate Commerce Act or what you will—than any sensible human being would want to know and must learn also the economics or the technology or the something else of a business or an industry or of businesses and industries generally.

The public law generalist, on the other hand, carries from agency to agency and case to case as intellectual equipment scarcely more than the ability to play the game of matching and distinguishing

cases that he or she learned in the first year of law school and the ability to read statutes and regulations in their context. We hide the fact from laymen, but these are not very demanding as intellectual disciplines go. The rest is just technique—marshalling facts and law in such a way as to persuade someone to do something or refrain from doing it. To be sure, in order to do this effectively you have to have learned something of your client's affairs. But that kind of information is quickly forgotten and leaves no more lasting imprint on one's mind than the latest case in point.

I don't mean to imply that this kind of practice doesn't consume long hours. It frequently does. Sometimes the hours yield an abiding sense of accomplishment. Sometimes, on the other hand, you spend hours so unproductive or on matters so trivial that you are embarrassed to look back on them.

But the important thing is that, lacking any intellectual baggage except those simple tools that once were a law school's sole concern, your mind is not cluttered. Holmes thought the law as good a window as any from which to look out on life. Harrison Tweed thought lawyers better drinking companions than most. I of course subscribe to these self-congratulatory estimates by which all of us tend to try to justify our existence. I would add another estimate. The intellectual demands upon lawyers, at least those with outmoded legal educations and practices like mine, leave plenty of room in their minds for the pursuit of interests that are mentally or spiritually pleasing: philosophy, poetry, music, track and field statistics—even economics if that's your idea of fun.

## JOHN VAN DE KAMP

**John Van de Kamp, a 1959 graduate of the School, served in the U.S. Attorney's Office in Los Angeles from 1960 to 1967, headed that office's criminal division, and was the U.S. Attorney. In 1967 he moved to Washington, D.C. and became Director of the Department of Justice's Executive Office for U.S. Attorneys, where he coordinated the nation's 93 U.S. Attorney's Offices and 750**

**U.S. attorneys and their support personnel. He returned to California in 1969 to try his hand at politics, and later organized the first Federal Public Defender's Office in Los Angeles. In 1975 he was selected by the Los Angeles County Board of Supervisors as district attorney to succeed the late Joseph P. Busch. He was elected to a four-year term in June 1976.**



My decision to go to law school was a coin-flip kind of thing. With four years of Dartmouth College broadcasting behind me—four years of trying to sound like Edward R. Murrow and not quite making it—I figured that the key to the upper reaches of television-radio was through legal training and a license to practice.

So, I went to Stanford Law School.

Ultimately, I turned away from broadcasting.

After passing the bar and completing an active duty military stint, I looked around, trying to discover what the practice of law was really like—and so, I interviewed: public offices, large firms, small firms.

The turning point came when a friend suggested I visit the Los Angeles U.S. Attorney's Office. An interview with then U.S. Attorney Laughlin Waters (now a U.S. District Judge) and conversations with some law school friends who worked in the office, convinced me that—wherever I ended up—trial experience would be an asset for life. It sounded exciting, and carried no permanent commitment. So, I became an Assistant U.S. Attorney.

For the first couple of years, I worked at becoming a trial lawyer—trying forgeries, narcotic sales, mail thefts, bank



robberies—the federal criminal case gamut. It was exciting and fun, particularly because of the unusual camaraderie which developed among the 15 or so lawyers in the Criminal Division. And, it led to new opportunities.

I was assigned to run the complaint unit. This was a key job in the office since law enforcement depended on our advice during investigations and since our lawyers' success depended on good filings. Others had left the job because of ulcers or the administrative headaches. I thrived on it.

I enjoyed working with other people. I enjoyed directing an operation and found that I could cope with the ordinary office detail work which turns so many lawyers off. So, I stayed for more than two years. From there it was up the ladder—Chief of the Criminal Division—U.S. Attorney (between Presidential appointments)—to Washington in 1968-69 (ultimately as Director of the Executive Office for U.S. Attorneys).

During these years I was far removed from politics, a civil servant under the Hatch Act. Indeed, I don't even think Ramsey Clark and Warren Christopher knew my politics when I went to Washington. But, I was appointed to an exempt position—a political job. So when John Mitchell became Attorney General in 1969, I was politely informed by Mr. Kleindienst that my position was going to someone else; that I was welcome to stay in another capacity. I was considering other federal posts when I received a call from California. A special election was being held for a congressional seat. Did I want to run?

Yes. I ran. Won my side of the primary. Lost to my runoff opponent Barry Goldwater, Jr. And, began a two-year venture into politics and campaigns—good experience as it turned out.

I returned to the more traditional form of law practice in 1971, when I was given the opportunity to develop the first Federal Public Defender's Office in Los Angeles. Starting from scratch, a fine staff was put together and an office was formed. Along with running the office, I was able to share in the office caseload and get back into court again.

In 1975, I was named Los Angeles County District Attorney, an appointment ratified by the voters in June of 1976. For me, a different job with unusually large dimensions, a job for which I've been able to draw upon the totality of my experience—as a radio announcer,

prosecutor, administrator, candidate, campaign manager, and defender.

In looking back over this so-called career a few generalized observations may be pertinent.

I haven't gone into any situation unless I thought I was really going to like it. (And I usually have.)

Flexibility has helped. While I admire those who set life goals and adhere to them, I've found satisfaction in meeting the challenge of the unexpected. Impermanence has become a given. (A new element, the voters now have a lot more to say about my permanence.)

As a result, I've tried to broaden my knowledge and capabilities in every job I've had. The more things I can do, the greater ability I figure I'll have in my present work and in whatever comes next. (Beachcombing? Ditchdigging?)

I've tried to be open to the outside world. There's a lot going on out there beyond the practice of law. To be into that outer world makes life much richer, expands opportunities and provides unusual opportunities to serve others.

To the law student just beginning:

See as much of the practice of law and do as much as you can before finishing school. Clinical programs, summer jobs, volunteer work, visiting adjudicative proceedings, are but some of the ways to get in touch with what "real" lawyers do. And, after seeing what they do, figure out what you'd like to do, given the opportunity. And then go after it.

Get experience in research and writing. I'm always suspicious when I interview aspiring lawyers who say they don't like to do that sort of thing; that they'd rather try cases. Nonsense. What they really mean is that they can't and/or that they're lazy. Research and writing are basic tools for trial work or elsewhere.

What do I look for in young lawyers? Basic skills, varied experience, a record of excellence, vitality, exuberance, maturity in judgment, commitment.

With these attributes you can't go too far wrong.

to practice with a firm in New York City. In 1969, he returned to California to join the Santa Rosa firm of Spridgen, Barrett, Achor, Luckhardt, Anderson & James, where he specializes in tax and estate planning. Mr. Zeigler has maintained an active interest in the School's placement program, both as an interviewer and as a guest speaker and panelist to discuss small firm practice. As an alumnus who has been associated with both a large and a small firm, Mr. Zeigler offers students some interesting perspectives on the pros and cons of both types of practice.



Carol Zeigler

At the age of 18, when I decided to go to law school, it seemed that being a lawyer was one of the most challenging things that I could choose to do. In law school I was exposed to a new language and a new way of thinking. I learned many legal theories, rules and principles. I also learned something about how the "legal system" functions.

After law school, I was with a large New York City firm for several years, where I learned many of the practical skills a lawyer needs: how to draft wills and trusts, contracts and pleadings; how to negotiate; how to use the telephone; and perhaps most importantly, how to write effective letters. Practicing law in New York was not glamorous. However, an attorney needs these mundane "how to" skills to effectively represent his clients.

From New York I came to a smaller firm in a smaller community. It was here that I finally learned what every layperson knows: that the facts are the most important part of any case. Each

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**KIRT F.  
ZEIGLER**

**After receiving an LL.B. in 1963  
Kirt Zeigler left his native California**

client's problem involves a different field of knowledge. He may grow grapes, manufacture airplanes, drill wells, own a fleet of trucks, practice architecture or medicine. . . . The list, of course, has no end. The attorney must become well enough versed in the particular field or fields involved in the client's problem of the moment to be able to resolve that problem. In addition, even in the same field, each problem involves a different set of circumstances.

Twenty years after making the decision to become a lawyer, I am still convinced that practicing law is one of the most challenging and satisfying careers. Three factors make practicing law challenging and rewarding to me:

1. The necessity to become acquainted with numerous fields of knowledge in a practical way.
2. The intellectual stimulation of marshalling the relevant facts and the relevant "law" to find the best course of action for a client.
3. The satisfaction of helping a client implement the course of action.

I do not believe that it makes any difference what specialty an attorney is practicing in. The same challenges and satisfactions are available. In order to benefit from these opportunities, however, and to be able to do the best job for a client, an attorney must have certain characteristics that often appear to be lacking in new law school graduates. It is not enough to have a journeyman's knowledge of legal principles and how the legal system operates; nor is it sufficient to be able to draft effective documents. In order to do the best job for your client, and as a result, to obtain the most satisfaction from practicing law, an attorney must have the following:

1. An insatiable curiosity about the facts.
2. A willingness to attack each problem aggressively and enthusiastically.
3. A willingness to seek creative solutions within the framework of the traditional legal system.

## SALLYANNE PAYTON

**Sallyanne Payton received her LL.B. in 1968. She then joined the Washington, D.C. firm of Covington**

**& Burling, where she concentrated on transportation regulatory agency practice and on general civil litigation. In 1971 she joined the staff of the White House Domestic Council. In this capacity she worked primarily with the District of Columbia government in community development, Bicentennial planning, progress toward self government, and executive appointments. In 1973 she became chief counsel to the Urban Mass Transportation Administration for the U.S. Department of Transportation, acting as chief legal advisor on program, legislative and regulatory matters. Since 1976 she has been Associate Professor of Law at the University of Michigan, where she teaches Administrative Law and Economic Regulation of Business.**



Legal careers are becoming more complicated. On the one hand there is a great deal more "law" than there was even a decade ago; on the other hand, this explosion in the amount of law has resulted largely from legislative and administrative action rather than from an expansion of judge-made common law. Not only have many areas of "public law" been newly created or enlarged, but traditional "private law" has been modified extensively by legislation. An increasing share of the work of both state and federal courts involves the construction of statutes or the review of administrative action. A competent lawyer, even in traditional practice, now needs to be skilled in dealing with statutory and administrative materials.

More important to the long-run prospect, however, is the fact that legislatures and administrative bodies centralize and

democratize much of the lawmaking function itself. Interest groups clash and bargain openly over legislation and regulations. Law and politics thus converge visibly in time; the relationship is not camouflaged by the slow accretion of common-law learning. Fundamental public policy decisions expressed in legal rules are increasingly being made in the open by politically responsible officials, rather than being made quietly by judges, buried in the implications of legal abstractions, discoverable only through analysis of individual cases, inaccessible to citizens without the guidance of lawyers.

When the forum is a legislative or administrative rulemaking anyone can be heard in his or her own voice—politicians, lobbyists, economists, labor union officials, government officials, academicians, industry executives, interest group representatives, etc. Lawyers may be helpful in many roles, even indispensable, but the legal profession does not control legislative and administrative bodies and lawyers *qua* lawyers are rarely in charge. Moreover, the output of these processes, being cast typically in the form of (more or less intelligible) specific rules, can frequently be understood as well or better by specialists in affected disciplines than by generalist lawyers.

Professionals from disciplines other than law already tend to dominate administrative rulemaking in their areas of substantive competence, using lawyers where they perceive the need rather than being dependent upon them for communication. Although most legislators are still lawyers, most people who present arguments to them are not. The priesthood function of the legal procession is in decline, although the demand for lawyers' analytical and advocacy skills may be greater than ever.

Fortunately, these developments have not overtaken us entirely, and being a lawyer still provides access to a wonderful variety of experiences, particularly when one follows basic lawmaking into its new public arena and begins to cooperate with persons from other disciplines, with other values and vocabularies, in legislative and administrative processes. My own career has taken me to the frontier between the traditional legal world and this expanding world of public policy, and I can hardly imagine a more consistently stimulating professional life. ■

# Faculty News

**Marc Franklin**, Frederick I. Richman Professor of Law, participated in a panel on comparative negligence at the Conference of California Judges, held in conjunction with the state bar meeting in Fresno in September. In December he delivered a paper on "Legal Aspects of Immunization Programs" at a three-day conference on Immunization Practice, co-sponsored by the Department of Pediatrics of the University of California at San Diego School of Medicine and a California chapter of the American Academy of Pediatrics. Also in December, he delivered a paper at the Torts round table at the annual meeting of the Association of American Law Schools in Houston.

**Lawrence Friedman**, Marion Rice Kirkwood Professor of Law, lectured at several universities this fall and winter, including the Universities of Georgia, Texas, U.C. Riverside and San Diego. The second edition of his book, *Law and Behavioral Sciences*, co-edited with Stewart Macaulay, was published earlier this year.

Professor **Jack Getman** will be a visiting professor at Yale Law School next fall. His book, *Union Representation Elections: Law and Reality*, was published in November by the Russell Sage Foundation.

Professor **J. Myron Jacobstein** has been elected Vice-President and President-Elect of the American Association of Law Libraries. He has also been elected to the Board of Directors of Cooperative Information Network, a state funded organization for the purpose of making available library resources in all types of libraries in San Mateo, Santa Clara, Monterey and Santa Cruz Counties. Earlier this year he addressed a meeting sponsored by CIN on "The New Copyright Law and Libraries." Professor Jacobstein's recent publications include the 1976 edition of *Law Books in Print*, coauthored with M. Pimsleur, and a new edition of *Fundamentals of Legal Research*, written with R. M. Mersky.

**John Kaplan**, Jackson Eli Reynolds Professor of Law, was the keynote speaker at a conference supported by the Law Enforcement Assistance Administration on "Improving our Criminal Justice System" in January. In February he delivered the opening address at a conference sponsored by the government of New South Wales in Sydney, Australia.

**John Henry Merryman**, Sweitzer Professor of Law, was elected an Associate Member of the International Academy of Comparative Law at a meeting of the Academy in November.

Professor **Robert Rabin** is spending his sabbatical year at Stanford working on a number of projects. During the fall semester he completed two articles; one of the pieces dealt with the right to a due process hearing prior to the termination of public employment, and the other suggested some new ways of looking at the discipline of administrative law as contrasted with the traditional approach of teaching and doing research in that field. This semester he is putting together course materials on the regulation of product safety and editing a collection of essays on the administrative process. The latter project is similar to a book in the Torts field that he published at the beginning of this academic year, *Perspectives on Tort Law*.

Professor **Byron Sher** conducted two seminar sessions on purchasing law in February at a Purchasing/Logistic Management Seminar in Palo Alto. The seminar was sponsored by the National Association of Purchasing Management.

Professor **Michael Wald** has been appointed to the California State Advisory Board on Child Abuse and has completed work on the child abuse volume of the ABA's Juvenile Justice Standards Project. The volume is scheduled for publication this spring. Earlier this year he addressed the National Conference on Public Policy Toward Families and Children, sponsored by the Lilly Foundation, and the Fifth Annual National Conference on Adoption of Children. He has also been invited to speak at the Office of Child Development's Second Annual National Conference on Child Abuse and Neglect, at the Pacific Region Child Welfare League Annual Conference, and at the Biannual Meeting of the Society for Research on Child Development.

## Professor Amsterdam Named One of TIME'S Ten

Professor Anthony Amsterdam was featured in the March 14 issue of *Time* magazine in the article, "Ten Teachers Who Shape the Future." Based on the recommendations of judges, lawyers, students and teachers, *Time* selected ten law professors who combine the gifts of



"brilliant scholars, provocative teachers, concerned public servants, [and] ardent advocates."

Professor Amsterdam was described as "a passionate advocate of civil liberties" who is best known for his work before both the United States Supreme Court and the California Supreme Court in seeking the abolition of capital punishment. In the classroom, he was cited



for his clinical programs in criminal law that are designed to offset traditional law teaching by giving students "a sense of everyday practice." "Law students can learn more from knowing how to ask good questions than from studying from appellate briefs. To be able to make split-second decisions, they have to feel the law in their bones," Professor Amsterdam observed.

Professor Amsterdam was also recently appointed by the state bar association to a new nine-member advisory commission to recommend nominees for federal judicial positions and U.S. Attorneys in California. Under this new system, when a vacancy occurs for the position of federal district judge, U.S. Attorney or Ninth Circuit Court of Appeals judge, Senators Cranston and Hayakawa will prepare a list of possible nominees and the commission will then recommend three to five candidates from the list. The commission may also submit names for consideration. After the recommendations are approved by the Senate they are sent to the President, who makes the final appointment.

#### **Professor Friedman Receives Coif Award**

Lawrence M. Friedman, Marion Rice Kirkwood Professor of Law, was chosen

to receive the Triennial Award of the Order of the Coif, the nation's highest accolade for scholarly work in law. He was presented the award in Houston during the annual luncheon of the Association of American Law Schools on December 28.

Professor Friedman was chosen by a panel of seven distinguished judges and legal educators to receive the award and its \$1,000 prize. The award is made every three years in recognition of the "authorship of a written work evidencing creative legal talent of the highest order." Mr. Friedman was recognized for his books, *A History of American Law* (1973), which was also nominated for a National Book Award and won the SCRIBES award as the best book on law published in that year, and *The Legal System: A Social Science Perspective* (1975).



The Triennial Award was established by the Order of the Coif in 1964. This is the second time a Stanford law professor has won the award. The late Professor Herbert L. Packer received the award in 1970 for his book, *The Limits of the Criminal Sanction*.

#### **Professors Scott and Baxter Publish Book**

Electronic funds transfer systems and their implications for retail banking is the subject of a new book, *Retail Banking in the Electronic Age: The Law and Economics of Electronic Funds Transfer*, by Professors Kenneth Scott, William Baxter and Paul Cootner of the Graduate School of Business.

Written in non-technical language for the interested layman, the book attempts

to provide a better understanding of the economic forces and legal constraints that have shaped the present payments mechanisms and to forecast the impacts on those payment systems that the new electronic technology may have. The study looks ahead to the next five to ten years and examines the trends and issues that will be most significant to the consuming public.

The authors support the view that EFTS is an important but essentially evolutionary improvement in the payment system. EFTS, the authors believe, will have significant, but hardly cataclysmic, impact on the microeconomic structure of retail distribution and retail banking. The book explores the possible application of the antitrust laws to the cooperative activity among banks that EFTS will engender. But EFT 'nets', the authors believe, need not be monopolies in any economic sense and should be subjected to traditional antitrust restraints. It is clear, moreover, that, if EFTS is allowed to develop without the artificial restrictions that now surround branch banking, competition among banks will increase, and benefits to consumers and retailers will be substantial.

It is obvious, however, that there are strong political forces at work—through the existing bank regulatory mechanisms and through various legislatures—attempting to retard the development of EFTS. The legal restrictions which are a common theme of legislative discussions are essentially intended to insure that EFT does not make banking more competitive. The authors point out the potential for conflict between these state laws and federal laws that favor competition.

The book is published by Allanheld, Osmun & Co., Montclair, New Jersey.

#### **Professor Babcock Takes Government Post**

Professor Barbara Babcock has been appointed head of the Civil Division of the U.S. Justice Department under Attorney General Griffin Bell.

Ms. Babcock, who was also interviewed by both the Departments of Defense and HEW for the position of General Counsel, described the Civil Division as "the catch-all division of the department that handles all the litigation that the government brings or answers." The division currently employs

230 attorneys and handles some 40,000 cases annually.

A member of the faculty since 1972, Ms. Babcock was recently recommended



unanimously by the appointments committee for tenure. Before coming to the Law School she was Director of the Public Defender Service for the District of Columbia. A graduate of the University of Pennsylvania and Yale Law School, Ms. Babcock served as law clerk to Judge Henry Edgerton of the U.S. Court of Appeals for the District of Columbia. Following her clerkship, she spent two years in litigation practice with Edward Bennett Williams in Washington, D.C. She then worked for two years as a staff attorney with the Legal Aid Agency for the District which later became the Public Defender Service.

Professor Babcock teaches civil procedure, women and law, and professional responsibility. She is coauthor of the casebook, *Sex Discrimination: Causes and Remedies*, and has recently completed a casebook on civil procedure with Paul Carrington of the Michigan Law School.

While at the Justice Department Professor Babcock will be on leave from the Law School.

### **Rose Bird Appointed To Top State Judicial Post**

Rose E. Bird, former lecturer at Stanford Law School, has become California's first female Supreme Court Chief Justice. She was appointed by Governor Brown to replace Donald Wright, who retired on February 1.

This appointment is another career "first" for Ms. Bird. Following graduation in 1965 from Boalt Hall, where she

was awarded First Place in the Honors Competition for Outstanding Advocacy in her third year, she became the first woman to clerk for the Nevada Supreme Court. After her clerkship, she joined the Santa Clara County Public Defender's Office, again the first woman ever to do so. While a senior trial deputy in the Office, Ms. Bird taught at the Law School, directing clinical seminars in criminal defense and consumer protection. She taught at the School from 1972-75, when she joined Governor Brown's cabinet as



Secretary of the Agriculture and Services Agency, gaining the distinction of being the first woman ever to be appointed an agency chief by a California governor.

### **Former Assistant Dean Heads Law School**

Thomas E. Headrick, assistant dean of the Stanford Law School from 1967 until 1970, has been appointed dean of the State University at Buffalo Law School, effective August 31, 1976.

A graduate of Franklin Marshall College and Yale Law School, Mr. Headrick joined the Stanford Law School following four years in London where he was a management consultant with The Emerson Consultants. Prior to that he was an attorney with Pillsbury, Madison & Sutro.

While at Stanford he supervised the law and computer program and collaborated in designing and implementing major curriculum changes. He also taught an undergraduate seminar on urban riots and the legal system.

Since 1970 he has been vice president for academic affairs at Lawrence University in Wisconsin, where he has overseen



curricular and faculty development for twenty-three departments as well as other units of the institution.

In addition to his B.A. and LL.B. degrees, Mr. Headrick holds a B.Litt. from Oxford, where he was a Fulbright Scholar, and a Ph.D. in Political Science from Stanford.

### **Professor Glick Resigns from the Faculty**

Associate Professor Martin R. Glick resigned from the Law School on November 17. Professor Glick, a poverty law specialist, joined the faculty in 1974 to head the School's clinical program. The following year he was appointed Director of California's Employment Development Department (E.D.D.) by Governor Brown, for which he was granted



the maximum two-year leave of absence from the faculty. In his letter of resignation, Mr. Glick stated that he would be unable to leave his duties at E.D.D. by next September, when his leave would terminate.

# SCHOOL NEWS

## Assistant Dean Bayer To Take Tulane Post Barbara G. Dray '72 Appointed Successor

Assistant Dean Gary G. Bayer will resign from the Law School on July 1 to become Vice-President for Development and Public Affairs at Tulane University, New Orleans. He will be succeeded by Barbara G. Dray, a Seattle attorney and 1972 graduate of the School.

Assistant Dean Bayer, who is a 1967 graduate of the Law School, has been a member of the administration since 1971. From 1968 to 1971 he was legislative and administrative assistant to Ohio Congressman Clarence J. Brown. During that time he served on the Law School's Board of Visitors. In 1971, at the invitation of then Dean Thomas Ehrlich, he returned to the Law School to head a capital campaign to fund new law buildings. During the next six years he raised over eight million dollars to build Crown Quadrangle, which was completed in September 1975. Also during that period the permanent endowment increased by three million and six new endowed professorships were established or pledged. Income through the annual fund nearly doubled, from slightly over \$250,000 in 1971-72 to \$491,000 in 1975-76.

Commenting on Assistant Dean Bayer's tenure at the School, former Dean Ehrlich noted:

*Gary brought to his job an absolute conviction about the importance of legal education and legal scholarship at Stanford. He also*



*brought remarkable organizing ability. Most important, he brought a warm personality, great good humor and a deep caring about people—alumni, students, staff and faculty... By choosing Gary as vice president, Tulane University has taken a giant step in organizing a first-rate development program.*

Assistant Dean Bayer enjoyed the friendship of many Law School graduates. Speaking for those friends among the alumni, Charles Purnell, president of the Law Fund and a member of the Executive Committee of the Law School Board of Visitors, said:

*Gary Bayer has won the respect and admiration of the alumni of the Law School by his obvious dedication to the School, his direct and open manner, and his warm personality. He tells the Law School story like it is—honestly and without embellishment. His success is ample evidence of the alumni's response to his sincerity and tireless efforts on behalf of the School. We shall miss*



*working with him, but wish him every success in his new venture.*

Dean Charles Meyers echoed these sentiments in speaking for the Law School community:

*We shall miss him keenly, but we understand the challenging opportunity presented him by the Tulane position and we wish him every success in his new undertaking.*

### Barbara Dray

A native of Kansas City, Missouri, Barbara Dray received an A.B. with distinction in history from Stanford University in 1965. Following graduation she joined IBM in San Jose as a Personnel Data Systems Coordinator. In 1966 she returned to Stanford to become Assistant to the Dean of Students and Activities Adviser, a position she held until 1969, when she was admitted to the Law School.

Her activities at law school included president of the Stanford Legal Aid Society; law clerk to the San Mateo

County Legal Aid Society; co-author of Assembly Bill 1411, which was based on a year-long study of tenant security deposit problems; and contributor to the book, *Air Pollution in the San Francisco Bay Area*, a study of air pollution control agencies and citizens' action groups, published by Ecology Center Press (1971).

Upon graduation in 1972 she was admitted to the Bar of the State of Washington. Since that time she has been an associate with the Seattle firm of Davis, Wright, Todd, Riese & Jones, specializing in antitrust cases.

Ms. Dray has maintained close ties with the School since graduation, serving as chairwoman for the Stanford Law School Fund in Washington State in 1976-77 and as treasurer for the state's Stanford Law Society during the same year.

Ms. Dray is married to Dr. M. Jan Dray, a physician. They have two children.

In announcing the selection of Ms. Dray, Dean Meyers observed:

*Barbara Dray's long association with Stanford, as an undergraduate and law student, administrator, and volunteer fund-raiser, equips her magnificently for the position of Assistant Dean for Development. She will be the first woman to be named a dean at the Stanford Law School and I am confident that through her personal qualities she will bring great distinction to the position. It certainly will be nice to have her back with us.*



# SCHOOL NEWS

## Research by Computer



LEXIS, a national computer-assisted legal information retrieval service, has been installed in the microfilm of the library on a one-year trial basis.

Developed by Mead Data Central Inc., in Dayton, Ohio, LEXIS is a full-text system employing a keyword search procedure that enables the user to go directly to cases and other research materials without using digests or indexes. Its data base in Dayton exceeds two billion words and consists of some 15 "libraries" embracing federal laws and court reports as well as the law and court reports of some ten states (including California). Three of the "libraries" contain comprehensive materials on federal taxation, federal securities regulation, and federal trade regulation.

The LEXIS research terminal includes an electronic keyboard with special keys to facilitate transmission of commands to the system; a video screen on which responses from the system and retrieved library materials are displayed at the rate of 120 characters a second (more than 1300 words a minute); and a hard-copy printer from which a user may obtain a permanent record of materials appearing on the video screen.

The MDC system permits both search (the finding of documents) and research (their study and analysis) by enabling the lawyer to skip backwards and forwards in retrieving, to spot-read for relevance and to repeat other familiar search patterns. Because the machine can perform multiple operations at superhuman

speeds, it drastically cuts the time required to do the mechanical part of research, leaving more time for the user to do the intellectual part of research.

LEXIS was brought to the School under the supervision of Associate Dean Joseph E. Leininger, who has headed the Law and Computer Program since 1970. Dean Leininger believes that the system, which is being used increasingly by law firms, courts, law schools, and government agencies throughout the country, will be a valuable tool in facilitating the legal research process. He noted that immediately following his first announcement of the installation of LEXIS to students, faculty and staff, two hundred people signed up for the five-hour training program.

## Edward Levi Named Phleger Professor

Dean Charles Meyers has announced the appointment of former U.S. Attorney General Edward Levi to the Herman Phleger Visiting Professorship for the spring of 1978.

Mr. Levi, who was successively Professor of Law, Dean of the Law School, Provost, and President of the University of Chicago before Gerald Ford appointed him to the Justice Department in 1975, will teach one course and deliver a public lecture in fulfillment of the duties of the professorship, as established by Mr. and Mrs. Herman Phleger. Mr. Phleger, an emeritus trustee of the University, is a senior partner in the San Francisco firm of Brobeck, Phleger and Harrison.

The professorship allows for a leading person in the field of law—either in private practice or in government—to spend a semester at the School to teach and to provide faculty and students with insights to the legal system and its operations. Previous appointees to the professorship include Charles E. Wyzanski, Jr., Senior Judge of the United States District Court for the District of Massachusetts, and Simon H. Rifkind, former federal judge of the Southern District of New York and a senior partner in the New York firm of Paul, Weiss, Rifkind, Wharton & Garrison.

# SCHOOL NEWS

## U.S. Supreme Court Clerks Named for 1977



Mr. Reiss

Three graduates of the Class of 1976 have been chosen to fill U.S. Supreme Court clerkships for the October Term 1977. They are Steven A. Reiss of Philadelphia, Pa.; Jay M. Spears of El Paso, Texas; and Barton Hurst Thompson, Jr. of Los Angeles, Ca.

Mr. Reiss received a B.A. in 1973 from Vassar College, where he majored in English and Anthropology. While at the Law School he was chief research assistant to Professor Anthony Amsterdam



Mr. Spears

and articles editor of the *Stanford Law Review*. Since graduation, Mr. Reiss has been clerking for Judge Minor Wisdom, U.S. Court of Appeals, Fifth Circuit, New Orleans. His Supreme Court clerkship will be with Justice William J. Brennan, Jr.

Mr. Spears received an A.B. with distinction in English and Humanities from Stanford in 1971. He was a 1967 Presidential Scholar, Texas Representative. Following graduation, he spent a year in Mindanao State



Mr. Thompson

University, Philippines, teaching English. At law school he was president of the *Stanford Law Review* for Volume 28. Upon graduation, he was elected to the Order of the Coif. Mr. Spears is currently clerking for Chief Judge David L. Bazelon, U.S. Court of Appeals, D.C. Circuit. He will clerk for Justice Potter Stewart on the Supreme Court.

Mr. Thompson received an A.B. with honors and distinction in Economics in 1972 from Stanford, where

his student activities included opinion editor of the *Stanford Daily*, editor-in-chief of several other student publications, chairman of Stanford-in-Government, and a member of the Stanford debate team. At law school he was managing editor of the *Stanford Law Review*, member of the *Stanford Journal of International Studies*, and officer of the Moot Court Board. Upon graduation, he was named the Nathan Abbott Scholar, awarded for the highest grade point average in the class. In addition to his J.D., Mr. Thompson received an M.B.A. from the Stanford Graduate School of Business. He is currently clerking for Judge Joseph T. Sneed, U.S. Court of Appeals, Ninth Circuit, in San Francisco. His Supreme Court clerkship will be with Justice William H. Rehnquist, a graduate of the Class of 1952.

These three appointments bring the total of Stanford law graduates who have won Supreme Court clerkships to thirty-three.

## Stanford Ranks Third Among Nation's Law Schools

Stanford Law School ranks third in the nation behind Harvard and Yale, according to a recent survey of 453 educators.

Published in the February issue of *Change* magazine, the survey was conducted under the aegis of the academic senate of the University of California at Berkeley. The study also included the schools of education and business and is believed to be the most comprehensive evaluation ever made of these three professional areas.

In the area of law, a total

of 91 schools were rated. The survey assessed both "faculty quality" and "educational attractiveness." Stanford came in third in faculty quality and second (behind Yale) in educational attractiveness.

To ensure a reasonably representative sample of knowledgeable scholars, each of the three fields was divided into six or more common subspecialties, i.e. constitutional law, criminal law, taxation, etc. Deans were then asked to provide the name of a knowledgeable person in each spe-

cialty, provided that at least two were young faculty within a few years of their degrees and at least two were not full professors.

The respondents were asked to rate the schools on a scale of 1 to 5 for faculty quality, with 1 signifying *distinguished*, and on a scale of 1 to 4 for educational attractiveness, with 1 representing *very attractive*.

The ranking of the top ten law schools was as follows: Harvard, Yale, Stanford, Michigan, Chicago, Berkeley, Columbia, Pennsylvania, Virginia, and UCLA.

# SCHOOL NEWS

## Some Facts About the Class of 1979



Applications for the Class of 1979 rose 12% over the previous year to 3,193. Of 524 applicants admitted, 175 actually enrolled: 134 men, 41 women. There are 15 minority students in the Class: 9 Chicanos, 5 blacks, and 1 Puerto Rican.

The Class has an average GPA of 3.77 and an average LSAT of 707. Last year's en-

tering class had an average GPA of 3.66 and an average LSAT of 691.

The average age of the Class is twenty-two and a half; six members are over thirty. Fourteen members hold advanced degrees: 4 Ph.D.s, 2 M.B.A.s, 8 Masters. Fifty-six are members of Phi Beta Kappa.

Ninety-four colleges are represented, with Stanford contributing 20, followed by Yale with 12, Princeton with 5, and Harvard, Michigan, and the University of Illinois each contributing 4.

Of the 349 admitted who did not enroll, 190 chose to attend other law schools (93 went to Harvard); 30 chose graduate study in other fields; 8 received fellowships for study abroad; and the remaining 121 decided not to attend for a variety of reasons, including financial considerations and the desire to postpone law study for a year.

## ELS Submits Proposals for 1977 Projects

The Environmental Law Society has recently submitted proposals for research projects to be begun this summer. *State Control of Coal Development on Public Lands in Colorado* addresses the increasingly important conflict between the national interest in developing energy resources on the western public lands and the state's interest in controlling the resources within its borders. *Implementation of Solar Energy Systems* will be directed at the powers of

local government to encourage the use of solar energy systems. *Concessions in California's National Parks* will be a continuation of previous research conducted by the Society into the administration of the National Parks by the Department of the Interior. The final proposal is intended for citizen groups interested in *The Use of the Initiative Process in Environmental Regulation*.

If funding is found for these projects students will gather research during the summer and compile the results in handbook form during the 1977-78 academic year.

## School Awards First Ralston Prize to Olof Palme

Olof J. Palme, former Prime Minister of Sweden, has been named the first winner of the Jackson H. Ralston Prize in International Law. Established at the Law School in 1973 by Opal Ralston in memory of her husband Jackson H. Ralston, a prominent U.S. international lawyer, the prize is awarded "for original and distinguished contribution by a man or woman to the development of the role of law in international relations." It carries a cash award of \$15,000.

The selection of Mr. Palme was made by a committee comprising Richard W. Lyman, President of Stanford University; Donald R. Wright, former Chief Justice of the Supreme Court of California; and Erik Suy, Under Secretary General for Legal Affairs and Legal Counsel of the United Nations.

A native of Stockholm, Olof Palme received a B.A. from Kenyon College, Ohio, in 1948 and an LL.B. from Stockholm University in 1951. Following graduation from law school he was secretary of the Student Union Confederation until 1953, when he became principal assistant secretary of the Department of Housing. From that time on he held various positions in the Swedish government until 1969, when he gained the

leadership of the ruling Social Democratic Labor Party. He stepped down as prime minister this past September when he was defeated by Center Party Chairman Thorbjorn Falldin. Mr. Palme is now leader of the opposition in the Swedish Parliament.

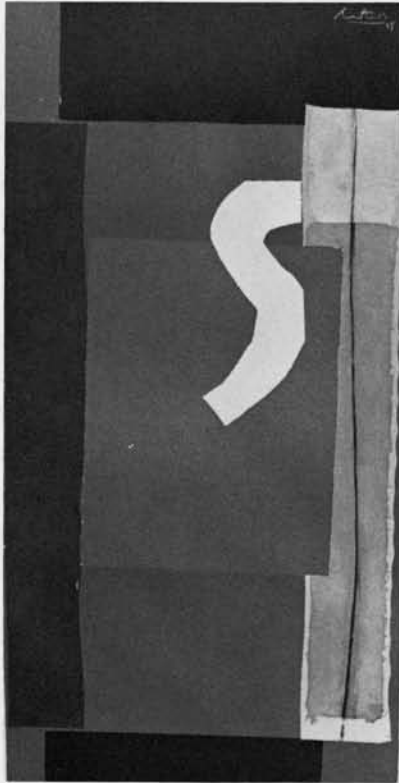
During his administration Olof Palme was a principal architect of Sweden's active neutrality policy and its vast social programs, particularly in the areas of education, hospital care, old-age benefits and women's rights.

In notifying Mr. Palme of his selection for the prize, President Lyman said, "Your work for international cooperation in general and for protection of individual rights while promoting social justice in particular make it most appropriate that you be the first recipient of the Jackson H. Ralston Prize."

As part of the presentation ceremonies, Mr. Palme will give several lectures at Stanford next fall and will be Scholar-in-Residence while at the University. Though no specific subjects for the lectures have been announced, President Lyman suggested that they draw upon Palme's experiences with socialism and specifically "the problems of maintaining individual freedom while seeking social justice."



# Two Unique Ways To Remember Stanford Law School



## In Celebration

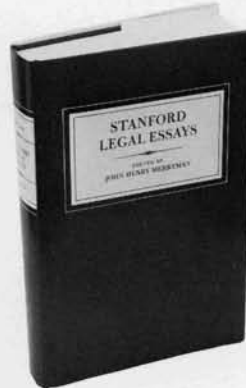
In honor of the new Stanford Law School buildings, Richard Lang, J.D. 1929, commissioned the distinguished American artist, Robert Motherwell, to execute a work of art. The oil and collage, which measures 6' x 3', is entitled by the artist "*In Celebration*."

The work now hangs in the main entrance of Robert Crown Library. It is a superb example of the artist's work, and both in color and imagery, highly evocative of Stanford.

A nine-color offset lithograph, based on the original work, is available to Stanford Law School alumni and friends. The edition is limited to two hundred examples on 38" x 25" Rives BFK paper, numbered and signed by the artist. The price of the print is \$250.

A nine-color poster (38" x 25") based on the work, with the words, "*In Celebration, Stanford Law School, September 26-27, 1975*," is also available for \$25.

Orders for both the print and the poster should be sent directly to Celebration Art, Stanford Law School, Stanford, California 94305. Each order should be accompanied with a check or money order made payable to Stanford University. (California residents please add 6% sales tax to the price of each print and poster.) The print and/or poster will be sent in a sturdy mailing tube; please add \$3.00 for postage and packing.



## Stanford Legal Essays

To celebrate the new buildings, the Stanford law faculty has joined in writing *Stanford Legal Essays*, a collection of twenty-four essays on critical areas of the law, edited by Professor John Henry Merryman.

Each of the authors has written on the topic of his or her choice and the result is an impressive 467-page volume that covers a wide diversity of subjects.

A glance at the table of contents reveals a range of topics that are as provocative as they are illuminating: Anthony Amsterdam's discussion of the right to a speedy trial; Lawrence Friedman's delightful study of law in California's San Benito County in 1890; a look at the complex relations between law, politics, and health care in contemporary China by Victor Li; John Kaplan's "Primer" on the legal aspects of heroin control; and Howard Williams' analysis of the need for a national oil and gas policy are just a few of the fascinating subjects included.

*Stanford Legal Essays* contains a wealth of material to interest the law-oriented reader, as well as the educated general reader. Individually, these essays are incisive and timely investigations of vital areas of law by some of the nation's leading scholars. Taken together, they provide a representative expression of the minds, styles, and interests of the faculty of Stanford Law School. Alumni—old and new—will find them stimulating, entertaining, and above all, a clear affirmation of the pre-eminence of Stanford Law School as a center of legal research and education.

*Stanford Legal Essays* is an eloquent tribute to an important era in the history of the School. It is also a significant contribution to legal scholarship and the legal profession.

*Stanford Legal Essays* is available to alumni and friends of the School for \$15.00 per copy. To order your copy, send a check or money order, made payable to Stanford University Press, to Stanford University Press, Stanford, California 94305. (California residents please add 6% sales tax to the price of each book.) Note: These essays were also printed in Volume 27, Number 3 of the *Stanford Law Review*.

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