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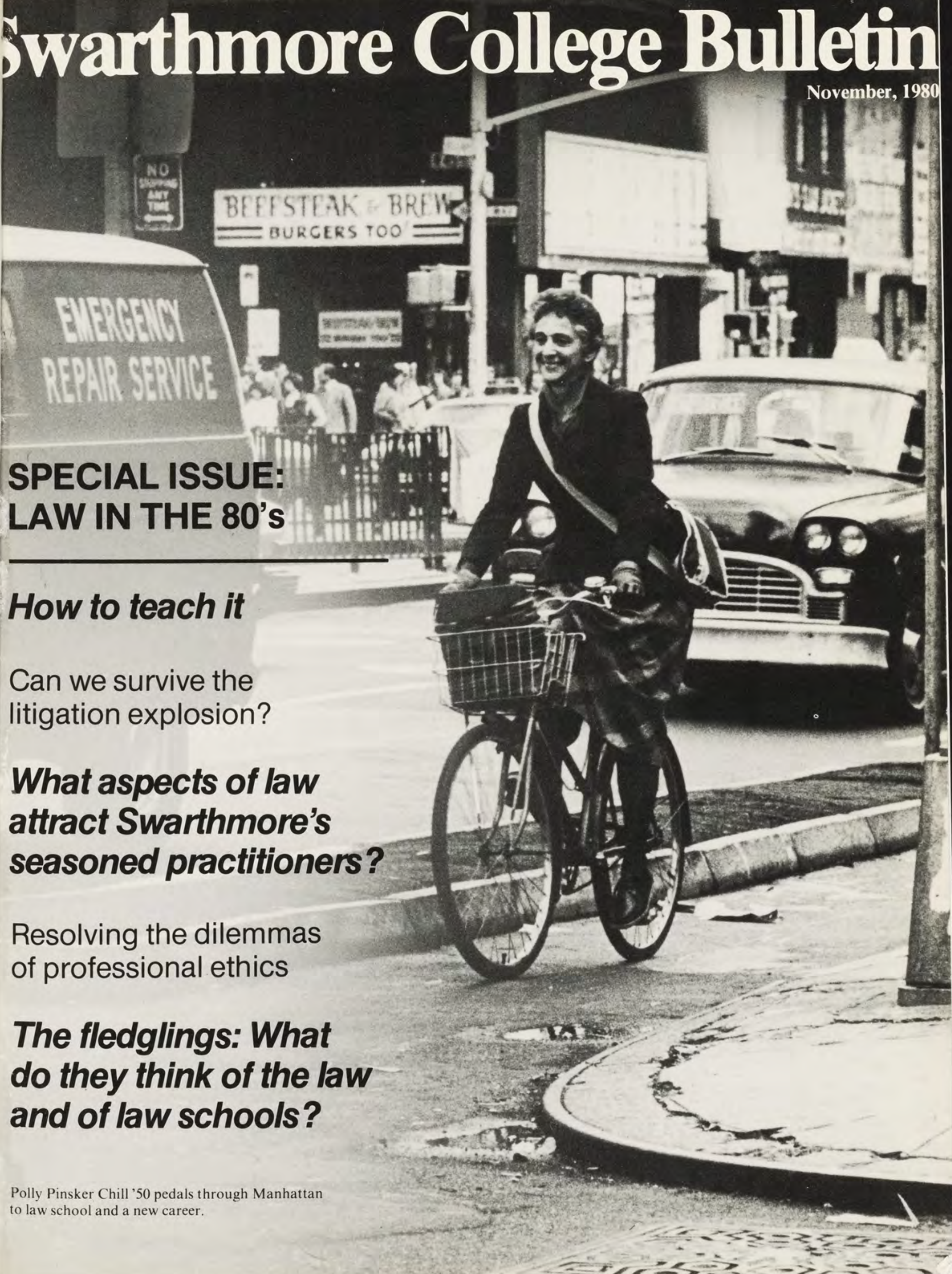

SPECIAL ISSUE: LAW IN THE 80's

How to teach it

Can we survive the litigation explosion?

What aspects of law attract Swarthmore's seasoned practitioners?

Resolving the dilemmas of professional ethics

The fledglings: What do they think of the law and of law schools?

Polly Pinsker Chill '50 pedals through Manhattan to law school and a new career.

You may never enter a courtroom for the purpose of settling a dispute, but if you ever buy a house, form a company, adopt a child, draw up a contract, get a divorce, or make a will, you will need the assistance of an attorney. As our society becomes increasingly complex, the law—and lawyers—are becoming more and more a part of our lives.

According to an article in *Newsweek* magazine, the increasing influence of law and the legal profession on American life constitutes "one of the great unnoticed revolutions in U.S. history." Both elected officials and private individuals are increasingly inclined to let the courts decide matters that were once settled by parents, teachers, legislatures, or fate. The courts, rather than custom or community leaders, have become the arbiters in such matters as high school dress code, sewage disposal, consumer rights, ecological issues, and sports regulations.

Advances in technology provide new areas of legal controversy and in some instances blur the distinctions between right and wrong. The case of Karen Ann Quinlan could never have arisen if modern medical science had not created nearly miraculous life-saving tools. Similar developments in chemistry, microbiology, and genetics will surely lead to future litigation, and the rapid progress in computer science has already opened the door to issues of corporate and personal privacy and secrecy.

The increasing national interest in, and awareness of, the law is reflected among Swarthmore graduates. Whereas in 1967 only 300 living alumni held law degrees, today that number has risen to 841. Nineteen of these lawyers have attained the rank of judge, and four of them are women. Just last year, three young graduates served as clerks to Supreme Court justices.

Eighty-five graduates are currently enrolled in law schools across the country, and law is a popular field with undergraduates. A surprising number are entering law school three, four, ten, even thirty years after they leave Swarthmore, and it is interesting to note that last year more *graduates* applied to law school than did members of the senior class.

Samuel Johnson, who rarely had anything good to say about anything, wrote that, "The law is the last result of human wisdom acting upon human experience for the benefit of the public." In the following pages you will read about the thoughts and experiences of some Swarthmoreans who have chosen to work in the law, and some of the issues, problems, and challenges they believe to be inherent in the profession.

Li Po, Chinese philosopher and one of the great drunks of history, was entranced by the stars. Late one clear night he chanced upon a pool reflecting the starry sky. He laid his flagon of wine aside, tried to embrace the entire universe, fell into the pond, and drowned.

The American people in a similar manner are embracing the legal system as a problem solver. The most trivial and frivolous matters end up in court. A federal prison guard filches seven packs of cigarettes from a prisoner's cell. The case is tried in federal court, appealed to the Court of Appeals, and then sent back for retrial (at which point the trial judge vainly tries to pay for the cigarettes himself). A tieless California resident likewise sought "justice" because he was denied entrance to a restaurant. A small rent case is appealed to two higher courts. Two college seniors sue the University because the shower curtains are substandard.

These are not isolated examples of what might be termed legal pollution. The fallout from the litigation "explosion" is smothering both the federal and the state court systems. In the last five years, filings (civil and criminal) in federal district courts have increased over eighteen percent. Cases filed in Indiana courts increased from 659,101 in 1976 to 815,649 in 1978. The attorney general of Indiana was defending forty cases in federal court in 1969 and 867 ten years later. State courts of last resort with few exceptions show substantial increases in the number of appeals in recent years—some well over 100 percent.

Why has all this come about? There is no simple answer. Certainly the legal

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Paul H. Buchanan, Jr., '39 is chief judge of the twelve-member State Court of Appeals of the State of Indiana. Before his appointment, he practiced law for twenty-one years in Indianapolis, where he was well known for his development of a basic format for the presentation of judicial opinions. Judge Buchanan writes a regular column, "Ex Parte Line," for Res Gestae, *the publication of the Indiana State Bar Association. This article was adapted from a column which appeared in September, 1979.*

Can the Judiciary Solve Everybody's Problems?

Paul H. Buchanan, Jr. '39

"The most litigious people in the world" through their excessive use of the courts are clogging the system to the point where it cannot function effectively.

system has been used by one citizen, or a class of citizens, to harass and wreak vengeance on another. The rights of persons accused of crime have proliferated, layer upon layer of government entities issue rules and regulations, legislatures spew forth thousands of laws annually, rights of minority groups have been expanded, and various amendments to the United States Constitution (the due process and equal protection clauses, for example) have been so liberally construed as to give birth to new causes of actions unknown twenty-five years ago. Justice Felix Frankfurter observed some years ago that "There is no legal remedy for every wrong." That has now been turned around, and apparently today every wrong *does* have a legal remedy, and all problems appear on the doorstep of the judiciary.

But most important of all is the sobering fact that no effective means now exists to alleviate much less eliminate the crushing burden on the justice system. Excessive use of the system clogs it to the point that it can not function effectively. It is slow, costly, and cumbersome. By "going to law" our citizens have distinguished themselves as the most litigious people in the world. There are no brakes, there is no restraint.

Reform is essential because the system is still operating as it did in horse-and-buggy days. But perhaps there is a cultural lag; adoption of restraints on use of the system have not yet caught up with the expanded use of the system. The lag will be overcome when, and only when, input is reduced and the system itself purified.

At the present time, a case coming up through the judicial system can pass through five or six courts. There is no finality. In a society which has layers of government and mountains of legislation and rules, the possibilities are infinite for people to sue each other.

Suggestions to improve this lamentable state of affairs abound. One of the most interesting is fee shifting, i.e., the loser in civil litigation pays all costs, including the attorney's fees of the winner. Other suggestions are greater use of arbitration, limitation of pretrial discovery, elimination of or limitations on use of juries in civil cases, limited appeals in civil cases, a requirement that civil litigants make a showing of "probable merit" before the case is cranked into the system. There are many devices which could be employed, such as a "show-cause" requirement before a claimant could bring a complaint. And judges can help unclog the system by encouraging out-of-court settlements.

One thing is certain. Until substantial steps are taken to preserve the integrity of our overburdened system of justice, we will increasingly live in a judiciarchy . . . a system in which all society's problems are sooner or later deposited on the doorstep of the judiciary. Like it or not.

New Trends

"I believe that new directions emerging in the lower courts can alter the fundamental nature of these courts making them, once again, centers of creative leadership."

From child abuse to consumer fraud, the social and economic problems of suburbs and city streets parade daily before the overburdened judges of the lower courts.

Whether as litigants, victims of crime, or witnesses, millions upon millions of Americans receive their impressions of justice in our nation's first-level courts.

There, in antiquated courtrooms, the citizens find that inexplicable delays, plea-bargaining, and the high costs of a jury trial have dealt crippling blows to the adversary system of trial by confrontation. Furthermore, they discover that the traditional concept of personal accountability for wrongdoing has steadily eroded. Broad judicial discretion as well as a modern emphasis on treatment have led to wide disparity in the sentencing of misdemeanors.

Lower court judges, like their brethren in the federal courts, have been pressed into challenging new areas of social concern, such as spouse abuse, housing code enforcement, and parental fitness. With their traditional role changing and expanding, demands for expertise in these new areas strain these judges' capacity for reasoned precedent and informed social judgment.

Although some fear that these new trends describe a regrettable and permanent state of affairs, I believe that new directions emerging in the lower courts can alter the fundamental nature of these courts, making them, once again, centers of creative leadership which serve the public as true community courts.

Some courts and communities, moving in new directions, are developing alternative approaches to the resolution of disputes such as mediation programs staffed by local residents.

Less threatening than judges in black robes, skilled community mediators meet with the complainants, listen to their arguments, and seek compromise solutions. These voluntary problem solvers are accesible, inexpensive, and equipped to handle problems ranging from a tenant dispute over noisy stereos to a battle between a divorced couple over visitation rights.

These mediation programs take a variety of forms. Some are court-related and receive referrals directly from the clerk's office, prosecutor, or police station where the complaints are initially lodged. Others, more community based, seek voluntary participation from disputants who have not yet decided to go to court.

As a result of the decline of church, family, and local political organizations as sources of stability and authority, the angry citizen is often encouraged to take his complaints to the local courthouse. Consequently, this court is deluged with new problems and widely used as the battleground of most neighborhood grievances. The mediation program I worked most closely with in the Salem Court had over three hundred and fifty

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John C. Cratsley '63 is a special justice of the Municipal Court of the Roxbury District, Commonwealth of Massachusetts. He was a teaching fellow and lecturer in law at Harvard Law School and a member of the Massachusetts Parole Board when he was named judge in 1972.

for Old Courts

John C. Cratsley '63

cases referred to it during its first eighteen months. Their thirty citizen mediators report success — mutual agreements — in eighty-five percent of the disputes mediated.

Although the burgeoning mediation programs are capable of resolving many local disputes without trial, a significant number of cases will proceed via guilty pleas or trials. If a trial results in a conviction in a lower court, what sentence is then appropriate?

Traditionally, the guilty person was given a fine or a jail sentence. Two new trends—restitution and community work-service—are emerging as alternatives to these traditional sentences.

Restitution, dating back to Biblical days, basically requires the offender to repay the victim in either money or work. At its core is the belief that the guilty party recognizes misconduct most clearly when directly compensating the victim for the harm inflicted.

The theory is simple—accountability, responsibility, and participation without the burdens of separation, isolation, and rejection.

Community-work service, the second new response to criminal behavior, is also based on this theory. However, by requiring the offender to work at socially constructive projects, this form of restitution is directed to the community at large rather than to the individual. According to this view, by helping to rebuild the community, the offender learns to appreciate the importance of his responsibilities to society.

Crucial to the effectiveness of these re-emerging forms of punishment is the provision of the legal structure and staff needed for implementation.

Probation is the legal tool which has been customarily used. Now that restitution and community-work service are sometimes conditions of probation, the role of the probation officer is changing. Probation work has become more than checking to see if the client has a steady job or has been re-arrested. It involves understanding and implementing an integrative, healing approach which tries to reconcile the offender with the community.

Another new trend in the lower court system involves increasing public awareness and understanding of the uses of these courts.

The dramatic rise in the number of cases stemming from interpersonal, family, and social issues poses a dilemma. Either the lower courts can resist these new demands by sending such cases elsewhere and otherwise acting in a non-responsive manner, or the courts can embrace these new challenges within a jurisprudence of full community service.

For instance, rather than posing procedural barriers at the clerk's office to those attempting to use new consumer protection statutes, trained clerks and court officers could politely answer citizens' questions. Rather than refusing to hold Saturday or evening small claims sessions as required by a new law, the lower courts could establish a small claims advisory service to teach citizens how to use this speedy, informal type of proceeding.

Observing frightened citizens feeling intimidated in the halls of justice, I became concerned that the small claims court was being underutilized by people with real complaints. Therefore, several years ago, I helped establish a voluntary program, the Small Claims Advisory Service, in the Roxbury Court.

Groups such as Massachusetts PIRG (Public Interest Research Group) have created similar devices in various communities, but the Roxbury Office is the only one in the state located in a courthouse.

Staffed by Harvard and Radcliffe students working in an office at the Roxbury courthouse, the Service provides information to individuals who are suing or being sued for sums up to $750. Helping the citizen to handle his or her case includes preparation for the courtroom appearance.

The student volunteers explain how to gather the necessary resources like documents, letters, bills, and witnesses. Sometimes, to reduce their anxiety, nervous citizens are invited to attend a small claims court session. Although the volunteers do not actually enter the court with the small-claims litigant, they do follow up on the action taken.

The cost of such a service is nominal—office space, phone bills, and mimeo expenses. And yet the value of this service is being proven by the increasing numbers of cases being brought by local citizens. After working with the volunteers, the clients arrive better prepared for their court appearances.

To keep up with the increased public utilization of the lower courts, the court's internal operations must also adapt. Modern management techniques like pretrial conferences, individual case scheduling, daily docket quotas, and probation reviews are necessary steps in the efficient handling of this volume of work.

In this effort to make the court's multiple roles meaningful and available to all, judges, too, will have to become managers, and problem-solvers. Along with presiding over trials, they will need to spend time presiding over meetings of court personnel and related groups like the bar associations, the prosecutors, the public defenders, and various social agencies.

Will these promising developments in the lower courts survive and grow? Only their continued availability and the public's evaluation will tell. The success of programs like mediation and community work-service depends on the public's acceptance of these alternative approaches.

One of the special virtues of community courts is the capacity for experimentation. Because of creative leadership in certain lower courts in this country, some of the programs described exist already.

Their philosophies and successes, however, require public attention and support in order to prosper.

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Struggling to Reconcile

Neighbors draped their doorways with black crepe to protest construction of low-income public rental housing in Whitman Park. Meanwhile, elsewhere in Philadelphia overcrowded residents press for more government subsidized housing and court battles flare.

In 1956 a site was cleared in Philadelphia for the construction of 476 units of low-income public rental housing next door to a moderate-income neighborhood of owner-occupied rowhouses. In 1980, twenty-four years later, as construction of 120 low-income rowhouses finally began on the Whitman Park site, neighboring homeowners draped their doorways with black crepe in protest. The event marked the end of eight years of litigation, including two trips to the Supreme Court, during which the city and the community fought to prevent the planned development. Meanwhile, elsewhere in the city, in "impacted" areas (those with high concentrations of minority and low-income families) residents press for more assisted housing.

Jane Lang McGrew '67 is now the general counsel of the Department of Housing and Urban Development. Prior to her HUD appointment, McGrew was a partner in the Washington, D.C., law firm of Steptoe and Johnson.

The Whitman Park case is unique only because of the length of the struggle. The selection of suitable locations for assisted housing has become a source of conflict and litigation in communities across the country. The Department of Housing and Urban Development (HUD), as the conduit of federal housing subsidies, is the usual target of the contests. In about half of the pending site selection suits against HUD, the plaintiffs seek to compel construction of housing outside impacted areas. In the rest, plantiffs seek to stop construction in non-impacted areas. But as site selection cases are passed down from one HUD secretary to the next, we seem no closer to a formula to resolve the issue.

Once the cases are in court, it is easy to lose sight of the socio-economic origins of the issue. The lawsuits are propelled not by objections to specific statutes and regulations, but by community attitudes shaped by economic as well as racial factors. Today, when 64 percent of federally-assisted tenant families are minorities whose incomes average less than 25 percent of median income, it is often difficult to sort out those factors. The housing question is further complicated by environmental concerns about traffic, schools, and recreational areas, as well as political fears and ambitions. In short, there is no one reason why communities resist subsidized housing.

Choosing appropriate sites for subsidized housing compels us to focus again and again on the future of the urban poor. While we cannot perpetuate ghettos, we must recognize that dispersal or integration of low-income, minority families presents its own set of social, political, and ethical challenges. In the sixties integration emerged as a major social goal. In 1980, the goal of integration is tempered with a desire for choice—a choice that offers decent housing opportunities in revitalized minority neighborhoods as well as in integrated communities.

It is virtually impossible to reconcile these competing values in the context of a particular site decision. We look to the law, therefore, for guidance—but we find, instead, that it only mirrors our dilemma.

Several laws frame the issues involved in site selection. For prohibitions against discrimination in federally subsidized housing, we look to the Constitution, the Civil Rights Act of 1964, and Executive Order 11063. To that bundle of proscriptions, add the Civil Rights Act of 1968 which directs HUD to promote "affirmatively" the Act's fair housing policy. As construed by the courts, these mandates mean that assisted housing cannot be restricted to minority neighborhoods and, further, that HUD has an affirmative duty to expand the opportunities of minorities to live outside impacted areas.

This set of fair housing mandates is further complicated by the Housing and Community Development Act, which has as its objectives "the reduction of isolation of income groups" as well as the revitalization of neighborhoods. From this statute comes the concept of "spatial deconcentration" of low-income families, and grant applications are obliged to design a housing assistance plan with this objective in mind. Economic integration of assisted housing is also an express objective of the United States Housing Act, which is the main source of direct housing subsidies.

It is difficult for a site selection decision to bear all these statutory burdens. The courts seem to recognize this problem and have focused on questions of process rather than substance. A critical appellate court decision in 1970 set the stage by directing HUD to institutionalize a method considering the socio-economic information necessary to assess the impact of each site selection decision. The case does not

Competing Values

Jane Lang McGrew '67

purport to provide substantive guidelines. Instead it leaves to administrative discretion the decision to rehabilitate a minority neighborhood at the cost of increased racial concentration, or to promote racial deconcentration by building outside impacted areas. Whatever the decision, HUD must take racial concentration affirmatively into account in determining whether or not to approve a proposed project site and must be prepared to justify the decision with an adequate administrative record.

HUD did, in fact, develop the method called for. In 1972 the Department first promulgated a set of "project selection criteria" for certain assisted housing programs. Proposed sites for new construction are rated according to these criteria, which include consideration of the range of minority housing opportunities available in the community. A site will ordinarily fail if it is within an "area of minority concentration" unless "sufficient and comparable" housing opportunities exist outside minority areas, or there is an "overriding need." This standard embodies both the prohibitory and affirmative mandates of the Civil Rights Act. It underscores the Department's dilemma, however, for the result is often to deny construction in neighborhoods which crave it, until neighborhoods which resist it acquiesce. The poor, the blacks, and the Hispanics are the short-term losers in this conflict.

This conflict has been unintentionally heightened by the administrative process which has gradually rigidified the format and narrowed the focus of the site selection decision. Once again this year HUD is struggling to make the process more flexible, responsive, and comprehensive. For instance, existing procedures and standards can be adapted to involve cities more fully and earlier in the planning process to expand the concept of "sufficient and comparable" opportunities and to promote the revitalization of minority low-income neighborhoods. Such adjustments could slow the deterioration of impacted areas and perhaps accelerate construction of low-income housing. But in other ways these same adjustments will make choices more difficult as we try to integrate more considerations into the decision-making process.

We must be cautious in the reassessment because we are dealing with high stakes which are as concrete as people's homes and as intangible as the concept of fairness. Reassessment also must be coldly realistic because litigation over site selection will continue no matter what adjustments are made. This is not necessarily regrettable, however. The courts have provided a well-mannered alternative to the streets for resolving social conflict, an invaluable function in this context.

Of course, the courts cannot, by interpreting the laws, dispel the concerns and prejudices that generate conflict over locating subsidized housing. This task is beyond both lawmakers and policymakers: Ultimately, it rests with the people who live in the Whitman Parks of our cities.

Protesting construction of low-income government subsidized housing, Whitman Park residents keep out trucks and workmen by blockading the construction site gates in their neighborhood.

Teaching Law

Frank H. Easterbrook '70

I teach law. Teaching is my second legal career. The first was appellate advocacy. I spent five years in the Solicitor General's office, briefing and arguing cases for the federal government in the Supreme Court. Many lawyers think the Solicitor General's staff has the most interesting legal job in the country. They are right. So why did I leave?

Teaching provides time to think, to study legal questions and find the flaws in your own arguments. An advocate's job is reactive, a teacher's contemplative. As a scholar, I can contribute to legal thought.

But what is legal thought? Surely it is not simply what a lawyer thinks. That is circular. Good lawyers, like good woodworkers, are skilled craftsmen; the technical skills can be taught. Lawyers also probe for ambiguities, treat facts (and received wisdom) skeptically, and are aware that their intuitions and first reactions may be misleading. A good undergraduate education teaches this much, though, and I have little interest in providing a series of examples to reinforce the message (or, worse, to help repair the damage done by poor undergraduate educations).

The law itself is or can be a discipline marked by more than the close examination of statutes and judicial opinions. If the existence of a subject were enough to create an intellectual discipline, the University of Chicago would have a School of Rodent Control. Is there greater justification for having a School of Law?

Law school often masquerades as a school for linguistic detectives. The usual method of legal analysis, as practiced in law reviews and—too frequently—in classes, is this: The teacher takes a case (or any other writing) and, by looking at the facts and the outcome, extracts a set of "values" (such as "privacy," "autonomy," or the like) advanced by the decision. (If, in the process, he can argue that the court reached the "right" result for the wrong reason, or for a hidden reason, he is gleeful.) With values in hand, he poses a different problem in which some of the values seem to cut one way and some the other. He totes up the values: Four values seem to favor outcome X and three outcome Y. Because four is more than three, he concludes that the case he has dissected compels outcome X. If, however, one of the three values in the lists for Y is very important (he will call it "fundamental"), he concludes that three is more than four and that outcome Y is proper. If he can adduce some casual empirical evidence in support of his preferred outcome, he will rest at peace, secure that law is a liberal art worth studying.

"Law school often masquerades as a school for linguistic detectives," says this professor. "I prefer a different approach, one more in the nature of scientific inquiry."

Practitioners of this method (the Supreme Court is among them) find that it can be used to solve almost any problem. Does the Constitution require the state to give an indigent defendant a free transcript of his trial? The Constitution says not a word about transcripts, but the Due Process Clause of the Fourteenth Amendment has led to rules having as a "value" the promotion of accuracy in fact-finding. The use of transcripts promotes accurate fact-finding. Therefore the Constitution requires the provision of transcripts.

I have never been comfortable with this approach. It mistakes the rule for its by-products. Any rule was designed to achieve some effects, but if all of these effects are translated into broader "values," and value transmuted into other rules, then any document is infinitely malleable. For example, I can show that the Third Amendment, which forbids the quartering of troops in private houses, bans superhighways. What "values," after all, does the anti-quartering rule serve? It secures the peace and quiet of homeowners; it also ensures property against arbitrary diminution at the hands of the state. Superhighways disturb the peace and quiet of homeowners and may reduce property values. If the highways are used by military vehicles, the case for unconstitutionality is complete.

An academic lawyer need not be content with an approach that concentrates on manipulating vaguely-defined values. I prefer a different approach, one more in the nature of scientific inquiry. An academic lawyer can search out abstract but powerful rules that yield testable predictions about the nature of legal doctrine. An example of such a rule is the proposition that people are (or act like) rational wealth maximizers. The world of law is full of uncertainties, risks, constraints. The legal scholar, like the economist, can study how people maximize their well-being or their wealth subject to these risks and constraints. This seems an especially apt task for the academic lawyer, for the laws themselves are constraints designed to alter risks or reallocate wealth. Working through the system using simple premises and deductive logic, the academic lawyer can pare away the apparently mystifying details of both legal doctrine and the conduct it regulates; if his predictions are supported by tests, he will have a claim to success. (The method doubtless requires a level of abstraction so great that it appears unreal, but that is no detriment. Occam's Razor is the maxim that suggests that the best explanation is the simplest. Most scientific inquiries assume certain unreal conditions. Newton's laws hold only in a vacuum that cannot be maintained; relativity modifies those laws in interesting ways, but

Frank H. Easterbrook '70 is an assistant professor of law at the University of Chicago Law School, where he teaches Corporations, Antitrust Law, Securities, Criminal Procedures, and a seminar on the Supreme Court. He formerly had served as deputy solicitor general of the United States.

only at speeds beyond our comprehension.)

This economic approach to law is not new. Jeremy Bentham suggested it long ago, but Bentham's style is so turgid that few could bear to read what he wrote. Works by Gary Becker, Ronald Coase, and Guido Calabresi in the early sixties revived the approach and established its considerable power. Practitioners now use economic analysis of law positively (i.e., to understand existing rules) as well as normatively (i.e., to suggest changes in the rules).

Is the economic approach to law useful to students learning how to practice a new discipline? Practical lawyering calls for the ability to negotiate, to draft, to recognize the limits of the plausible; the advocate must know how to turn debatable inferences to his advantage and how to appeal to a court's sense of fair play. A law school, on the other hand, has but a limited ability to teach these things. They are developed by practice, and lawyers have established an apprentice system following law school during which experienced attorneys attempt to pass on their skills. The comparative advantage of a law school lies elsewhere, in the realm of theory. A school can convey a way of looking at problems so that lawyers will be able to deal effectively with issues that could not be covered in school or that were not even perceived as problems when they were students.

An illustration from one of my courses may show what I mean. Evidence (such as a gun) seized by the police during a criminal investigation can be used against a defendant at trial unless the defendant shows that, more likely than not, the police violated the Constitution in making the seizure. But the facts about seizures often are disputed; inferences may be unclear. As a result, the police win almost all contested cases, for the judge will conclude that the defendant did not carry his burden of persuasion. Several groups accordingly argue that the burden should be higher—courts should require the police to show by especially convincing proof that the seizure was lawful. Otherwise, the argument concludes, the police will have too little incentive to obey the Constitution in making searches.

Is this persuasive? It is difficult to see how the matter can be resolved by toting up values, by inspecting earlier cases, or by poring over the debates of 1789–91. An economic analysis, however, provides tentative answers:

Assume that police and prosecutors have limited budgets. The new standard of proof requires the police to be more careful in order to obtain useful evidence; the higher "cost" of a search means that the police can buy fewer searches with their budgets. Fewer searches mean that the probability of convicting any given criminal is lower.

But does this mean more crime? Not necessarily. Prospective criminals look at the anticipated penalties in deciding whether to commit crimes. Assuming a conviction, anticipated penalty is the sentence times the probability of conviction. The new rule of evidence would decrease the probability of conviction, but judges could increase the sentences for those convicted. The result may be the same deterrence, but a system that is less fair because it heaps larger penalties on a smaller number of criminals. (It is no accident that the United States has both the largest number of procedural safeguards and the highest penalties of any western country.)

And for all of this, are searches more likely to be lawful? Not at all; the ratio of lawful to unlawful searches should decrease. In deciding how to conduct a search, the police will try to determine whether they can avoid costs by behaving lawfully. A standard that places a heavy burden on the prosecution means that many lawful searches will erroneously be labeled unlawful. The new standard thus reduces what the police have to gain by obeying the rules. The prospective difference between the results of lawful conduct and those of unlawful conduct has shrunk. It is as if the police sought to deter bank robbery by rounding up bank patrons at random and forcing them to prove they were not robbers. Such a rule would reduce the number of people who walk into banks, but of those actually found in banks a greater percentage would be robbers. The same holds with the rule on searches: There will be fewer searches, but a greater percentage of the searches that actually occur will be unlawful.

It is easy to multiply the examples of insights provided by an economic approach to law. The implications of the argument I have just given are testable. But whether the implications are testable or not, similar arguments provide powerful insights into how rules are created, evolve, and survive—and that should be the first task of an academic lawyer.

Law and the Life

Many ethical questions which were once resolved by medical experts are now being relegated to the courts: When does life begin? What is the legal definition of death? What are our obligations to the unborn child? the dying?

The decision to go to professional rather than graduate school came late in my time at Swarthmore. I hoped that I would find in the law a means by which the basic concerns—about fairness, the allocation of scarce resources, the struggle for freedom and personal self-determination, and the like—that had so fascinated me in the study of history and economics could be brought to bear on contemporary problems. I have not been disappointed.

When I entered law school in 1966, the passionate concerns of the civil rights and anti-war movements that had characterized my years at Swarthmore were pulsing also through Yale's more somber halls. Work with teachers and fellow students on civil rights in the South, resistance to the draft, and urban problems (such as those on our doorstep in New Haven) showed me that even the skills of a legal apprentice could be useful to people. I frequently found myself equally caught up in subjects for their intellectual stimulation or simply because of the masterly way they were taught.

One area that I found particularly fascinating was the intersection of law and the other professions. The issues of personal responsibility and the limits of professional expertise which confront society as a result of the use of psychiatric concepts and findings in the legal process are examples. An interest in this subject led me to a clerkship after graduation with Chief Judge David Bazelon of the U.S. Court of Appeals for the District of Columbia Circuit, who has pioneered in this field for nearly three decades. The experience in his chambers provided constant reminders about the important roles played in determining people's welfare by things as abstract as theories of human behavior. Judgments about freedom for mental patients, arrangements for families experiencing disputes, and the responsibility of criminal defendants for their acts often seem to turn more on the wizardry of mental health experts than on the usual controls of law in a free society.

Since I went from the clerkship to teaching and research, I have been fortunate always to have the freedom to explore those issues that arise on the frontier of law and the life sciences, to which I was first introduced by my teachers at Yale and Judge Bazelon.

The area that interests me is unusually suited for exploration in a university, although it part of lawyers' work in other settings as well. Some of the issues would, of course, arise in a law practice that handled health law and medical malpractice litigation. In the past few years, for example, claims for compensation have been presented—and are now being recognized—by the parents of children (and now on behalf of the children themselves) born with genetic diseases that could have been diagnosed before birth. These cases present challenging philosophical issues, since the only way most inborn conditions can be "prevented" at present is through abortion or pregnancy avoidance. Should a child, whose birth is ineluctably linked to the suffering for which he or she seeks redress from the professionals who failed to warn the child's parents of the risk, be precluded from recovering damages because avoidance of the harm would have meant that the child would not exist? I happen to think that the law provides good analytical tools for deciding such questions, but several courts confronted with such cases threw up their hands and declared the question too "metaphysical" for judicial decision.

Other issues on the law and life sciences frontier appear in the legislative process. In the early 1970's, for instance, when the drama of heart transplantation focused a spotlight of attention on patients whose heart and lung functions were artificially maintained so that they could become organ donors, a new definition of death became necessary. Although ventilators and other means of support might mask the absence of spontaneous heart and lung action, the common law held that a person is alive as long as respiration and circulation continue. In 1972, Dr. Leon Kass and I proposed a model statute that recognized the irreversible cessation of total brain functioning as an alternative basis for determining that death has occurred when artificial means of support preclude reliance on the traditional bases for diagnosing death. Legislation on "brain death" has been adopted in twenty-five states, and courts in four jurisdictions have updated their common law definitions to the same effect.

People who "make law" in administrative departments and agencies and quasi-governmental bodies are also faced with an increasing number of difficult and important questions which are as new as recombinant DNA and as old as the natural cycle of life and death. Though the process of experimentation with human subjects has received much scholarly and public attention since the revelations at Nuremberg, it has been subjected in the past decade to a virtual explosion of governmental regulation. At the heart of this is an issue that is basic to society: When may we collectively expose a few people to risks and burdens to benefit themselves, the larger society, or "knowledge" itself? Are there times when such exposure is acceptable although the individuals at

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Alexander Capron '66 is a professor of law at the University of Pennsylvania. He recently began a two-year leave of absence to direct the President's Commission for the Study of Ethical Problems of Medicine and Biomedical and Behavioral Research in Washington, D.C.

Sciences

Alexander Capron '66

risk have not consented? If they do consent, what are our obligations if they are injured in the very ways that were anticipated? Or in ways that no one could have foreseen?

The need to ration scarce resources is familiar to us all in many contexts, but in few is it as pressing as in the life-and-death choices presented by the life sciences. Society often turns to the law for ways of mediating and resolving such problems. Similarly, basic questions about self-determination are manifested in relationships between health professionals and patients (and, one might add, those between lawyers and clients). This facet of the life sciences leads one to examine freedom and its limits and to ponder the possibilities for, and barriers to, communication between those who possess expert knowledge and those who may need it.

I find great excitement in exploring problems such as these at a university—working closely with physicians, psychologists, sociologists, and philosophers, and with students from a variety of disciplines, some seeking ideas to guide their own behavior as future professionals, others thinking of the ways in which these issues should be reflected in the rules by which our country chooses to govern itself, and still others interested in the illumination these real and vivid problems cast on timeless questions about human nature and society. Right now all of these concerns are part of my life as I shed my academic mantle to play a role (albeit a small one) in formulating governmental policy on a broad range of issues arising from developments in biology and medicine.

Legal Ethics: Balancing

Establishing a new code of ethics may help resolve moral dilemmas confronting lawyers every day.

The legal profession has an ambiguous ethical reputation. In one part of folklore, lawyers are duplicitous and tricky—"hired guns" who act as "mouthpieces" or seek out "loopholes." In another part of folklore lawyers are better regarded. Lawyers act on behalf of unpopular clients and causes when no one else will speak for them. Lawyers will insist that the law be observed to the letter and not merely in spirit.

Both parts of folklore are in some sense true. A lawyer retained to represent a cause he does not personally believe in *is* a hired spokesman. A lawyer who insists that his client get full technical measure of his legal rights *does* open and close legal loopholes. One client's champion is the other client's adversary.

By its nature, the practice of law thus involves profound conflicts. As an advocate a lawyer represents a client but also is an officer of the court. The theory of the adversary system of trial is rather like the theory of the market in Adam Smith's formulation: Through the interaction of selfish purposes of private parties, a common good will emerge. However, just as there is market failure, so is there failure of the adversary system. What should a lawyer do, as officer of the court, when he discovers that his efforts as advocate will almost certainly yield an unjust result—for example, if his client is bent upon perjury that probably will not be detected? An extreme variation of this dilemma is the question that is put to every student by his non-lawyer friends: How could you defend a person you know to be a murderer?

Geoffrey C. Hazard, Jr. '53, professor of law at Yale Law School, was recently appointed associate dean of the Yale School of Organization and Management.

Lawyers perform functions other than that of advocate, and these other functions can involve other conflicts. As a negotiator, for example, a lawyer is bound to avoid making misrepresentations but he or she is not ordinarily responsible for seeing that the result of the negotiations is "fair" or "just." The theory of negotiations assumes that the other party can look after his or her own interests and can decide what the deal is worth personally. Yet it can be evident to a lawyer that the other side has gravely misapprehended the implications of a particular term of a proposed contract. If that happens, what should the lawyer do, especially if alerting the other side will impose a heavy cost on his own client?

Still other conflicts arise from the lawyer-client relationship. What is a reasonable fee for a given professional service, especially if the lawyer was uniquely qualified and has achieved a very favorable result? (It is no easier to answer this question than to state what is a reasonable fee for brain surgery.) What if the client wants to carry out a grossly unfair tactic against a third person whom the lawyer knows and respects? Or wants advice that could assist in cheating the government? What if the lawyer is in a situation with conflicting obligations to two different clients, for example where he has represented a partnership and the partners then suffer a falling-out?

These and many other similar questions confront lawyers every day in the practice of their profession. The questions have to be resolved one way or another, for a lawyer once committed to representing a client cannot simply stop the music and leave the dance. Yet the questions rarely admit of a clear-cut answer. Lurking in all such questions are the risk of betraying the client (or at least of defeating his expectations) and the risk of befouling the system of justice or damaging the legitimate interests of others.

It is the function of the lawyers' rules of professional ethics to help resolve these questions—to state appropriate points of balance between the competing interests at stake. For the last two years, as consultant to a special committee of the American Bar Association, I have been involved in redrafting those rules. The drafting project will continue for another year or so, at which time a proposed code of rules will be offered for adoption.

The rules of professional ethics are not the only norms relevant to a lawyer's professional conduct. A lawyer, like all citizens, is governed by the law at large, including criminal law and the law of contracts. A lawyer is legally answerable for malpractice and abuse of process. Special statutes govern the conduct of lawyers; for example, regulation of the circumstances in which a former government lawyer may represent private clients against the government. Equally important, a lawyer may use a large measure of discretion in the extent to which a client is to be served. Personal morality is, therefore, a major ingredient in professional ethics. All this said, however, the rules of professional ethics are a large part of the normative framework within which a lawyer practices.

Originally the rules of professional ethics in the law were a matter of custom in the legal fraternity. Occasionally courts referred to these conventions or stated them authoritatively as law. For example, there was an elaborate English decision in 1742 dealing with whether a lawyer could or should reveal a client's plot to defraud the client's nephew out of his patrimony—facts that could well have inspired Dickens. In the middle of the nineteenth century there was a cause célèbre involving the question of whether a lawyer could argue for the innocence of a defendant (a butler) accused of murder, after the defendant had confessed his guilt to the lawyer. The decisions in these cases were pivotal in the evolution of legal ethics. However, such formal pronouncements were few and far between. Legal ethics was mostly an oral tradition.

Competing Interests

Geoffrey C. Hazard, Jr. '53

This tradition was transformed in 1908. In that year the American Bar Association promulgated a set of written precepts known as the Canons of Legal Ethics. With some revisions these precepts stood until 1969 as the more or less official rules of ethics of the legal profession—"more or less" because the Canons were technically only by-laws of the American Bar Association, which was and is simply a private association of lawyers. The Canons had the force of law only as and because they were relied on by courts.

In 1969 the American Bar Association adopted a new Code of Professional Responsibility to replace the Canons. This Code represented a major revision in many substantive respects; for example, on such subjects as the contingent fee, advertising by lawyers, and the rules governing client confidentiality. The Code represented also a major change in the legal status of the rules of ethics. Written as a statute rather than as a body of precepts, the code was intended for adoption as legislation in the fifty states. This intention was substantially fulfilled in that the ABA Code of Professional Responsibility has been adopted, often with some important emendations, in virtually all the states.

Nevertheless, only ten years after this major change in lawyers' ethics, a new code is being drafted. Given the conservativeness of the bar, many people may wonder how such a major reform effort came to be undertaken. Indeed, there is strong resistance to the new proposal precisely on the ground that it comes too soon. (Of course, if we waited another ten years, the present rules would achieve further respectability through increased familiarity. There is never a good time for major reform.)

The answer to the question "Why now?" is complicated. A simple answer is that the present Code of Professional Responsibility was obsolete when drafted. Its provisions were contrary to the plainly foreseeable import of Supreme Court decisions on the right of access to counsel. Astonishingly, the 1969 Code said virtually nothing about the special problems facing a lawyer whose client is not an individual but an organization—such as a corporation or a government department. Another simple fact is that the 1969 Code evaded certain questions—most of the questions posed at the beginning of this article, for example. The explanation for these obsolescences and evasions seems obvious: The 1969 Code was drafted with the primary aim of making it acceptable to predominant sentiment in the bar.

Times have now changed, or rather the changes already in motion in 1969 have overtaken us. Lawyers can no longer take refuge in rules of ethics that fudge on vital issues. That refuge is being destroyed by regulatory authorities such as the Securities and Exchange Commission (whose regulations affect corporate lawyers); by intensification of conflicts with clients that require enlightenment by coherent rules; and by burgeoning malpractice and abuse of process liability, which lawyers can minimize only with the help of more definitive ethical guidance.

More important, new voices are being heard in the legal profession itself. The voices are those of lawyers genuinely concerned about wider public access to legal services and to legal aid for the indigent; of lawyers for corporations who are genuinely concerned about where their loyalties should lie when conflict arises with corporate management; of lawyers who believe the proper service of a client does not necessarily entail exacting every possible advantage from another party; of lawyers who acknowledge that practicing law involves not simply service to clients but also direct dedication to justice and the public good.

These concerns, as well as traditional loyalty to clients, have informed the new proposed Model Rules of Professional Conduct. A discussion draft was published in January of 1980 and will be on the table until at least August of 1981. Whether the proposed Rules will be adopted by the ABA remains to be seen. If they are adopted by the ABA, it remains to be seen whether they will be adopted by the states to replace the existing Code. As consultant and draftsman, given the difficulty of getting assent to rules on such a delicate and complex subject, I think the proposed Rules are extraordinarily good. At the least they will change the dialogue over professional ethics in the law. At best they could change law practice itself, if not into a Platonic ideal then into a closer approximation of its ethical ambition.

Schroeder, Shea, Peters, Grant

Felice Klau Shea '43: She had to run for the job.

JUDGES

What used to be novel is quickly becoming old hat as women break into the male-dominated world of judges.

During the seventies, female attorneys became relatively commonplace, but very few women managed to break into the male-dominated world of judges. In 1975, years after the dawn of equal opportunity employment in other professions, judges at the appellate level in both state and federal courts numbered 921 men and eleven women. That year Mary Murphy Schroeder '62 became the twelfth. She and Felice Klau Shea '43, who became a judge in New York City's Civil Court in 1975, share the honor of being the first Swarthmore women on the bench. In 1978 Ellen Ash Peters Blumberg '51 was appointed to Connecticut's Supreme Court, and in 1979 Isabella Horton Grant '44 was appointed to San Francisco's Municipal Court. How did these pioneers reach the bench? With daring, persistence, hard work, and good timing.

Judge Schroeder says: "I did not enter Swarthmore with any notion of becoming a lawyer, much less a judge. My first professional goal was to be a journalist, but I gave up that ambition because I did not like to interview people or to write under pressure. (It was with some chagrin that I discovered, following my graduation from law school, that lawyers do just those things.)

"The first appellate court opinions I ever read were in Professor Pennock's course in constitutional law. The law was not so popular a field then as it has become in recent years, and it was a particularly unusual choice for women. In my class of 150 students at the University of Chicago Law School, there were six women."

After law school, Mary Schroeder joined the Civil Division of the U.S. Department of Justice and proceeded to win twenty consecutive cases.

She moved to Phoenix with her husband, Milton Schroeder, who taught law at the Arizona State University Law School. At first she had a difficult time finding a job, but finally she joined Lewis & Roca, a large Phoenix firm. Her practice thrived. In 1973 she argued before the U.S. Supreme Court (Memorial Hospital v. Maricopa County) and won. As a result, the Court forced Arizona to drop its residency requirement for health care and make services available to all its poor people.

The next year, when she was 34 and had been out of Swarthmore for thirteen years, she was appointed to the Arizona Court of Appeals as the youngest appellate judge in the nation. In 1979, President Carter appointed her to the United States Court of Appeals for the Ninth Circuit. She hears appeals from federal courts throughout the western Rocky Mountain States, the West Coast, Hawaii, and Alaska. She notes with pleasure that her days as a novelty "lady judge" are just about over: "I'm one of three women on the bench of the Ninth Circuit and one of eleven women in federal appellate courts alone.

"My Swarthmore experiences taught me that we should not be afraid to follow unusual paths. Because of that experience, and a large helping of good fortune, I have been in the right place at the right time. The relatively few women who came to the law in the mid-sixties came after the worst of the discrimination and ahead of the crowd. As a result, many of us seem to have shot up like corks in a bottle. It is up to us to make things better for those who come after."

Unlike the other Swarthmoreans, Felice Shea was not appointed to a judgeship; she ran for election. She submitted an application to a non-partisan screening committee which subsequently investigated her. She survived the screening and was one of three attorneys recommended by the committee. The Democratic Party in New York City chose her as its candidate in 1974 and the *New York Times*, the *New York Post*, and the New York City Central Labor Council (AFL-CIO) supported her. The Citizen's Union rated her "Highly Qualified and Preferred," and she was the only candidate not already a sitting judge to receive the highest rating from the Association of the Bar of the City of New York.

Because of New York's strict election laws, she had to campaign in a style that could throw a regular politician into a tongue-tied blither. In New York, the law forbids candidates for judgeships to know who contributes to their campaigns. Candidates are also prohibited by law from discussing issues that might come before them.

At least she could talk about her background. She graduated from Swarthmore

Mary Murphy Schroeder '62: "As a result, many of us seem to have shot up like corks in a bottle."

Ellen Ash Peters '51: from a chair to the bench.

Isabella Horton Grant '44: "It's never boring."

as a political science major, took her law degree at Columbia, and spent eleven years working for the Harlem Branch of the Legal Aid Society in New York. She handled all kinds of cases for people who couldn't afford lawyers—and spent many long hours in courtrooms.

Judge Shea started with an assignment to sit in Family Court, where she dealt with problems like spouse and child abuse, neglect, juvenile delinquency, and paternity. Later, as an Acting Justice of the Supreme Court, she tried personal injury, contract, and matrimonial cases. Among the most difficult cases, she found, were those of child custody, and she has heard other judges agree. As one of several experts interviewed by the *New York Times* about the child custody case in the movie *Kramer vs. Kramer*, she said, "It's too bad that the legal profession was portrayed as fifty years behind the times." Most judges no longer assume automatically that a child is better off with its mother, she explained, and they never assign custody without talking to the child.

Judge Shea had made news before, on the first page of the *Times* metropolitan section when she presided over a case in which a wife agreed to pay $1,600 per month alimony to her husband, the first such award in New York State. (Two months before her decision, the U.S. Supreme Court struck down all state laws prohibiting alimony payments for men because the Court decided such laws violated the 14th-amendment guarantee of equal protection under the law.)

Judge Shea has been transferred among courts frequently and thus far has sat on four. Since June, 1980, she has been trying felony cases in the Criminal Term of New York State's Supreme Court. To the non-professional, her courtroom sounds full of tension and heartbreak, and she says this can be true. Because it deals with the problems of people—marriage, divorce, child custody, injury, money, and crime—"law is very close to the heartstrings."

In 1974, while Felice Shea was gearing up her campaign, William O. Douglas resigned from the Supreme Court. Would President Ford appoint a woman to replace him on the Supreme Court? The legal community buzzed with speculation and one name mentioned frequently was that of Ellen Ash Peters, then a law professor at Yale. Ford appointed John Paul Stevens, however, and Ellen Ash Peters, now Ellen Ash Blumberg in private life, missed that particular chance to be the first woman on the U.S. Supreme Court.

She has been the first woman elsewhere often enough. She graduated from Swarthmore with Honors, was elected to Phi Beta Kappa, and won the Oak Leaf Award. Three years later she finished first in her class at Yale Law School. She clerked in the Second Circuit U.S. Court of Appeals, taught for a year at Berkeley, and in 1956, only two years after she had been a student herself, she started teaching law as an assistant professor at Yale. In 1964 she became the first woman to hold a full professorship at the law school, and, in 1975, she became the first woman to hold an endowed chair in the law school and only the third woman to hold an endowed chair in the history of the university. In 1978, after Governor Ella Grasso nominated her for the Connecticut Supreme Court, she was confirmed by the State Legislature and sworn in as the first woman on its bench.

As both a judge and a scholar, Peters is intrigued by some of the ethical problems of the law, such as when a judge can interpret a law beyond its specific wording. In the U.S., she explains, courts have the option of going beyond, or "ignoring"—depending on your point of view—the letter of the law, and deciding a case according to their view of the law's purpose. For example, her court heard the case of a man suing the employer who had fired him. The Connecticut Legislature had recently passed a law describing procedures for firing some employees, but the law did not specifically apply to this employer. The employee wanted to prove that the real reason he had been fired was that he had reported the company's violations of local food and drug statutes. Although the statute said nothing about such a situation, the court decided that the law's overall purpose was to protect employees, not to allow employers to fire them for blowing the whistle, so they affirmed the man's right to sue for his job and back wages. Just how much of this kind of interpretation should the courts do?

"We seem to be moving into a more conservative period than we've known for a while," says Peters. "Will the Supreme Court uphold what we now consider to be basic civil liberties if the mood of the country swings so that the majority of Americans believe its policies in that area are too liberal?"

Another ethical question strikes the judge right where she lives—literally. Her husand, Phillip Blumberg, is dean of the law school of the University of Connecticut, and she finds it terribly frustrating to sit across the dinner table from one of the best legal minds in the state, knowing that it would be a breach of professional ethics for her to utter one word about a present or upcoming case. "It was difficult at first, but then we managed to fall into a pattern of conscious avoidance of almost anything before the court."

The newest woman judge in the Swarthmore family is Isabella Horton Grant '44, who went through Swarthmore without much interest in attending law school. She graduated Phi Beta Kappa with High Honors in history, earned a master's in economics from U.C.L.A., and went to work for the Institute of Industrial Relations at U.C.L.A. There she began toying with the idea of going to law school. She resigned after a year and drove her uncle, the actor Edward Everett Horton, to New York where he was to begin a tour in his perennial role in the play *Springtime for Henry*. Grant went on to spend the summer studying political theory at Oxford. In the fall she returned to New York to enter Columbia Law School. (A Swarthmore classmate there was Felice Shea.)

After graduation she returned to Los Angeles and worked for the Office of Price Stabilization.She wanted to be on the legal staff, but the agency was more interested in her economics background. In her spare time she studied for the California bar exam. When Uncle Edward went to San Francisco to play in *Nina*, she joined him and finally began her legal career in that city with the firm of Livingston and Feldman. Ten years later she was made a partner and, by 1979, she was the senior partner of Livingston, Stone, Kay, and McGowan. It was a comfortable life. "Then

I had some choice as to my schedule."

Her lifestyle changed when she came on the bench. "Your goal becomes to get through the calendar," she explains. She is seated by 8:30 in the morning and must arraign about 150 people—before she can break for lunch. In spite of the pressure for speed, she has to give each person a lot of individual attention, and sometimes language barriers make the process even more cumbersome. Judge Grant recalls one morning when she had to use three different interpreters—Spanish, Chinese, and Vietnamese.

California law puts an additional constraint upon her. She will not be paid, and under some circumstances her staff will not be paid, unless she decides all her cases within ninety days. Fortunately, she has not had trouble meeting the deadline.

Becoming a judge meant changing more than lifestyle. She had to change her thinking, stop calculating like an advocate, and start weighing arguments to make decisions. California eases the transition by sending its judges to a judges college during the summer. Not everyone can make the change, but Judge Grant is managing gracefully and is very glad she accepted the appointment. "It's never boring." She finds that the hardest cases to decide are unlawful detainers, a kind of landlord-tenant dispute. Housing is scarce in San Francisco and penalties for not paying rent are severe. Judge Grant sometimes finds herself picking her way through the unusually tangled intricate law facing the possibility that she may have to turn a family out into the street. The first case she heard as a new judge was such a case. The tenant, however, showed up in court with the rent money; the landlord accepted it; the case was dismissed —and Judge Grant admits she was very relieved.

It can be a lonely life, she says. She's alone at the bench all day and she misses the hallway chats with colleagues which she enjoyed as an attorney. She tries to have lunch with other judges, but their schedules make arrangements difficult. Sometimes they'll peek into her courtroom, take one look, and just leave a message.

Judge Grant is part of a tide of women reaching the bench at last. Of the twenty municipal judges in San Francisco today four are women, and another woman is running for election to a fifth judgeship. The women pioneers on the bench couldn't put their goals less glamorously, or more precisely, than Judge Grant's summary of her situation: "Here, having a woman judge is very old hat."

CLERKS

Last term ten percent of the Supreme Court clerks were Swarthmore graduates.

In December 1978, Paul L. Shechtman '71 received one of those breathtaking phone calls most of us know only from fantasies: "The Chief Justice of the United States Supreme Court would like to speak to you."

Paul was stunned. He had applied to clerk for the Chief Justice but the application process had dragged on for more than a year and he was far from expecting a call. On the phone Chief Justice Burger offered him the clerkship and Shechtman accepted immediately. The conversation lasted only a minute, and after it Shechtman was a member of one of the most exclusive legal societies in the country —the thirty-two young attorneys picked from hundreds of applicants to spend twelve months in the Supreme Court.

In 1979–80 the clerks included two other Swarthmoreans, Eric B. Amstutz '75, who clerked for Justice Potter Stewart, and Janet M. Cooper '68, who clerked for Justice Thurgood Marshall. Three out of thirty-two clerks is an impressive presence, especially for a school as small as Swarthmore. (Harvard and Yale each contributed five alumni, Princeton two, and seventeen other schools—including Amherst, Brown, and Radcliffe—sent one graduate each.)

Paul's career had taken a round-about path to the Court. After graduating from Swarthmore with High Honors, he studied economics at Oxford for two years as a Rhodes Scholar. He returned to Pennsylvania to the Glen Mills School, a private institution for delinquent boys, where he taught remedial math, remedial reading, and fishing. A year and a half later he went to work as a staff economist at the Senate Budget Office and commuted from Washington to Swarthmore twice a week to teach macroeconomics. He was torn between economics and law but entered Harvard Law School in the fall of 1975. At the end of his second year, as is the custom in law schools, he applied for clerkships in lower courts. He was accepted by Judge Marvin Frankel, whom he describes as a "wonderful trial judge," as a clerk in the Southern District of New York during the 1978–1979 term.

Paul had never set foot in the ornate Supreme Court building until he arrived for work. Bonnie Yochelson '74, his wife, liked to walk with him to the Court. (She works at the National Gallery of Art and is completing her Ph.D. in art history.) Early in the term, a Court guard advised her, "Say goodbye to him now. You won't see him for the rest of the year." His hours turned out to be not that bad. "I worked hard, but nothing unbearable," says Paul. By working hard, he means staying at the office until seven, putting in another hour at home, and working a total of a day in bits and pieces over the weekend. "But I did see Bonnie," he says.

Paul happened to arrive during Justice Burger's vacation. After a couple of days, when he still had never seen his boss, the suspense drove him to the Court's information film for tourists to watch the sequences on the Chief Justice.

Now Paul remembers his first memo with amusement. It was intimidating to be only a year out of law school addressing a memo to the Chief Justice of the United States and four of his distinguished colleagues. "I must have spent twenty hours working on what would later take me about half an hour to write."

It was difficult also, says Paul, to know what to do the first time the Chief Justice called him in and said he'd read Paul's memo but did not agree with it. Soon Paul discovered that Chief Justice Burger makes no effort to pick clerks who share his philosophy and that he thrives on arguing with them about legal issues. "It was like a really good Swarthmore seminar," Paul says, "except that at the end, he votes."

While Paul worked at the Court, the controversial book, *The Brethren: Inside the Supreme Court*, appeared. This portrait of the Court had been assembled by journalists Bob Woodward and Scott Armstrong from interviews with former clerks and staff members; the Justices themselves had declined to be interviewed. In the storm following publication, no journalist made any attempt to talk to Paul. The only person who called to talk about the book was his mother.

Compared to Paul, Eric Amstutz made a more direct trip to the Court. After graduating from Swarthmore with Highest Honors in political science, he went directly to Yale Law School. At the end of his second year, he was accepted as a clerk by Judge Gerhard Gesell of the United States District Court for the District of Columbia for the 1978–79 academic year. After his

From the top: Paul L. Shechtman '71, Eric B. Amstutz '75, and Janet M. Cooper '68. After the furor over The Brethren, *all are guarded in discussing their experiences in the Supreme Court.*

last year of law school he applied to all nine Justices of the Supreme Court: Justice Stewart called him in for an interview and hired him about a week afterwards. The experience was almost a shock to him. "In law school we developed such a great awe and respect for the Supreme Court, I just couldn't believe I was there."

He spent a large part of his time reading over the requests for the Court to hear a case, called petitions for *certiorari.* More than three thousand of these flood the Court every year, but it has time to hear fewer than ten percent. Eric and his fellow clerks sorted the petitions and wrote memos summarizing and outlining them for Justice Stewart, who reviewed the memos, looked over each of the petitions himself, and personally decided which he would vote to accept.

The Justice talked extensively to his clerks, bouncing ideas off them. "One of the pleasures of the job was Justice Stewart's openness," Eric says. "Unless he was extraordinarily busy, we could step into his office and ask him a question."

After watching Justice Stewart at work for a year, Eric warns against under-estimating the task of a Supreme Court Justice. Although the general public may think of the Supreme Court as a serene refuge for meditation, Eric says, "It's a hard job—there's just so much work." Eric himself rarely left before 8:30 or 9:00 p.m. when the Court was in session, but in spite of the long hours, he enjoyed the work. "You couldn't believe the time had gone," he says.

Janet Cooper arrived at the Court with an unorthodox background, which she thinks may be one of the reasons she was selected. After graduating with Distinction from Swarthmore, she earned an M.A. in English literature from Stanford and went to work on the assembly line of an electronics factory in Santa Clara County, California. Next she took an office job where her co-workers were already members of the unresponsive Office and Professional Workers Union. She and some other dissatisfied employees formed a rank-and-file caucus that became powerful enough to change union policies and structure. She was eventually elected shop steward and vice-president of Local 29.

In her union work she encountered many lawyers and watched much legal negotiation. Most of the labor lawyers she encountered did not have backgrounds as union members, a deficiency she considered a handicap. Realizing she was a union member who could go to law school, she entered the University of California at Berkeley in 1975. There she discovered other areas of law that interested her and decided not to specialize exclusively in labor law.

After law school she spent an extremely productive year clerking for Judge Shirley Hufstedler at the United States Court of Appeals for the Ninth Circuit. (Judge Hufstedler is now Secretary of Education.) The Judge took seriously her responsibility to teach clerks and, in spite of a demanding schedule, she discussed Janet's first memos line by line, suggesting refinements. Janet then went to clerk for Supreme Court Justice Marshall, whose work as the chief lawyer for the NAACP and the architect of its strategy to desegregate schools she admired. When she arrived at the Court, she was suprised to hear of his other accomplishments, such as helping several African countries gain independence.

Because the Court must keep its inner workings confidential, the Justices discuss cases only with each other and with their clerks. While Janet had the privilege of many hours of discussion with Justice Marshall, the confidentiality of the Court cramped her social life. Although she explained to her friends that she could not discuss how a decision was reached, what any of the Justices said about a case, or even whether she as a clerk had worked on a particular case, some acquaintances kept pressing her for details until she had to avoid seeing them.

She felt an awesome pressure to work carefully. Part of this sense of responsibility came from reading the pounds of petitions that arrived in each day's mail. "You see again and again that people believe that if only the Supreme Court would hear their problem, justice would be done at last and everything would be all right."

In some ways, the clerkship proved to be a rare intellectual luxury, says Janet. She was able to spend as much time on a case as it took to make the best possible opinion. "As a clerk you can exhaustively research every possible angle and you can prepare endless drafts. As a lawyer in private practice you can't always do that because you have a responsibility to your client who is paying for your time; you have to be ruthlessly efficient."

After her years of clerking, Janet does not aspire to be a judge. "You can't choose what you do; you have to hear the cases that come before you. And you have to make some unpleasant decisions. Even though your heart may go out to the people before you, you have to make some decisions that aren't 'fair' in a humane sense, but are legally right."

As the term for the three clerks ended in the summer of 1980, they came down from the Olympus of American justice. Paul became an assistant to the head of the criminal division of the Department of Justice, and arranged to join the Southern District of New York U.S. Attorney's office in 1981. Eric will join a private firm, and Janet became an associate in the new D.C. law firm of Califano, Ross & Heineman. They are all guarded in discussing their experiences on the Court, especially after the furor over *The Brethren,* but all agree that the year was a remarkable opportunity for post-graduate education.

HURON

Changing the discriminatory hiring policies of Alabama state troopers was a tall order for a fledgling lawyer.

Douglas B. Huron '67 was young when he clashed with the state troopers of Alabama. He had been out of law school only eighteen months, had just turned 26, and was holding his first job as a lawyer. It was the winter of 1972, and the U.S. Department of Justice sent Doug into Alabama to prosecute the troopers for racism.

"For decades the state troopers were the most visible symbol of white supremacy in Alabama," Doug reminisces. "In the 1960's George Wallace deployed them from the schoolhouse door to the Selma bridge to try to halt the forces of change. Given this history, the notion of becoming a trooper was simply alien to most blacks in Alabama. To change this, the system needed a jolt."

The Justice Department intended that part of the jolt would come from Doug. He had majored in political science at Swarthmore, graduated from the University of Chicago law school in 1970, and gone to work for the Civil Rights Division at Justice. As his first big case, the Department assigned him to the Alabama dispute.

The suit began on January 3, when the NAACP filed a complaint accusing the troopers of discriminating against blacks in hiring. Ten days later the judge ordered the Federal government to participate, and Justice immediately joined ranks with the NAACP.

What Doug needed was more than a courtroom victory. "It matters little whether a judge says you are right or wrong; what is critical is what the judge orders the other side to do."

The case was to be tried before the legendary Judge Frank Johnson. "He was George Wallace's longtime nemesis and the author of more progressive civil rights opinions than any judge in the country, but he had a reputation as a demanding judge, even an intimidating one." Johnson justified his reputation at the outset, setting the trial date for February 7, which gave Doug barely three weeks to prepare.

"Fortunately help was at hand," Doug remembers. Representing the NAACP was Morris Dees, founder of the Southern Poverty Law Center, a man with a "fertile and creative mind" whom Doug describes as a "charming millionaire."

"By the trial date, Dees and I were ready." Or so Doug thought. "I was formally introduced to Judge Johnson in his ornate courtroom. We submitted our documents and I began to question our research analyst who had studied the troopers' hiring statistics. Suddenly the judge interrupted. He demanded his copy of the exhibit under consideration. I stammered that I thought we had provided a copy to his clerk. 'Well, I don't have it, and I want it *now*!' he bellowed. I described an erratic pirouette around the courtroom, searching for the document. In desperation I snatched Dees's copy and presented it to the judge's clerk. My introduction to Judge Johnson was now complete."

Sobered, Doug went back to presenting his case. To him it looked clear enough. Of the 650 Alabama state troopers and officers, 650 were white. The force had never hired a black trooper in its thirty-seven-year history. Of the 300 support personnel, such as radio operators, secretaries, computer specialists, and so on, all were white and no black had ever held one of those jobs.

Not many blacks had applied for state trooper jobs. Most of those who had were screened out by a written test. The few who squeaked by the test had been eliminated during an oral interview before an all-white panel. Doug and the NAACP argued that the tests should not be used because they did not measure the abilities needed by troopers.

Judge Johnson kept the trial moving rapidly, and Doug and Morris Dees finished their arguments by early afternoon. The State of Alabama offered only one witness.

"Ordinarily, judges take weeks, even months, to decide important cases and they require volumes of papers to be filed by both sides. To speed things up, I volunteered that we could have our post-trial brief ready in a week. To my surprise Judge Johnson said he did not need one. Then the lawyer for the state said that a quick ruling would be helpful; Alabama needed new troopers but the judge had forbidden any hiring until his decision.

"'I can tell you what I'm going to do,' said Judge Johnson. And he did—right on the spot. He found the Alabama state troopers guilty of systematic racial discrimination in employment. The remedy? Johnson ordered the state to employ one qualified black for each white hired until the force was 25% black, like Alabama's population.

Douglas B. Huron '67: "The system needed a jolt."

"The state officials were stunned. But then so was I. Judges virtually never rule from the bench in important cases. A bench order requiring strong, affirmative relief was even more extraordinary. It will not happen to me again.

"Today the Alabama troopers—formerly all white—employ more blacks in both absolute and percentage terms than any force in the country. The new troopers are qualified and perform well, as the head of the Department of Public Safety testified a few years ago. And the process is irreversible: Black kids see black troopers and can imagine themselves in the job. I went on to bigger cases at the Justice Department, but none more satisfying."

* * *

What has become of Doug Huron? "In early 1976," he says, "I heard that Morris Dees had become chief fundraiser for Carter's presidential campaign, so I gave Morris a call. The campaign hired me, and nine months later I was working in the White House Counsel's office, where I spent three and a half years.

"Then last summer I took a leave from the White House to work for the President's reelection committee.

"Now the campaign is over, the right has won big, so I'll be leaving the Federal government for the first time in my legal career. It should be interesting to find out what private practice is like—and to jab occasionally at the new regime."

"It's a life of contention, detail, and long hours"

LEWIS C. BOSE '39

BOSE

What started as an offer to draft a legal memo for his community turned into a career in education law and legislation.

Lewis C. Bose '39, a practicing lawyer in Indianapolis, Indiana, since 1945, is married to Charlotte Hofmann, Swarthmore '42. They have five children—two of them engineers, one a doctor, one a graduate of Harvard Business School in production management, and a daughter, married to a career Army officer. Has he encouraged any of them to become lawyers? "No, I didn't recommend the law to any of them," says Bose. "It's a life of contention, detail, and long hours—a choice not to be forced on anyone."

Bose, himself, is one of the most *un*contentious-seeming men in the world. Soft-spoken, easy-going, and even-tempered, he radiates an air of unhurried calm. According to one of his partners, William Evans, Bose's professional style is ultrarelaxed. "He's renowned around here for always getting started on a legal brief at the last minute, but he always turns out excellent work. We refer to him as the 'Sundown Express' because he doesn't really get rolling until after 4:00 o'clock."

"Lew is never a hardliner about anything," Evans continues. "He uses a great deal of imagination in trying to resolve litigation out of court."

The firm of Bose, McKinney & Evans is the fourth largest in Indianapolis, and one of the busiest. Bose himself is a specialist in education law and in legislation. The *Indianapolis News* once described him as "the best school lawyer in the state." Bose deprecates this mildly, noting, "Well, at the time, there were only about six lawyers in the state knowledgeable about school law, and, like many other lawyers, I am involved in other areas—both legislative and private."

He became involved with school law in 1955 when he was living in an expanding suburban township. The community was then debating whether to merge with the Indianapolis Public Schools or create its own school system with an independent board free of political control. Bose offered to draft a legal memorandum on the issue and discovered that there was very little in the way of state law governing district school reorganization. So he drafted and helped lobby legislation permitting the creation of independent "metropolitan" township school districts. Since that time, he has been involved in the drafting (and often in the initiation) of legislation concerning such matters as pupil reassignment, school reorganization, changes in school district powers, board structure and boundaries, student due process guarantees, and education finance. During a period of fifteen years of substantial educational changes, he had a hand in drafting nearly every major Indiana school statute.

The lasting imprint he has left on state education was recognized officially in 1973 when he was named Outstanding Indiana Educator of the Year by the Indiana School Boards Association.

Whether he's coping with rifts between a school board and the many persons with whom it deals, a contract between private parties, or the processes of the Indiana General assembly, Bose is regarded as a master of compromise and conciliation. "Particularly in public law areas, you usually find that there is a way to give both sides what they want. You try to reach results that are practical." One of the most important elements in dealing in the public service arena, he believes, is "establishing a sense of credibility. If you want to sell an idea, or even a bill of goods, be sure you are knowledgeable. Your credibility is the most important thing you sell."

Lewis C. Bose '39: "In drafting legislation you are also affecting public policy. You should always try to anticipate tomorrow's problems as well as try to solve those of today!"

Bose was born and grew up in Indianapolis. At Swarthmore, he majored in economics, minored in political science, and ran on the track team. He went on to Yale Law School. World War II broke out during his final year at Yale and he joined the Navy where he served variously as officer on a cruiser, skipper of a submarine chaser and, eventually, attorney in the Navy's office of general counsel. After his discharge, he returned to Indianapolis where, in 1953, he established his own firm with, among others, his Swarthmore classmate Paul Buchanan.

In recent years, Bose has been asked to appear on local television news and talk shows on public matters in which he is involved. Bose doesn't care for it much but, he says, "The public generally wants and, in a practical political sense, has a right to know what is going to happen to them in a public lawsuit or any other public matter of immediate direct impact. Good P.R. isn't window dressing, but a major part of good public administration."

How would he compare the legislative and other parts of his professional life? "The function of the lawyer," says Bose, "is to be a problem-solver, an expediter. In private and many public matters, you're trying to get your client out of or through a problem (perhaps a mess) with the least possible fuss in the shortest feasible time. You take the facts, sort out the alternatives, and try to work out a solution most acceptable to the parties and their needs. But in drafting legislation, you are also affecting public policy, in many cases with a far-reaching effect. This requires a look down the road to see what's coming, and who is or can be affected. You should always try to anticipate tomorrow's problems, as well as try to solve those of today."

"Whatever the arena," says Bose, "public or private, the thing I like about the law is getting something done!"

ENTERTAINMENT

For entertainment lawyers, the flip side of the profession often means providing encouragement, support, and a shoulder to cry on.

Lights flashing, a police cruiser double-parks on a quiet street of residences and discreet offices in central Philadelphia. Leaving the engine running, a young cop walks briskly into a law office and asks to speak to the attorney. When the lawyer appears, the policeman quickly reaches into a pocket and pulls out—a cassette tape.

This is not an uncommon occurrence in the life of Alan L. Spielman '64. Spielman is one of a fairly new breed of lawyers who specialize in entertainment law. Because he is in constant contact with major record companies and works closely with many recognized recording artists, he receives four or five unsolicited tapes every week. "I am besieged by performers intent on 'making it.' One composer called me at the office recently and, as soon as I picked up the phone, he played a tape of his latest song into it. I was forced either to hang up or to listen to three minutes of misguided effort. Hit with a stroke of compassion, I listened. Another would-be virtuoso forced his way into my office and confronted me with an unscheduled performance of his vocal talent."

Spielman's anecdotes make him sound a little callous, which is a false impression. He is a musician himself and has great compassion for those people who are trying so desperately to break into a tough market. He spends a great deal of his time auditioning *solicited* tapes as well because, in addition to his law practice, he is a partner in a small theatrical management company, City Lights Management.

Entertainment law involves a knowledge of copyrights, negotiation, and drafting of contracts. But many entertainers can be high-strung and combustible and they demand of their attorneys more than simple legal knowledge. Frequently they require support, encouragement, and a shoulder to cry on.

Spielman, who heads a small firm in Philadelphia, "fell into" entertainment law when he was asked to look over a recording contract (drawn up by another lawyer) for a friend. "When I read the twenty-seven page, single-spaced contract, I realized that I lacked the expertise necessary to review it. But my friend was adamant, so I persevered." The result was a completely rewritten, renegotiated contract—and the firing of the original lawyer. Spielman went on to learn everything he could about the legal and business problems of the recording industry, and his practice grew.

The entertainment industry is international and Spielman has an international practice. In the music field he represents performers, managers, publishers, songwriters, and record companies. During the past year he has represented also the producers of a feature-length film and a documentary film. And there are a few surprises: "Former Governor Milton J. Shapp wrote the music and book for a Broadway musical and retained me to handle all legal work for the project," says Spielman, who notes that although the show isn't off the ground yet, the former governor has reason to be hopeful. In a tangenital area,

Alan L. Spielman '64: "Contrary to popular belief, my clients tend to be rational and stable people."

Spielman notes: "We also find negotiating contracts for authors and book publishers raises issues similar to those we face representing clients in the music industry."

Spielman always knew that he wanted to be a lawyer and, fascinated by the image of Clarence Darrow, directed himself to trial work during and after law school. He did not, in the end, specialize as a trial attorney: "It was too all-encompassing; I needed time for other pursuits both in and out of the legal profession." His ultimate decision to avoid the arenas of trial law and large-firm practice has allowed him to become involved in other areas. For many years he has represented numerous nonprofit organizations on a *pro bono* basis, and from 1972 to 1979 he was special counsel to the Pennsylvania Council on the Arts and the Pennsylvania Historical and Museum Commission. He has also been a board member and counsel to the Concerto Soloists of Philadelphia, giving him an opportunity to exercise his preference for baroque music over the popular tunes which tend to occupy the major portion of his listening time. This fall Spielman is teaching an experimental course in entertainment law at his alma mater, the University of Pennsylvania Law School.

Another lawyer passing along his expertise in entertainment law to a new generation of students is Paul A. Baumgarten '55, who last year taught a course at Hofstra University. "It's a little difficult to define entertainment law exactly," he says. "It's a subject combining contract and copyright law; it doesn't exist as a discipline. You have to use your knowledge from other branches of law. Since copyright law was being taught at Hofstra, I taught my course as a drafting course."

Baumgarten, who describes himself as "a traditional lawyer in an untraditional business," is a partner in the prestigious New York law firm of Rosenman Colin Freund Lewis & Cohen. The firm consists of 150 lawyers and occupies seven floors of a towering building on Madison Avenue. Baumgarten's office faces the avenue, and the subdued but eternal cacaphony from the street below, mixed with the thumping noises from a construction site across the way, provides a rumbling continuo to his deliberations. Color photographs of his wife and four children adorn the walls, along with large watercolor paintings of nautical subjects and an original Walt Kelly "Pogo" cartoon strip, attesting to the attorney's strong interest in his family, sailing, and art.

"One marvellous aspect of being involved

Paul A. Baumgarten '55: "The words 'what if' are essentially what the legal profession is all about."

with entertainment law," says Baumgarten, "is that you can see and understand the end product. It's very different from negotiating leases for shopping centers, where you negotiate the lease but never see the shopping center. I've been involved with companies when I didn't know what they did or what their product was."

His firm handles cases for producers, distributors, and financiers of motion pictures, television programs, Broadway shows, and classical music concerts (the latter is Baumgarten's special field of interest), so the end product is very visible around the Big Apple.

"One facet of the entertainment industry," he continues, "is that it is very easy for anyone to appreciate and voice opinions about the end product, whether it be a book, show, movie, or concert. It has been said that everybody has two businesses—his own business and the entertainment business. Lots of people tell me how they would go about making a movie or a television series. Actually, producing a film or play or television show is enormously difficult. It is amazing to me that movies made by groups of talented people—all with strong opinions—turn out as well as they do."

Has the excitement and magic of the theatrical world captivated him at all? "I don't see the glamorous side of show business people. I see them as hardworking individuals with legal problems. Some attorneys become 'personal' lawyers to big stars, combination psychiatrists and agents, always at the beck and call of their clients. That's not my style. I don't mind going to occasional black-tie openings, or staying in the city sometimes for a party, but I don't want to feel obligated to stay in town every night entertaining."

There is some danger, Baumgarten feels, if entertainment lawyers become involved in making aesthetic decisions. "I'm frequently asked to read scripts," he says, "but I don't like to do it. I'm afraid that my knowledge of the script—and my opinion of it—could affect the way I direct my negotiations." Baumgarten worked with Joe Levine when that energetic producer was making *The Graduate*. "I told Levine then that I had doubts about the script. I haven't read any since."

Over the years, Baumgarten has tended to become more involved in the area of financing. It is the most complex part of the business, and, says Baumgarten, "working out complicated deals involving financing from several sources is intellectually very satisfying. There have been new technological developments in the industry, such as videodiscs and satellite transmissions, and as a result transactions become more and more involved because of the impact of those developments and the complexity of financing and tax considerations."

But dealing with entertainers is not like dealing with corporations, and testimonials on his office walls attest to the affection Baumgarten's clients feel for him. "Of course, you have to relate to clients. There are times when you have to give them backbone as well as advice."

Paul Baumgarten feels that his greatest value to his clients is his network of friends in the industry and the information he is able to supply through it. There is a brief phone call from an attorney in California. Baumgarten in turn makes a quick call to someone in Georgia to check on a point. Who can be trusted in making the deal? Where is the money coming from? Is the source of the funding sound? What do references sound like? Little by little the information accumulates, and the scene is set for making a policy decision.

According to Baumgarten, when people set out to negotiate, they are often afraid to discuss ticklish points for fear of jeopardizing the deal. Important issues, therefore, frequently get buried in camaraderie and goodwill until someone—usually the poor lawyer—starts to ask hard questions that usually begin with the words "what if?" "The words 'what if' are essentially what the legal profession is all about, at least for contract laywers," he says. "But the fun of the entertainment business is the ability not only to raise problems but to resolve them in a way that makes the deals work, and to deal with friends. There is a limited number of specialists in the field, and most practitioners in the industry know each other."

That number of practitioners is growing. Today, Baumgarten believes that there are between 300 and 400 entertainment lawyers in New York City. "And that isn't really a heavy concentration. Probably more entertainment lawyers are located on the west coast."

Across the country on the west coast, Karen Genkins Fairbank '74 has been practicing law for the past three years with Loeb and Loeb, a ninety-lawyer firm in Los Angeles that deals in most civil areas of the legal profession including litigation, corporate, real estate, tax, probate, and entertainment law.

Fairbank started in the litigation depart-

ment but, after a year and a half, decided that it was not the right field for her. "I worked on all types of cases, both very large and very small. I felt that I was spending lots of time on cases that never went to trial and that were ultimately settled after hundreds of depositions were taken, summarized, and indexed, and thousands of documents were produced, copied, and examined, and thousands of dollars spent on attorneys' fees. It seemed to me that I was involved in a destructive rather than a creative process."

She switched to the entertainment department in 1978 and feels that she has found her niche in the legal profession. Her firm represents all varieties of people in the entertainment industry: musicians, recording artists, actors, songwriters, writers, directors, music publishers, comedians, and film and television producers. "Our clients are all at different stages of their careers. Some are superstars; some are on their way up; others are on their way down. My favorites are those at all stages of their careers who still appreciate the work that is done for them."

Karen Genkins Fairbank '74: "When your client has a hit record, everyone will return your phone calls, but when your client does not—forget it!"

Fairbank notes that this particular kind of practice can be great fun when she is representing a client with clout, and very discouraging when she is representing a client with none. "When your client has a hit record, everyone will return your phone calls, but when your client does not—forget it! The highest points of my career so far have been when I was able to make a good deal for a client with little or no clout."

An enjoyable fringe benefit of being an entertainment lawyer, she finds, is socializing with clients and attending screenings, previews, concerts, and shows. At times, however, such social obligations can be overwhelming, especially after a full work day.

Have there been low points? Not related to entertainment, she says, but definitely related to the law. "Some of the lowest moments of my career have resulted from the fact that I am a woman and that the legal profession is still a male-dominated world. On the other hand, I have many clients, both male and female, who enjoy having a woman attorney, including some who affectionately refer to me as their 'lawyerette.' I think it would be extremely unrealistic for any woman planning to practice law to assume that discrimination against women attorneys is a thing of the past."

Why specialize in entertainment law? All three attorneys agree that there *is* something special about this branch of the profession. Perhaps it is the nature of the clientele, but lawyers in this field are expected to be more than mere legal technicians: They are asked to be friends. Karen Fairbank believes that the most intriguing aspect is that the lawyer's role is an expanded one: "Instead of solely giving legal advice, entertainment lawyers are often involved in the management of the client's career and business, and in some cases in the management of his or her personal life as well." For Paul Baumgarten, much of the fascination lies in working with people of wit, intelligence, and style, and in the knowledge that, through his expertise, he is helping them achieve their goals. Alan Spielman finds his practice "unique and rewarding. I enjoy working with creative people, but perhaps what is most gratifying is that my entertainment clients, more than any others, seem to appreciate my efforts on their behalf."

PICKER

This practitioner specializes in international law and sex discrimination suits and teaches law as well.

Law professor Jane Moody Picker '57 spent last spring and summer in South Africa lecturing to law students about fantasy land.

That's how a member of her audience described her talks on legal curbs on sex discrimination in the United States. Picker could understand the reaction. In a country where no law prohibits sex discrimination and where many types of racial discrimination are mandated by law, it did seem dreamlike to talk about statistical analyses of promotion patterns by sex. Groups at law schools listened to her eagerly, however, as she explains, because "students are always interested in novelty."

She was on professional leave from The Cleveland-Marshall College of Law (a college of Cleveland State University). She traveled through South Africa with her husband, Sidney Picker, who was on sabbatical from Case Western Reserve's law school. In South Africa she found information about sex discrimination difficult to collect, but watched race-related trials that she says at first she just couldn't believe.

One such case involved a young black cleaning woman who was walking from one building she had cleaned to the next building on her schedule. The police stopped her and asked to see her passbook, an identification document South African blacks must carry at all times. The woman told the police that her employer had taken it so he could change her work classification from temporary to permanent. The employer's office was only a few blocks away and she could retrieve her book, she told them, if they would wait a few minutes. The police ignored the offer and took her to prison. Later the employer verified the woman's story and arranged for her release, but it took him four days. Even though her story was true, charges against her were *not* dropped. She was tried, and eventually acquitted, in an erractic trial that dragged on for five days.

Many South African whites talk about the passbook arrests as if they were no more serious than traffic tickets. The offenses may be trivial, but the penalty is harsh; an

offender can go to prison. Sometimes the pass offender does not go to prison but pays a fine of about forty dollars, almost a month's wages for the average black South African. In spite of the penalties, hardly anyone charged with a pass offense appears in court with a lawyer. Judges usually dispose of one of these cases in about two minutes.

Picker's interest and expertise in law and discrimination, particularly sex discrimination, comes in part from her involvement in American court battles. One of her most notable cases was *Cleveland Board of Education v. LaFleur*, in which the school board's mandatory maternity leave regulation was challenged. Jo Carol LaFleur was a school teacher in Cleveland who was forced by the school board to take a maternity leave even though she wanted to keep teaching. With help from The Women's Law Fund, Inc., LaFleur sued for her job. The case reached the Supreme Court and Picker argued it there in October, 1973. "It was very strange," she says. "For one thing you have to stand so close to the Justices that you see only seven of them at once." Each side was given half an hour to make a presentation which the Justices interrupted frequently with questions. She smouldered when one asked how her arguments applied to laws allowing employers to regulate the hair length of employees, a question she considered irrelevant and feared was a bad sign. When the arguments ended, a veteran Supreme Courtwatcher came up to her and predicted that the vote would be 7-2. "But which way?" she asked him. "Oh, your way, of course." Three months later, she heard that he was right. Only Justices Rehnquist and Burger had voted against LaFleur's right to continue teaching while pregnant. An unexpected result of the outcome of the case was LaFleur's decision to quit teaching and become a lawyer.

Sex discrimination has not always been Picker's specialty. She began her career in quite another field—international law. Her first job after law school was with the firm of Tilleke & Gibbons. The name is unfamiliar? It would be recognized in Bangkok.

When Picker graduated from Yale Law School in 1960, her parents gave her a round-trip plane ticket to visit them. They were living in Bangkok at the time, and Picker was immediately entranced by the "magnificent city." To prolong her stay, she found a job. Although she was not licensed to practice in Thailand, Tilleke and Gibbons hired her to do research because French, English, and American law was the basis of much of modern Thai statutory law. She knew French, Russian, German, and Spanish, but alas, no Thai or Chinese. Fortunately the firm supplied translators. While her classmates from Yale slaved twelve-plus hours a day in American firms, Picker's Thai firm worked only six hours a day. She was able to take a second job, teaching English to Thais.

Jane Moody Picker '57 specializes in sex discrimination cases, class action suits, and outer space law.

Her work with the Thai law firm was interrupted by a letter from one of her professors at Yale, who suggested that she might want to apply for a job at the RAND think tank, which was looking for an attorney to work on a new field of international law—outer space law. "I was astonished," Picker says.

Outer space law was still in its infancy in 1961, when she went to work in the social sciences division of the RAND Corporation. One of her first projects at RAND concerned the legality of satellites launched to fly over countries. The U.S. at that time hotly disputed the legality of Soviet reconnaisance satellites—until it began launching its own, called "observation satellites."

In 1962 Jane Picker took a five-month leave from RAND to go to Moscow and Kiev as a Russian-speaking guide for the United States Information Service's exhibit "Medicine USA." Two years later she left RAND to join Comsat (the Communications Satellite Corporation) as a member of its international arrangements division. In 1968 she left Comsat to tour four law schools in Australia, lecturing on the legal aspects of outer space. When she returned, she practiced law in Cleveland and then received an appointment as a lecturer in law at Case Western. Since 1972 she has been teaching at Cleveland State University's College of Law where she teaches courses in sex discrimination and law, class actions, and international law.

While on leave Picker spent last fall and winter in Australia lecturing to law students and consulting about class action suits, a very topical issue. In this kind of law suit, a representative of a large group of people can sue on behalf of the whole group. For example, one owner of a car can bring a class action suit against the car's manufacturer on behalf of all owners of the same model car. In the U.S., but not in Australia, the car owner can ask for damages for every member of the class. But if the car has a defective motor, Australians can only bring an action to force the company to stop making bad motors. Under these laws, therefore, Australians generally do not bother to sue since they have no hope of recovering money. Critics of Australia's current law say that the failure to award damages discourages suits and protects wrongdoers, and Australians are now debating a possible change in their law to permit the award of damages. As one might imagine, some Australians and Australian businesses are satisfied with the law as it stands and have no desire to adopt American-style class actions. "It's a hot issue," Picker says.

YOUNG LAWYERS

Shedding their blue jeans to don pin-striped suits, many young Swarthmoreans are emerging from law schools across the nation and plunging into practice from Wall Street to women's law collectives. Their varying experiences, both in and out of law school, reflect the fact that lawyers perform an immense variety of services. As the definition of lawyering continues to expand, the traditional prototype of the American lawyer dissolves.

Reactions to law school run the gamut from love to hate. Very few claim indifference. Many graduates recall being overwhelmed by the amount of work and the number of hours required for preparation—especially during the first year.

Several recent law students summed up their experiences with this pithy maxim: "They scare you to death the first year, they work you to death the second, and they bore you to death the third."

But as survivors, most are finding that the practice of law is considerably different from the study of law. And the majority are enjoying the practice far more.

"I hated law school, but I love my job," states Michael Barasch '77, now working for a small litigation firm in New York City. "Although I do research from time to time, I spend more time trying to sell myself to a jury or a judge or trying to convince an insurance representative that my client's injuries are real.

"Even though I found the work easy at Fordham, I felt a constant pressure about studying. After the first year, you have learned the buzz words and know the procedures. The next year is pure drudgery, and the third year is not necessary."

Echoing these feelings of discontent, Jon Andrews '79, a second-year law student at the University of Pennsylvania,

Michael A. Barasch '77

recalls an uncomfortable amount of fear and intimidation pervading the first year. He recognized that the Penn law professors concentrated intentionally on conceptual, rather than practical, training, but he preferred the experience gained in his summer job.

On the other hand, Paula Rock '76, a first-year student at Cornell University Law School, has been pleasantly surprised.

"I was warned to the hilt about *Paper-Chase*-type professors and cut-throat students," Rock recalls. "I'm finding that the atmosphere is low-key and the workload is very manageable. Law school reminds me of first-year teaching; it requires a lot of preparation."

While teaching English in a private secondary school in Los Angeles, Rock became intrigued by Equal Opportunity laws and started to feel that teaching, for her, was a dead end. Although she is enthusiastic about her career move, she is worried about getting a job after graduation.

Her concern is legitimate; the job market for law school graduates is tight. American Bar Association statistics reveal a dramatic increase in the number of lawyers in this country—from approximately 317,000 in 1966 to over 464,000 in 1978. Consequently, young lawyers are sometimes unable to find jobs in their chosen fields of concentration.

When Jeff Rothman '77 saw how tight the job market was in New York City, he decided to join his family's law firm. Many of his classmates from Brooklyn Law School are still looking for jobs, five months after graduation.

"I never intended to go into the family business," Rothman admits. "I was talked out of it by my father, initially. But then I was talked into it by his partner."

The family firm is composed of Rothman's father, uncle, and partner. Because the firm handles a wide variety of cases, Rothman is gaining an understanding of general law, often neglected by young lawyers in this age of specialization; and he has rapidly acquired more responsibility than falls to the lot of most first-year lawyers.

Another advantage of working in a small firm is the high degree of personal contact. Rothman often deals with people who don't have much money, a situation which is less common in large firms. For instance, one of his clients, who owns a bakery, expressed his gratitude by bringing in a homemade cheesecake.

Generally, dedication to a philosophical goal and personal satisfaction, not high salaries,

Jeffrey E. Rothman '77

provides motivation for lawyers working for small firms. Young public interest lawyers, too, frequently work for low salaries.

"You develop a stake in your cases that most lawyers don't," comments Larry Schall '75, a graduate of the University of Pennsylvania Law School and an attorney with Community Legal Services in Philadelphia. "It's hard to keep up with the amount of work, but I enjoy it because I'm committed to the goals I'm trying to reach."

The relationship between Community Legal Services (CLS) and the state creates an unusual tension. Although CLS funding is allocated by the state legislature, the agency actively helps clients lobby against the state and frequently sues the State Department of Public Welfare in response to the ongoing cutbacks in public services.

"They [the state] would rather see us concentrate more on evictions, divorces, and consumer complaints," Schall comments. "But instead we are fighting their attempts to cut back the welfare program and terminate aspects of the medical assistance programs, such as the orthopedic and eyeglass programs."

Schall, like most public interest lawyers, copes with the heavy work load by putting in many extra hours which he still enjoys at this point in his career. But eventually many attorneys in this field tend to burn out.

Sherry Bellamy '74, an attorney with New Haven Legal Assistance and a graduate of Yale Law School, is experiencing this burn-out phenomenon.

"I hated law school, but I love my job."

MICHAEL BARASCH '77

After three years of public interest law, she is surprised to find herself seriously considering corporate law as a viable alternative.

"I am tempted to get out of legal services for a while, mostly because of the amount and nature of the work," Bellamy explains. "My work is often exciting and rewarding, but it can also be frustrating and exhausting."

Heading the Child Law Unit, Bellamy focuses on litigation and spends much of her time in court fighting for the rights of abused, neglected, exceptional, and handicapped children. She finds it challenging to work in this growing area of the law, creating and molding in addition to interpreting. But she finds it also emotionally draining.

"Representing children who are in need, I find it hard to remain aloof. I have learned how not to take the cases home mentally, but it's often difficult," Bellamy comments. "Sometimes I feel as though I'm doing social work."

She recalls one client, a young girl under treatment in a local hospital, who was waiting for Legal Assistance to find her an alternative living arrangement because she could no longer live at home. In despair, the youngster tried to commit suicide by jumping out a window. Most recently, she has been spending much of her time in court asking for a federal injunction to prevent a local school system from closing an alternative high school.

Sherry F. Bellamy '74

Bellamy's role as lawyer counselor is complicated by the age of her clients. Whenever a discrepancy arises between the child's desires and the best interest of that child, she lets the courts decide the latter while she pursues the former. Otherwise, if a child is too young to express and formulate his or her desires, Bellamy makes that decision herself.

But despite the fact that Bellamy enjoys representing children, she suspects that a shift into the corporate world might eliminate the emotional component which is unusually strong in the field of child law. "I'd be sad to leave this job, but I know I wouldn't encounter the same type of stress in corporate law."

Working for a small women's law collective in Washington, D.C., Alice Bodley '74, a graduate of Villanova Law School, believes that an emotional investment improves the quality of her work.

"If I were to shut down emotionally, it might be easier," Bodley states, "but then I would be a less effective lawyer. My caring does not impair my legal reasoning.

"Lawyers are programmed not to apply their own sense of ethics," she continues. "We are trained to argue either side of a case. That training is valuable, since we have to anticipate the other side's arguments. But in the law collective, we take a political stance."

The collective is composed of six women, four attorneys and two assistants, who consider themselves feminists with leftist leanings. Operating in a non-hierarchical fashion, the women make all policy and procedural decisions by consensus. They determine their salaries on the basis of need rather than rank and offer their clients a sliding fee scale.

One of fewer than two dozen such organizations in the nation, this collective focuses on anti-discrimination work with an emphasis on women's rights cases. The attorneys take on race, sex, and class discrimination cases and nearly half of their clients are male, but they refuse to represent men in contested domestic relations cases. Although they do criminal work, they will not represent alleged rapists.

"We won't be hired guns for either side," Bodley comments. "If there is any question about taking on a case, we discuss the political ramifications before deciding."

When opposing the Federal government in a race discrimination case or convincing a judge that a lesbian mother is qualified to raise a child in a divorce and custody case, Bodley finds that the laws are designed to protect the status quo. Trying to promote change, she says, is often an uphill battle.

"Most jobs that provide the opportunity to create change also create frustrations," comments Christopher Edley, Jr. '73, who earned a master's degree in public policy from the Kennedy School of Government as well as a law degree from Harvard. "It's challenging to figure out how to overcome the obstacles."

Edley, who now serves as associate chief of staff at the White House, spent one year working for Patricia Harris in the Department of Health, Education and Welfare (now Health and Human Services) after spending sixteen months in the White House as assistant director of the Domestic Policy staff. His focus has remained constant—policy formation.

Concentrating on welfare and social service issues in his first two positions, Edley was instrumental in the development of the 1979 welfare reform package

Christopher F. Edley, Jr., '73

proposed by President Carter as well as an energy assistance program aimed to help low-income families. He has also spent time compiling a proposed revision of the social security policy for women.

Another change-promoting project has entailed implementation of child welfare amendments, which drastically reform adoption and foster care policies. Edley explained that in the current structure the emphasis has been on providing foster care with very little focus on preventing problems, reunifying families, or finding permanent placements.

Edley, unlike many young government workers, sees concrete evidence of progress as bills are enacted and programs implemented, but he admits that he avoids entanglement in red tape because of the high level of his positions.

Now, back again at the White House, Edley is developing a program to guide all presidential appointees (cabinet and sub-cabinet officers) in media relations and outreach to the public.

Elizabeth Leader '73, a graduate of George Washington Law School, had a less positive experience with government work. As an investigator for the Pennsylvania Human Relations Commission for two years before law school and an attorney for the Equal Employment Opportunity

YOUNG LAWYERS

Commission, she grew increasingly frustrated with the bureaucratic system. Now, having left the Commission to free-lance, she finds that she prefers the freedom of self-employment.

"I got tired of dealing with a system that's not promoting change," Leader states. "I guess I should have learned from my experience in Harrisburg that I don't like government work. I had hoped to feel more self-employed and have more client contact as an attorney. But in E.E.O.C., each person sat in a little semi-oxygenless office with no windows and was supposed to read, write, and research."

Working for a different agency, in the labor relations employment field, Alan Symonette '76 enjoys conducting investigations of unfair labor practice cases for the National Labor Relations Board, an independently managed government-funded agency. A graduate of Villanova Law School, he is enthusiastic about his position which involves investigating violations of the National Labor Relations Act, settling cases in and out of court, and traveling to conduct union elections.

"Everybody talks about how nasty divorce cases can get; labor relations cases can get just as heated," states Symonette. "In fact, the question of whether a union comes into a plant is probably more important to most individuals than the outcome of a presidential election or a change in the nation's foreign policy."

It is not unusual for union elections to last past midnight, and it can be extremely time consuming to try to document and prove that an employer has fired a worker just because that worker was trying to organize on behalf of the union. But Symonette, like the majority of young Swarthmore lawyers interviewed, does not resent the extra hours he puts in.

What he did resent was the alleged discrimination he experienced as one of only two black students in his law school class. The open-mindedness and liberalism which he appreciated at Swarthmore were conspicuously missing in law school, he recalls.

"The students' attitudes worried me," Symonette states. "Everybody was constantly testing you. It was as if they thought you got in on affirmative action."

Looking back, he remembers cold shoulders, students' refusal to let him join their study groups, trouble finding a partner for moot court, and even blatantly predjudiced comments.

"One day in a class concerning housing, a classmate described people living in low-income public housing as 'scum,'" Symonette recollects.

Statistics indicate that there has been a steady and dramatic increase in minority enrollment in law schools. Over the last ten years, it has jumped from 4.3 percent to 8 percent. Nonetheless, an atmosphere of discrimination still prevails, according to several young black lawyers.

In discussing their law school experiences, most recent Swarthmore graduates, black and white alike, remarked that the law school community felt markedly less supportive than the Swarthmore community. Recalling cutthroat competitiveness and isolation, many were distressed to discover a lack of political and social consciousness. Often, they attributed apathy and lack of open-mindedness to the pressures of a staggering work load.

Rosalind Plummer '73, a graduate of Harvard Law School, echoed Symonette's feelings about the racist attitudes in law school; but in addition, she regretted that students seemed generally self-oriented and overly competitive.

"The greatest stimulation in learning comes from exchange with others," Plummer comments. "But in law school, students learned to do only whatever was required to get through." A firm believer in the value of education, Plummer earned a master's degree in education, public policy, and administration from Harvard Graduate School and taught high school for a year before entering law school.

After spending a year with a prestigious Philadelphia law firm, Plummer realized that she wanted to be more involved in the community and left the firm. Now, utilizing both master's and legal training, she works as a business and legal advisor in an advertising agency while she maintains a private practice on the side. Politically and professionally, she is now focusing on encouraging the growth of small businesses in Philadelphia, a town with a significant black population but few black businesses.

For Richard Barasch '76, a graduate of Columbia Law School, the training provided by a large firm is invaluable. Working for a Wall Street firm with 200 lawyers on the staff, he enjoys having the opportunity to work on a wide variety of cases. While arranging the sale of a major office building, leasing air

Rosalind M. Plummer '73

Richard A. Barasch '76

rights, and settling conflicts arising over funding of state subsidized housing projects, he has learned that the firm emphasizes the high quality of the work produced, not the amount of time needed to accomplish the task.

Rhonda Resnick Cohen '76, a graduate of the University of Pennsylvania Law School, chose to work for a large firm for similar reasons. At this point in her career, she wants exposure to all aspects of the law, and she wants the mobility which a big firm background will allow. Her husband, David Cohen '77, a third-year law student at Penn, may also be interested in joining a large Philadelphia law firm, which raises some interesting questions for the couple and the firms.

For law firms, developing a policy about hiring spouses is becoming essential as more women enter the field of law. (Over the last ten years, enrollment of women in law schools has jumped from less than 7 percent to over 31 percent.) During recent job interviews, the Cohens discovered that many firms expressed totally different points of view. Some firms encourage the couple to work together; others discourage them.

"Working for different firms would put a real damper on our opportunities for collaboration," David says. "And collaboration is important when you are trying

was fascinating."

POLLY PINSKER CHILL '50

Rhonda Resnick Cohen '76

to come up with a creative legal theory or solution.

"On the other hand, I would want to have a life after law," David continues. "It might be nice to have the ethical code provide an artificial barrier." David's decision to accept a clerkship next year will afford them time to weigh carefully the pros and cons of both alternatives.

As the number of women in law is steadily climbing, the number of women entering law school after many years in another career or after raising a family also is on the rise.

After twenty years as a book editor, mother, and wife, Polly Pinsker Chill '50 decided to move into a new career. Newly divorced, she wanted to find a job which would be less isolating than editing. Therefore, she began working for the Department of Research and Negotiations of a labor union, where she learned how to handle collective bargaining negotiations and other matters related to labor relations. She was so intrigued by the field that she decided to pursue a law degree in order to further her career in labor relations and is now in her second year at New York University Law School.

Becoming a student again after thirty years in the work world has not been difficult for Chill, a fact which she chalks up to her high level of motivation.

"I was unprepared to find that the first year was fascinating and enjoyable," Chill comments. "The work covers material which has always been interesting to me."

Chill recalls that her interest in discrimination dates back to her days at Swarthmore. "At that time, the question of quotas for Jewish students was being hotly debated," she recalls. "I was placed on the admissions committee to explore the quota question."

Now, thirty years later, she is headed for a career in labor relations. Knowing exactly what she wants to do with her law degree, Chill chooses not to compete for Law Review or interview for positions with large law firms. She devotes much of her time to the Women's Rights Clinic. There, under the guidance of a law professor, she works on cases involving discriminatory employment practices based on sex.

"If I wanted to go into the traditional channel, my age might be a disadvantage. Big firms want young people they can train from scratch," she responds when asked if she is concerned that her age will be an employment handicap, "but I am in a less popular branch of the law and already have experience in the field I plan to enter."

Anne Larchar Spitzer '50, who graduated from the University of Iowa Law School five years ago, feels that her age has not hampered her career. Her initial reaction to law school was terror and boredom combined with "a feeling of being demoted from a grown-up to a child."

Since graduation, however, she finds the work rewarding and challenging. After clerking for an Iowa Supreme Court judge for a year, she joined a small trial law firm in Iowa. There, she was "the tallest, oldest, and most junior member in the firm—and had a wonderful working experience."

Now teaching at the University of Florida Law School, Spitzer is combining practice with teaching, spending time litigating in court while teaching a legal-aid clinic for indigents. She explains that law school clinics, modeled after medical internships, have become increasingly prevalent and popular.

Another growing trend that has recently come into vogue is deferral. Anticipating the pressures and time demands connected to the study of law, many recent Swarthmore graduates choose to take time off before plunging into the enormous financial and emotional investment which law school represents. The length of time varies, but the reasons given usually boil down to a common need: the need for a break.

"After attending high school and Swarthmore, I felt like I'd been in a pressure cooker for eight years," admitted Robert Herman '80. I wanted to take a breather and get some job experience."

Working in Washington, D.C., on Senator Percy's Sub-Committee on Investigations, Herman has become involved in issues of first amendment law while examining the Criminal Code and the Intelligence Identities Protection Act. His upcoming investigation, a project which he designed, will entail researching the political, as opposed to the technical, barriers blocking the development of solar energy.

Clara Pope '80 deferred to "get some perspective on school." Working for the Inter-American Commission on Human Rights of the Organization of American States, she investigates alleged human rights violations and prepares OAS reports, tasks which sometimes involve travel to Latin American countries. A law degree, she says, is a tremendous springboard into politics and government.

Post-graduate work experience has become an important factor in law school admissions decisions, according to J. Roland Pennock '27, Swarthmore's pre-law advisor and Richter Professor Emeritus of Political Science. In fact, close to 50 percent of the recent law school classes have been composed of students who have taken a year or more off to work before beginning law school, he says.

Reflecting on the markedly anti-establishment tendencies of many of the young Swarthmore lawyers interviewed, Pennock points out that "during the late sixties and early seventies, there was a strong anti-business and pro-public-interest atmosphere which often translated into pro-government feelings. The fields of interest pursued by these young lawyers are in keeping with the spirit of the age which molded them. They were raised in a highly politically charged climate which cultivated an increased awareness of human rights."

In a country where the legal profession has always been an integral part of the nation's development, it is not surprising that the number of lawyers con-

David L. Cohen '77

tinues to blossom as the nation's internal and international problems continue to grow in number, size and scope. In today's society, lawyers wear many different hats, but the most salient aspect of the legal profession, which unifies and motivates, is that lawyers are attacking the serious problems of the world.

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Editor: Maralyn Orbison Gillespie '49
Managing Editor: Nancy Smith
Assistant Editor: Kathryn Bassett '35
Editorial Assistant: Ann D. Geer
Designer: Bob Wood
Contributing writers: Gus McLeavy '73, Susan Milius '75, Hope L. Wohl.
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Swarthmore College Bulletin

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On a recent trip to England, I found in Westminster Abbey the epitaph of Christopher Chapman, who died 300 years ago. This epitaph has been an inspiration to me. I commend it to you:

What I Gave I Have
What I Spent I Had
What I Left I Lost By
Not Giving It

Eugene M. Lang '38, General Chairman
The Program for Swarthmore

The Program for Swarthmore, the College's campaign to raise $30.5 million, has passed 85% of its goal. Swarthmore's Centennial Campaign in 1965 went over the top by 22%. Swarthmoreans have it in their grasp to equal or better that accomplishment in this last year of the drive.