Louis Pollak is a man of quiet dignity and great restraint; a superb lawyer whose commitment, skill, and talents were vital components of our (NAACP) landmark case, Brown v. Board of Education, 1954; and a scholar and teacher who has had tremendous influence in passing and developing superior lawyers.

Roy Wilkins
Executive Director and Secretary, NAACP

Only in Philadelphia, home of the internationally beloved Flyers, would there be a law school dean who has come closest to performing the deanship “hat trick.” Lou Pollak has been Dean of Yale and now is Dean at Penn. A manifest destiny suggests that some third law school looms in the future. To list his achievements would seem puckish if asserted about anyone else. Indeed, one skates on thin ice in talking about Lou; the cold facts are incredible. For him, self-seeking and personal gain always have been beyond the line. The net of it amounts to deanships, distinguished professorship, just plain professor, civil rights lawyer, school board member, vice-president of the NAACP Legal Defense and Educational Fund, activist father of five activist daughters and married to a lovely wife, author of innumerable scholarly articles as well as a history of the Constitution and the Supreme Court. But most of all he is one who has never taken his eyes off life’s most important goals: truth, service to mankind, friendship, and thought.

Jack Greenberg
Director Counsel
NAACP Legal Defense and Educational Fund, Inc.

Louis Pollak is genial and has a ready wit. Since he lives with (but does not preside over) a family of six women persons, his domestic environment has nurtured his tact. These engaging traits overlay other virtues, including guileless compassion, scholarly erudition, and calm judgment. Though special verdicts must pronounce on past events, old hands’ prophesies are often humored; I foresee that the Pollak deanship will continue to be acclaimed.

Clarence Morris
Professor Emeritus
University of Pennsylvania Law School

One of my happiest contributions to the Law School during my tenure as dean was in helping to bring Lou Pollak to the school as the first Greenfield Professor. He is a person of great intellect, vision, and dedication.

Bernard Wolfman
Former Dean
University of Pennsylvania Law School

No one in this nation has had more wise or penetrating insights on the federal constitutional process than Dean Louis Pollak. He symbolizes the academic profession at its best. He has been more than an aloof critic; most important, he is an effective contributor to the improvement of the legal process in its day-to-day operation. As a Yale alumnus, I know that his leaving was a significant loss to that law school; but as a lecturer at the University of Pennsylvania Law School, I am pleased that, despite its fame and abundance of talent, Penn is now an even better school by having Dean Pollak here with us.

Hon. A. Leon Higginbotham, Jr.
U.S. District Court
Eastern District of Pennsylvania
No one has exemplified qualities of justice more consistently than has Lou Pollak throughout his career. Tolerant, ever fair almost to a fault, and understanding, he never allows the stress of the moment to turn him away from his disciplined and informed sense of what is right. Do not be misled by his patience. He will steer a steady upward course toward the highest academic and professional standards attainable.

Hon. Gerhard A. Gesell
U.S. District Judge for the District of Columbia

Be good, the sweet maid was told, and let who will be clever. It sounded like a sad, inevitable trade-off; but Louis Pollak unites a character on which the maid might model herself with an intellect that includes and transcends cleverness. As a jurist, scholarly or forensic or both, he adapts ingeniously chosen means with gracefully carved words in the service of nobly cherished ends. As a dean (at Yale, at least, but not last), he sought without sacrifice of principle to please those who could hardly be pleased, to like those it was hardest to like, to extend most sympathy to the least sympathetic.

Leon S. Lipson
William K. Townsend Professor of Law
Yale Law School

I have known Lou Pollak since he was, as the saying went in those days, “knee-high to a grasshopper.” I welcomed him to my classes back in the early post-war years. As colleague, I spent many pleasant and enlightened hours working with him in and out of the classroom. I watched him as dean in the late sixties handling some difficult problems with an understanding and firmness that won him the ultimate admiration of all factions, subfactions and spin-offs of factions. As a highly intelligent, dedicated, and warm-hearted worker and critic, Lou Pollak has made a unique contribution to the progress of democratic values in our nation.

Thomas I. Emerson
Lines Professor of Law
Yale Law School

It has been my great good fortune to have known Louis Pollak and enjoyed his friendship since the early days of his deanship of the Yale Law School. I admire him for his fine intellect. More especially, I salute him as a gentle and pure spirit committed powerfully to that which is kindly and just in human relations. I make particular note of our efforts that, in common cause with others, brought about the establishment of the Section of Individual Rights and Responsibilities in the American Bar Association. That he has assumed the deanship of the University of Pennsylvania Law School pleases me beyond measure.

Jefferson B. Fordham, Dean Emeritus
University of Pennsylvania Law School
Professor of Law
University of Utah College of Law
Lou Pollak was an early crusader for equal rights, nationally as well as in New Haven. He was allied before the Supreme Court with Thurgood Marshall in a series of historic cases dealing with civil rights. Then, with Constance Baker Motley, a New Haven native and now a federal judge, he was the attorney of record in the Supreme Court case which resulted in the dismissal of miscegenation as a law against mankind.

In our city during the fifties and sixties, Lou was on the side of the angels, although some differed on the color of the angels’ robes. But to those of us who were fighting for the cause of equal opportunity, he was a genuine crusader willing to mount the barricades and repel the Philistines, and he did. He fought the good fight for quality education, and as a member of the Board of Education during my years in City Hall, he took as a personal challenge the city’s obligation — indeed society’s obligation — to provide quality education in all neighborhoods throughout our city.

When he left New Haven, something special went out of all our lives. It is the good fortune of the University of Pennsylvania and Philadelphia to be the beneficiary of Lou Pollak’s wisdom and leadership.

Richard C. Lee
Former Mayor of New Haven
Connecticut

The question is often put in a foolish way; would Lou Pollak give you the shirt off his back? Of course he would. But if the emphasis is altered a little—would Lou Pollak give YOU the shirt off his back—the answer is less simple. Yes, he would indeed, if he thought you were at heart warm, compassionate, generous, gentle—or would be if you hadn’t been pushed around or been born the wrong color. He has all these traits to a degree that is almost unbelievable. I believe it because I had the privilege of working with him in the worst of times, when his goodness never faltered.

Ralph S. Brown, Jr.
Associate Dean
Yale Law School, 1965-1970
Simeon E. Baldwin Professor of Law
Yale Law School
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LAW ALUMNI DAY IS THURSDAY, APRIL 29, 1976

Professor Gorman to be Associate Dean

Professor Robert A. Gorman will become Associate Dean of the Law School as of July 1, 1976. In the next Journal, we will report more fully Mr. Gorman’s distinguished credentials as well as on his responsibilities in this newly created position.
Acting Vice-Dean Capron

Professor Alexander Capron will serve as acting Vice-Dean of the Law School until the spring semester's end, thus completing the term of Frank N. Jones, who resigned from that position in mid-January.

The Vice-Dean heads most of the Law School's administrative offices and is the Dean of Students. A committee is presently in search of a permanent Vice-Dean.

Biddle Library's Bicentennial Exhibit

“Touched with Fire,” a memorial exhibition marking the fortieth anniversary of the death of Justice Oliver Wendell Holmes, is on view at the Law School until May 31, 1976.

The show, Biddle Law Library's first contribution to the bicentennial celebration, has been borrowed from Harvard Law School and was mounted by Reference Librarian, Nancy Arnold.

The exhibit contains copies of Holmes's letters to legal notables as well as photographs and memorabilia, a copy of Holmes's death mask by sculptor Gutzon Borglum, and a first-edition copy of Justice Holmes’s distinguished legal text, his only authored book, The Common Law.

Thomas A. O'Boyle Lecture to take place April 15

The second Thomas A. O'Boyle Lecture will be delivered by Robert M. Loeffler, Trustee of the Equity Funding Corporation of America, on Thursday, April 15 at 4 p.m. in Room 100 at the Law School.

Mr. Loeffler's lecture “Post-Mortem on a Corporate Fund,” will analyze the causes of the collapse of the Equity Funding Corporation, describing some of the lessons to be drawn from this interesting chapter in U.S. financial history.

Founded by friends and colleagues of the late Mr. O'Boyle, L'40, the Thomas A. O'Boyle Visiting Practitioner Fund will sponsor the lecture. The Fund's purpose is to induce experienced and distinguished practitioners to make an educational contribution to the life of the Center for Study of Financial Institutions, Penn Law School, and the community.

Clerks 1975-1976

Two alumni of the Law School are serving as law clerks during the current academic year. We were recently made aware of their appointments and wish to acknowledge them at this time.

State Courts

Superior Court of Los Angeles County
Judge Harry L. Hupp
Elliot J. Hahn, L'74

County Court of New Jersey, Cape May
Judge Nathan C. Staller
Judge James A. O'Neill
David S. Yen, L'75

A Reception for Third-Year Students

In an effort to ease the transition from law student to active practitioner, Philadelphia Common Pleas Court Judge Doris M. Harris and the Board of Managers of the Law Alumni Society held an informal reception for third-year students in Courtroom 653 of City Hall. This afforded the students the opportunity to informally meet Common Pleas and Municipal Court judges and become acquainted with the court facilities.
Bernard Wolfman

In July, former Dean Bernard Wolfman, L'48, will become the Fessenden Professor of Law at Harvard, continuing to teach in his field of specialization, federal taxation and tax policy.

Mr. Wolfman is the fourth consecutive holder of the Fessenden chair to have been associated in some manner with Penn Law School or the University. Ralph Baker, L'11, a brilliant alumnus who distinguished himself in the area of corporation law was the first Fessenden Professor; following him was David Cavers, a University of Pennsylvania Class of '23 graduate; and his immediate predecessor, James Chadbourn, a member of the Penn Law faculty for many years, taught Wolfman evidence when he was a law student at the school.

The decision to bring to a close his long-standing professional affiliation with the University of Pennsylvania and Penn Law School, which spanned the years beginning with his matriculation as an undergraduate at age 17, was a most difficult one. Wolfman joined the Penn Law faculty as a full-time Professor of Law in 1963, became the Kenneth W. Gemmill Professor of tax law and tax policy in 1973, and served as Dean of the Law School from the year 1970 until his resignation in June 1975.

Noyes Leech, Professor of Law and a long-time friend and associate of Mr. Wolfman expressed:

Bernie's departure as a colleague and friend will be deeply felt. His outstanding accomplishments as our dean we acknowledged last year when he left for California. Now we are losing a brilliant teacher and fellow scholar and a colleague whose social conscience made a strong impression on those around him. I have known Bernie since our first week together at this Law School in 1946. I immediately admired his quick and restless mind. He seemed to have been born with a lawyer's instincts built-in. What was more, he always cared about the way the law worked (or didn't work). He told his students not to forget that they were "in the justice business." I will be sorry that my students will not also be taught by him. But we can understand his decision, after so many years at Penn, to look for another frame for his work and we thank him for all he has done for this school in the years past.

Frank N. Jones

One needed only to hear his eloquent speech last Law Alumni Day or to read excerpts from it in the Fall 1975 Journal to recognize the deep and vital commitment felt by then Vice-Dean Frank N. Jones to the legal assistance movement. Before coming to Penn Law School two and a half years ago, he served as Executive Director of the National Legal Aid and Defender Association. Therefore, his return this past February to that organization and to his former executive position was like "going back where he belongs."

In a letter notifying Dean Pollak of his decision to return to NLADA, Frank Jones wrote, "With the advent of the newly created National Legal Services Corporation, the legal assistance movement enters perhaps its most critical and sensitive phase. The decisions made in the next two years will, in my judgement, determine the course of legal services delivery and access to the justice system for decades to come. I very much want to actively participate in this process."

Responding to Jones' departure, Professor Howard Lesnick, in a message on behalf of his colleagues stated:

The faculty acknowledges and appreciates the contribution which Frank Jones has made to the life of the school during his tenure as Vice-Dean. We regret his decision to leave but take satisfaction as well as solace in the fact that his work will place him on the frontier of efforts to enhance the quality of legal representation, work which is, after all, not wholly unrelated to our own goals and function.

We wish him well.
Four of the Law School's "fledgling lawyers" argued *Lamb v. Farina* before a distinguished panel of judges in the final round of the Edwin R. Keedy Cup moot court competition. Darius Tencza and Paul Zarefsky (counsel for respondent Farina) walked away with the coveted Keedy Cup, leaving Jeff Pasek and Bob Katzenstein (counsel for petitioner) with the satisfaction of a job well done.

Justice William Rehnquist, U.S. Supreme Court, presided over the panel which also included Chief Judge Frank Coffin, First Circuit Court of Appeals, and Judge Shirley Hufstedler, Ninth Circuit Court of Appeals. In announcing the court's decision, Mr. Justice Rehnquist termed the performances "very fine" and observed that all the participants deserved "commendation." (The Justice's first try at that word sounded much like "condemnation," producing a round of laughter.) Judge Hufstedler also found the competition to be "outstanding," adding that she took great personal pleasure in observing young lawyers at the "fledgling stage" of their exposure to the "exhilarating arts of oral advocacy." Judge Coffin expressed his hope that advocacy of such a caliber might be seen "more often" in the federal courts. Noting the tendency of counsel to fluster slightly at difficult questions from the bench, he assured the four students that they would in time cultivate "more placidity" in pursuing their arguments.

**Lamb**, on cert. to the Supreme Court, involved two issues:

1. Should the exclusionary rule be modified to admit evidence obtained under an invalid search warrant, where the police officers obtained and executed the warrant in good faith?
2. Should a state criminal defendant be precluded from raising search and seizure claims on a federal habeas corpus proceeding, where those claims have been finally adjudicated against him in the state courts?

The petitioner's position was that both of these questions should be answered affirmatively; the respondent argued in favor of the retention of the present exclusionary rule and the present broad scope of habeas review.

Courteous and attentive, the judges permitted counsel to make their arguments without constant interruption; yet the panel did not hesitate to pose difficult questions directed at key weaknesses in either side's position. The comments of Judge Hufstedler set the tone of the argument; her sharp and penetrating grasp of the issues which she carefully pursued, frequently placed counsel on unfamiliar ground. Both she and Judge Coffin effectively challenged the careless use of statistics by counsel for both parties. Mr. Justice Rehnquist interjected an occasional question but did not press his point; his neutral attitude was surprising and, to some, a disappointment. His reluctance to become embroiled in disputes over the merits of the case, however, is perhaps explained by the fact that the Supreme Court has granted cert. in *Rice v. Wolff*, a real case raising the same issues as *Lamb*.
The Prospects for Deregulation
by Professor James O. Freedman

In an address to a joint session of Congress in October 1974, President Ford called for the creation of a National Commission on Regulatory Reform "to undertake a long over-due total reexamination of the independent regulatory agencies." He has followed that request with a campaign for "deregulation"—a reduction in the amount of regulation of business now carried on by the administrative agencies of the federal government.

President Ford in not alone in his concern for the failings of the independent regulatory agencies. Most modern Presidents, Democrats as well as Republicans, have been distressed by the performance of the administrative process and appointed commissions to recommend change. But few changes have resulted, even though several of the commissions produced useful reports.

Although President Ford's advocacy of deregulation is generally regarded as the conventional conservative approach to economic matters, many liberals, such as Senator Kennedy, seem to share his conviction that basic changes are needed in the federal administrative process.

Given the fact that conservatives and liberals alike have been dissatisfied for so long with the performance of the federal regulatory agencies, why have there been so few attempts at improvement by Congress? Why have the independent regulatory agencies been criticized so consistently but reformed so rarely?

In my judgment, the problematic status of administrative agencies reflects our failure as a society to resolve a basic ambivalence toward the idea of regulation itself.

The decision to rely upon administrative agencies as dominant instrumentalities of modern government probably stems most directly from the impact of the Depression on American life. In addressing the economic problems created by the Depression, President Roosevelt created an armada of administrative agencies to carry out national policies of economic recovery and social reform.

The New Deal's decision to rely so heavily upon

Administrative agencies to implement new national policies reflected practical considerations that had long been recognized:

1. Administrative agencies could respond more promptly and flexibly than Congress or the courts to changes in the conditions being regulated.
2. Because of their expertise and specialization, administrative agencies were far more likely than Congress to recognize subtle changes in industrial activity and to appreciate their regulatory implications.
3. Because of their relative freedom from judicial norms of procedure and from the heritage of the common law, administrative agencies were far more likely than courts to respond with innovative vigor, as well as a sympathetic commitment, to the purposes of the legislation they were administering.

Although the remedies of the New Deal demonstrated the utility of the administrative process in meeting serious national problems, it seems clear in retrospect that the prominence that President Roosevelt gave to the administrative process was not the result of any well-thought-out philosophy of governmental action. Roosevelt was a pragmatist rather than a dogmatist, willing to replace one approach with another if it bore greater promise of success.

The New Deal represented a national commitment—born of the social consensus of the time and broadly supported by a majority of Americans ever since—that there should be increased governmental intervention in the economy.

The apparent success of the variegated responses that Roosevelt fashioned to meet the nation's exigencies served to obscure the fact that he lacked a coherent philosophy of when, and to what degree, such governmental intervention was appropriate—except, of course, that it should stop somewhere short of complete governmental planning of economic activity and decisions.

To the present day, Americans have failed to develop or agree upon a coherent philosophy of governmental activism in economic matters. The nearest approach our society has made to achieving such a philosophy has been to secure general agreement for the proposition that the appropriate extent of governmental activism in planning and controlling the economy lies somewhere between the polarities defined by Adam Smith and Karl Marx.

An ideology of such imprecision may befit a pragmatic people, but is hardly adequate to delimit the perennial debate that our society conducts on the proper role of government in regulating the economy.

When a nation cannot find the intellectual wherewithal to formulate a coherent ideology on an issue as fundamental to its values as the balance to be struck between a free market and state regulation, such regulation as it does authorize will always be subject to philosophic as well as pragmatic question.

And as long as the legitimacy of governmental regulation is subject to question, the legitimacy of administrative agencies assigned to carry out specific tasks of regulation will also be challenged.

The ambivalence that has frustrated our attempts as a society to arrive at a coherent ideology of governmental activism has also caused Congress to legislate most economic regulation in evasive generalities, leaving to the respective administrative agencies the essential tasks of evolving regulatory policies.

One result of the simplification implicit in such broad delegations of legislative power has been to make administrative agencies, rather than Congress, the arena for debate and decision on complex policy questions of fundamental importance to our democracy.

Many agencies have been criticized for their failure to develop coherent policies in the course of their regulatory activities. Yet when Congress has failed to adopt a set of social preferences for resolving such difficult issues as typically lie behind broad delegations of power, an administrative agency, itself now exposed to the conflicting political forces that led Congress to shrink from a decisive response in the first instance, can hardly be expected to do better.

President Ford recently told a meeting of the chairmen of the federal regulatory agencies that "government should intrude in the free market only when well-defined social objectives can be attained."

A program of deregulation will require Congress to specify the social objectives it seeks to attain by its particular programs of economic regulation.

Perhaps the present climate will embolden Congress to make those hard decisions. But if past is prologue, the prospects are not promising.
Paul Bender, Professor of Law, delivered this statement on February 5, 1976, to the Civil and Constitutional Rights Subcommittee of the House Committee on the Judiciary, in Washington, D.C. His testimony, reprinted here in its entirety, probes the question of whether there should be a constitutional amendment designed to overrule the Supreme Court's 1973 abortion decision (Roe v. Wade, 410 U.S.113.).

I. Before addressing the specifics of any of the three main types of proposed abortion amendments, it seems to me important to ask whether it is wise, at this time, to attempt any amendment primarily designed to overrule the Supreme Court's decision in Roe v. Wade. For a number of reasons, I do not favor any such amendment at the present time.

As a general matter, it has not been part of our constitutional tradition to amend the Constitution in response to unpopular and assertedly erroneous Supreme Court decisions recognizing new constitutional rights. Were Roe v. Wade to be overruled by an amendment, thus eliminating a right found by the Court to be inherent in the due process guarantee of the Fourteenth Amendment, that would, so far as I know, represent a unique event in American constitutional law.

I think our traditional restraint in this regard has been wise, and I believe it has had more than a small part in shaping a society which is widely and properly admired throughout the world for its generous and responsible recognition of individual rights. The Supreme Court may, indeed, make mistakes. In my view, the contemporary Court most often errs in the direction of too little—rather than too much—recognition of rights, but the possibility certainly exists that the Court may, at times, carry rights too far. Short-term discontent with Court decisions in this area is not, however, a valid guide to when the Court has erred. Most decisions which have newly recognized rights and which have also provoked an immediate critical reaction by substantial segments of the public—one thinks, for example, of the segregation cases or the reapportionment cases—have ultimately come to be thoroughly accepted by almost everyone as parts of our constitutional fabric. Moreover, where the Court does err and where a consensus of responsible opinion develops over the course of time to that effect, the Court is capable of pulling back in subsequent decisions or of injecting modifications and exceptions.

This system of primarily judicial evolvement of our constitutional rights has, I repeat, worked very well, although it has surely not been perfect. But we do not know of any better structure, and we can observe many that are worse. To create a precedent in favor of the quick overruling of Supreme Court decisions vindicating constitutional rights might upset the balance of our system so as to cause us much future grief. We should run that risk, if ever, only in the very unlikely event that a decision proves fundamentally wrong and
dangerous by the test of time and where the Supreme Court, for some reason, remains enduringly oblivious to that fact.

Coming to the specifics of Roe v. Wade, I also do not favor these amendments because I think that that case—a hard case that it was—was probably correctly decided and was certainly not so clearly incorrectly decided as to warrant the unprecedented action of overruling through amendment. If ever used, that process should be reserved for cases that are clearly and demonstrably wrong. We should not tamper with our Constitution unless we are sure we are right.

The Court in Wade held that the right to abortion is a part of the fundamental right of substantive personal privacy—the right to be one's self. This right of privacy affords restrictions on governmental interference with personal activities that are so intimate in nature and so related to the expression and pursuance of individual personality, belief, and taste—to the "pursuit of happiness" referred to in the Declaration of Independence—that the private citizen must be permitted to make his or her own value choices. In most cases the private activities covered by the right to privacy are also of little or no legitimate interest to others in the society or to the government.

The Supreme Court has applied the right of privacy primarily to matters of sexual conduct, childbearing, and child raising, and most of its decisions have, I think, struck a responsive chord in the nation as a whole. The principle of substantive privacy is alive and growing. Viewed as a protection of a woman's right to decide whether or not to have children and how to use her own body and mind, the abortion decision fits well within the principle.

It is urged, however, that the abortion cases are different because, unlike other privacy cases, they involve a legitimate governmental reason for interfering with privacy. That reason is the protection of the fetus. Whether or not the fetus is a "person" under the law, it is at least a specifically potential person. It is also sometimes suggested that antiabortion laws do not interfere with privacy to as great a degree as some other laws which affect the use of one's own body because the need for abortion can be avoided through the use of birth control.

It may be that the development and availability of birth control technology will eventually justify the conclusion that antiabortion laws do not constitute a significant interference with privacy. That would require a universally available and universally safe method of birth control, and it would also require a comprehensive and thoroughgoing program of universal sex education from a very early age, so that what was theoretically available in the way of birth control would also be practically available to everyone whenever needed. Our present birth control practices fall far short of this standard.

The constitutionality of abortion laws under the principle of substantive privacy thus turned, at the time of Roe v. Wade, and still turns, on a balancing of women's constitutionally protected privacy interests, on the one hand, against the State's interest in protecting fetal life, on the other. There are several reasons why I believe that the Court's decision in favor of the constitutional privacy interests cannot be said to have been demonstrably wrong.

First, as a general proposition, it is not clear just how strong the fetal interests are which we must weigh against privacy. We still do not know—and may never know—the extent to which the fetus, at various stages of its development, is conscious of sensation or reason. Such consciousness would not seem very probable at the earliest stages of pregnancy. It is true that it can be argued with some force that fetal interests surpass women's privacy interests at some stage of the developmental process prior to birth, but the Court, recognized this view in Wade by protecting abortion at early—but not at late—stages of pregnancy. Given the constitutional protection for the use of contraceptives, a line needs to be drawn somewhere, and I should think it would be hard to say with assurance that the Court clearly drew the line in the wrong place. Furthermore, many proponents of antiabortion legislation seem themselves to recognize that the state's interest in protecting fetal life is, at best, substantially weaker than its interest in protecting human life generally. I see no other way to explain the commonly proposed exceptions for abortions necessary to save the mother's life or health or for abortions requested by the victims of rape. We do not normally permit one person to take another
person's life to save his or her own life or health when the person killed was entirely blameless. We certainly would not ordinarily permit a person to be killed because he or she was conceived as the product of a rape.

A second group of reasons for suspecting the strength of the fetal interest—as weighed against the woman's privacy interest—flows from the fact that antiabortion legislation primarily affects women's privacy rather than men's. Our society has, unfortunately, not always been as alert as it should be to protect against laws which uniquely harm women. It is relevant, I think, that we do not know how antiabortionists would weigh the competing fetal and privacy interests if vindicating the right to fetal life caused men, as well as women, to suffer an intrusion similar to that resulting from the compulsion to carry an unwanted child in one's body.

Finally, the probable correctness of Roe v. Wade is, for me, supported by the practicalities of the enforcement of antiabortion legislation. However evenhanded such legislation might be in theory, we know that it has not been and, indeed, cannot be, comprehensively and evenly enforced. People who are financially better off than the average will often be able to obtain both legal and illegal safe abortions despite antiabortion legislation in the state where they live. Poorer people, on the other hand, are much more likely to experience either a real deprivation of access to abortion or to be driven to submit themselves to horrendously unsafe procedures. Again, we do not know how the competing fetal and privacy interests would be weighed if everyone—not only the poor and not only women—were to be subjected to this kind of oppression by antiabortion legislation. The choice is not as between abortion and no abortion, it is between safe abortion and unsafe abortion and between abortion for the wealthy and abortion for everyone. The Supreme Court's opinion in Roe v. Wade did not directly allude to some of these factors regarding discriminatory effects upon women and the poor, but they may have been in the Court's mind. In all events, these factors certainly seem relevant to the question of whether Wade can properly be considered a demonstrably erroneous decision.

2. With regard to the specific amendments before the subcommittee, the outline of suggested issues states that they are of three main types. The first type would say that the fetus is a "person" within the meaning of the Constitution and would prohibit any person from terminating the life of a fetus. The second type would declare that the fetus has a right to life and would prohibit government from depriving the fetus of that right without due process. The third type would permit the states, or Congress, or both, to legislate on the subject of abortion.

There are enormous technical and conceptual problems with the first type of amendment, which makes the fetus a person and which seeks directly to protect the life of the fetus against private as well as governmental action. Our Constitution does not ordinarily seek to limit private action or to adjust interests between private persons. The Thirteenth Amendment forbids private, as well as governmentally imposed, slavery, but it is unique in thus directly addressing private conduct. Normally, it is the prerogative of the states to decide what rights persons should have against other persons. Thus, even if the fetus is to be deemed a person for all constitutional purposes, I should think it wisest and most consistent with the general federal-state allocation of responsibilities to leave it up to the states to decide, in the first instance, how that person is to be protected. Moreover, if there were to be a direct federal constitutional fetal right against abortion, the question would arise how that right was to be enforced. Will the states somehow be affirmatively required to pass and enforce antiabortion legislation, or does the amendment contemplate federal antiabortion laws and federal enforcement machinery? Neither of these seems an attractive alternative.

The first type of amendment would also take all constitutional protections presently given persons and would apply them to the fetus. There are serious difficulties here. Think, for example, about how the equal protection clause would apply to the fetus. Would states which generally permit tort recovery for negligence be required to permit tort action against mothers by their children for negligently taking drugs during pregnancy which result in deformities at or after birth? Many states, I suspect, would not want to entertain such suits in view of the great danger of collusive litigation.
While the first type of amendment may go too far in involving the federal government too directly in deciding whether or not to permit abortion, the second type, declaring a right to life and prohibiting the states or the federal government from depriving the fetus of life without due process, does not seem to me to go far enough to accomplish their objective. Although some abortions are performed by employees of the government, many abortions are also performed by private doctors in private institutions. A constitutional prohibition directed merely to state deprivation of fetal life might leave these private abortions unregulated, and it might also fail to validate those state prohibitions on private abortions that Roe v. Wade held unconstitutional. There would also be difficulty, I believe, in determining how to afford the fetus procedural due process before the decision whether or not to abort is made.

At the same time as these right-to-life amendments may be under-inclusive in failing to overrule Roe v. Wade, they may be dramatically over-inclusive in seeking to "guarantee" fetal life. Such an abstract guarantee suggests affirmative duties on the part of the states. Is it intended, for example, that the states be required to provide free prenatal care to all pregnant women so as to avoid miscarriage and fetal death wherever possible and so as to ensure the healthiest possible fetus and child?

The third type of proposed amendment seems to me to create less difficulty than the other two. Authorizing the states to prohibit or regulate abortion if they wish to do so overrules Roe v. Wade without depriving the states of the prerogative of deciding whether or not they want to make all or some abortions illegal. The ordinary division of responsibilities between state and federal governments, as I have noted above, counsels in favor of permitting states to permit abortions, if they wish to do so.

Nor would it seem to me to be wise to authorize Congress, as well as the states, to prohibit abortion, as some of the type-three amendments would do. That would raise the possibility of Congress prohibiting abortions within states whose citizens want to permit them—another federal invasion of state prerogatives. If state abortion laws were to be permitted through the amendment process, it would also seem to me to be best to thus validate only those laws which are enacted after the proposed amendment is adopted, rather than reviving laws which may have originally been enacted decades before Roe v. Wade struck them down. Women whose privacy is to be affected by an antiabortion constitutional amendment would seem to me to be entitled, at the very least, to a fresh, contemporary legislative decision on the question. I would also think some serious problems lurked behind a provision authorizing legislation designed to protect life at every stage of biological development. Unless there is an intention to overrule the contraception as well as the abortion cases, proposed amendments should be explicitly limited to authorizing legislation protecting the fetus at some time after conception. Finally, it would seem to me to be extremely unfortunate to adopt any amendment which would authorize prohibiting even the so-called morning-after pill, which may turn out to be the safest and most effective contraceptive that our technology can derive. Whatever the merits of the abortion controversy, there appears to be general agreement that the right of privacy encompasses at least the decision whether or not to use contraceptives, as recognized in the Supreme Court's decision in Grisold v. Connecticut and Eisenstadt v. Baird. The distinction between a day-before and morning-after pill seems to me too fragile to support a constitutional dividing line by way of amendment.

While I believe that a "states rights" type of amendment, properly limited, is thus the most acceptable type of proposal before you, I do not want to leave you with the impression that I favor such an amendment. For the reasons given in the first part of this statement, I emphatically do not favor any amendment designed to overrule Roe v. Wade at the present time. I would not lightly substitute majoritarian decision making for the judicial evolution of our rights, which has worked so well over the course of years. In the area of the right of privacy, specifically, an amendment overruling Wade would create the danger of chopping off the development of this new right while it is still in the process of early evolution, and of thus frustrating—and even terminating—a basic constitutional principle that rings true to the vast majority of the people.
journal: Your course in Education Law encompasses a wide spectrum of issues. How do you approach the course and what areas does it include?

Goldstein: It essentially concerns itself with the variety of legal problems involving government-funded education below the college level. 90 percent of the course is about public schools, while the other 10 percent is about the legal problems involved in government funding of non-public schools, including questions about new concepts like voucher systems, to replace the existing set-up of a sharp dichotomy between public and private schools.

The course covers a variety of problems, the first two-thirds pertaining to the individual and his/her relationship to the school: who has the right and who is compelled to attend school; who determines curriculum; the respective legal roles
of teachers, administrators, school boards, legislators, students, parents, community groups, etc.; the rights of expression of students and teachers; problems concerning special education, homogeneous vs. heterogeneous groupings, classifications of students; procedural standards that have to be followed in student discipline; teachers' roles in curriculum. The list goes on and on.

The last third of the course deals with more general systemic problems like desegregation, community control and decentralization, the financing of education, aid to non-public schools, and collective bargaining.

The three organizing principles around which the course is based deal first with the question involved in the allocation of the decision-making power in the schools, and who has the right to present its views in the process of that decision-making. Second, we study how accommodation is achieved in a society that wishes to use education to inculcate values to its youth and yet maintain its democratic principles of autonomy, individuality, and the freedom of its people, including youth. We also examine the accommodation of two other competing areas—that of the secularist, universalist values on which our country's philosophy, at least in part, is based, which conflicts with the desire to allow for the development and existence of ethnic, religious, and racial sub-groups. Finally, I think of the course as methodological, heavily concerned with questions as to what the roles of law and the courts are in entering into these issues and in trying to solve them.

**Journal:** Related to this area, thirty-three states in the U.S. have instituted programs holding teachers, professional administrators, and school boards accountable for providing students with guaranteed educations. What are your thoughts on such accountability and, specifically, the entrance by the courts into educational malpractice suits?

**Goldstein:** There is no way one can argue that people who are paid to do a job ought not be accountable for how well they do it, particularly when they are paid out of the public pocket. Now, how a teacher's performance is measured and how much one can expect teachers to do is very difficult to ascertain. And just who shall do the evaluating? In a law suit in California, under a rubric of accountability, there is an attempt to have a court and jury be the deciders by having a suit for damages for educational malpractice against teachers or school systems who have not done their jobs. It seems to me that our knowledge, at this time, of what is malpractice and how much can be attributable to a school system's failure is so minimal that the concept of having the court award damages under a malpractice suit is, to me, a very bad and wrong one.

I think we may expect too much from school systems as an entity in terms of increasing the learning of a great deal of students. The pre-school years, I believe based on what I have read, may be more influential than the later ones in determining how well students do. One cannot ignore the impact of environmental influences affecting them, and we must keep in mind that school time is only a segment in the scheme of learning. Granted school systems should be held responsible for trying to do some things but there is much more to consider in my way of thinking.

**Journal:** Academic freedom at all levels of education seems to be an area to which you are quite committed. In a lecture recently published in the *Israel Law Review*, you examined the rights of university professors to express controversial statements unrelated to their professions. Can you encapsulate your article which will be published this spring by the *Penn Law Review* on another aspect of academic freedom?

**Goldstein:** This article is longer and more legally-oriented than the lecture on university professors. It explores what Constitutional rights, if any, public school teachers have to...
determine what they teach in their individual classrooms over the objections of their superiors in the state-sanctioned hierarchy.

I ultimately concluded that there is no such Constitutional right of teachers to teach what they desire in a public school system.

When it comes to certain decisions like the establishment of a political philosophy or a given moral system, I concluded that, in the light of our history and societal sense in this country as to the role of education below the college level, the Federal Constitution does not forbid local school systems and local officials from attempting to inculcate or indoctrinate value judgments through the instructional process in the schools. Now, I don’t want to say that this is necessarily desirable, but this article focuses on what is constitutionally permissible.

Journal: Can you describe your course on Jewish Law?

Goldstein: I officially joint teach it with Dr. Barry Eichler, the Vice-Chairman of the Oriental Studies Department, who is a brilliant guy. Actually, we prepare together and although I comment in class, it really is more his course than mine.

It is essentially a comparative law course in which we attempt to teach the dynamics and development of Jewish law from the perspective of how a legal system can and does adapt to change as required, despite its “unalterable constitution”. Our concern is with the study of the historical development of the system, and we teach it in three sections: the first is the investigation of biblical law and its relationship to other middle eastern legal systems; the second area of study is post-biblical Jewish law focusing on the Talmud in terms of the development of the process, bringing it up to modern times; in the final unit, we deal with the topic of abortion, treating it through the entire development of Jewish law.

Journal: Are students taking this course and others like it that might be of an enrichment nature?

Goldstein: The course did not attract quite as many students as it had two years ago when we offered it. Maybe one of the reasons is that it has lost popularity but, also, the Law School has done away with distributional requirements, where students had to take so many hours from a specified area which might have been labeled perspective or enrichment. Jewish Law fell under this category.

My sense is that the general trend of the student body, in part because of the glutted job market and problems allied to this, is more focused on the traditional “bread-and-butter” courses. I think this trend unfortunate. Students have the next forty years to practice law and if they don’t get these courses now, they never will experience them. This is really the last opportunity to get some enrichment before they become very much narrowed in the practice of law.

Journal: You and your family spent the 1974-75 academic year on sabbatical in Israel. Can you tell us why Israel? What did you do professionally while there?

Goldstein: Two reasons influenced our choice. Essentially my wife, two children, and I wanted to live in Israel for a year. Also, the Hebrew University in Jerusalem invited me to come as a visiting professor. They also had facilities — libraries and materials in American law — in order that I might continue my research on Problems of American Education Law. Although this had little to do with Israel, I did investigate the Israeli educational system and did some work related to the Jewish Law course mentioned previously.

Although afforded all privileges given a visiting professor, I did not teach per se at Hebrew University. On occasion, I guest lectured for a course that was offered on freedom of expression; they were particularly interested in American ideas concerning academic freedom. I also gave a lecture to the law faculty, at the request of the Dean of the Law School, on the basic premise of academic freedom. This was prompted by an issue that caused notoriety at the University involving the rights of a chemistry professor who had participated in some activities in support of the so-called Palestine Liberation Organization.

I did teach a course in American Constitutional Law at Bar-Ilan Law School, a part of Bar-Ilan University in Ramat Gan, at the urging of the dean who is a long-time friend. I taught fifteen once-a-week sessions and, in retrospect, although reluctant to give the time initially, found it a most rewarding experience. The students were extraordinarily receptive, and it was great teaching American legal principles to people who have not grown up in our system. It gave one an entirely different perspective on the material.

Journal: In what language did you lecture—English or Hebrew?
Goldstein: Now that was an interesting story. The original understanding was that I would speak in English and the students would speak to me in Hebrew. Although their comprehension of English was quite good, they were reluctant to speak it, so the original plan worked out well. As I became more fluent in Hebrew and was more comfortable using it, I switched and, by the end of the course, was teaching in it predominantly. The materials used, mostly U.S. Supreme Court cases, were in English, of course, so some English had to be used. The translation problems were challenging and an important part of the course. If one decides how properly to translate, for instance, the English term "establishment of religion in the first amendment", essentially one is determining what the term means in a very significant way.

Journal: How did you and your family fare language-wise? Was it important to be able to speak Hebrew?

Goldstein: I had some Hebrew-speaking background but became more proficient as the year progressed. Hebrew University offered a class for faculty which was very good, and my wife went to a club for immigrants in Jerusalem where she took a government-sponsored course.

It is important to speak or, at least, to understand the language. One can get along quite well speaking English as a tourist but, to be part of the social life of the country and to know what is going on, one should understand the radio, TV, and be able to read the newspaper. By the time I left, I was reading a Hebrew newspaper not as fluently, however, as I might have The New York Times.

Our children came with some knowledge but never any really spoken background in the language, and they went to school on September 1, into an all-Hebrew speaking environment. For awhile they were bored for they could not actively participate verbally but, after an adjustment period that included special lessons in school, they caught on fantastically.

Journal: To what extent did you and your family become members of the community?

Goldstein: We were visitors, obviously; however, within that context, we were quite involved with the community. Our daughter belonged to a youth group comparable to the scouts and, when she went on a five-day encampment, I served for two days as a guard in the camp. Unfortunately, when sending children to such places in Israel, it is necessary that a certain number of adults be present to protect them. It is a terrible but true fact, which brings to fore my involvement, every two to three weeks, with the civil guard, a corps of civilian volunteers who protect the neighborhoods at night by patrolling in pairs. Its purpose is not to protect neighborhoods from violent or street crimes; adults and children freely walk, travel by public transportation, or hitchhike until quite late at night with no fear. The patrol function acts as a deterrent, primarily in terms of bombings, and also acts as an important psychological function for the citizenry to participate in their own security problems.

Journal: Was your commitment to Israel strong prior to your going?

Goldstein: Yes, but we became a lot more so having lived there. Living and dealing with the people directly and having friends who are involved make one bound to be more committed to the cause.
In addition to practicing law full time, Penn Law alumni may also be bankers or novelists or active civil libertarians. The experiences of three such people reveal how they have thrived in their dual careers.
There are such a vast number of legal questions that arise with respect to any loan, the running of the institution, the kinds of relationships one has with the depositors, what one can and cannot do, how to protect the bank's interests, how to make something feasible for the borrower—the whole realm of uniform commercial code questions. I am constantly amazed that bankers don't have little lawyers in their vest pockets at all times.

Betsy Zubrow Cohen, L'66, President/Chairperson of the Board of Directors/Chief Executive Officer at Jefferson Bank, Downingtown, Pennsylvania, and founding partner in the business law firm of Spector, Cohen, Hunt and Rosen, Philadelphia, has every right to this undoubtedly empirical reflection.

The extension of her career from the field of business law to that of commercial banking seemed a natural sequitur; she not only handles the securities work and corporate financial problems for her firm but, in the past, represented bank holding companies before the Federal Reserve Board and banks and borrowers in relation to one another. The first-hand opportunity to observe regulatory, operational, and loan policies has afforded Betsy the advantage of being able to wear two hats comfortably—one of lawyer, one of banker—each sustaining and complementing the other.

So how did Jefferson Bank evolve? Betsy Cohen and her husband, Edward E. Cohen, L'65, purchased a farm in Downington, Chester County, Pennsylvania, some years ago for a weekend and summer retreat. Familiarizing themselves with the area, they sensed a need in the town for a new banking facility—the only other having been chartered 110 years prior. Taking hold of and verifying that instinct by conducting a feasibility study on the vicinity confirmed their notions—Downingtown was ready for another banking institution.

A major obstruction lay in the banking department in Harrisburg, the state capital, which had neither granted a charter in eight or nine years nor seemed inclined to do so. However, Betsy was determined that "since I had taken the project this far, perhaps it would really be worthwhile pursuing it and seeing if all of the professionalism that we brought to bear in representing other people would bring to bear in this situation and develop a persuasive case for a new institution." An application was filed with the banking Commission in October, 1973, and, in February of 1974, a charter was granted.

While awaiting completion of the shopping center that was to house its permanent quarters, the bank occupied an 800-square-foot temporary building, affectionately nicknamed "the hamburger stand"—now the bank's drive-in facility. This small spot had, says Betsy, "more assets per square foot than probably any other institution in the world." You see, the bank opened in October of 1974 with $2,000,000 in capital and, at the end of 1975, had over $10,000,000 in assets.

Obviously, Jefferson Bank is doing exceptionally well despite early fears that a new establishment in this small, traditionalist town would be met with some resistance. Betsy feels that their secret is the high-quality personnel gathered to run the bank. "Over the course of the first six months, we were able to convince people that, if nothing else, we really cared about their problems, and this has proven a very welcome attitude." Because of size, larger banking institutions are forced to circumscribe the activities of the banking personnel providing services, thus limiting the solving of special problems presented by customers. At Jefferson, the inability to solve a problem is not dismissed with an "it-is-not-bank-policy" response. Rather, a difficulty triggers the beginning of staff discussion and analysis: Why was this problem not solved? And how can it be resolved next time? The customers' positive reactions to
this sense of concern, says Betsy Cohen, has made the
difference “that has enabled us to grow in our
relationships with people. I like to think that the lawyer
in me has provided this problem-solving approach.”

And what of this special personnel at Jefferson Bank?
Many of its major officers are women who previously
held banking positions but, perhaps, were not given the
opportunities to exercise their creativity elsewhere. A
case in point is the controller, who had been employed in
banking for many years and is finally being afforded an
outlet for the expertise she has developed. Approx­i­mately
80 percent of the bank’s employment
population, many of whom are on the lower end of the
responsibility and pay scales, are women. As Betsy
notes,

Most discrimination suits by women against banks
claim that they [women] have not been permitted
into the mainstream of bank promotions; they
never get the chance to go up—only across. This is
not true at Jefferson Bank since we start at the top.

Jefferson is not a concern that, like many others
surfacing in our country, caters only to women. It does
for everyone what these banks do exclusively for the
female population. Incidentally, the executive vice­
president and director in charge of daily operations is a
man who has accumulated some years of banking
experience and is also being given the opportunity to
grow in his position.

One can analogize officers in a “country bank” to
general practitioners in a modest-sized firm. Not only
do they “sweep the floors,” but they must be able to
absorb a wide range of information, since the luxury of
many people in specific job areas is not available. And, if
the customer is to be satisfied, which seems to be a prime
goal at Jefferson Bank, then each new situation and/or
problem is an exercise in the art of the possible.

Betsy Cohen has two irreconcilable points of view on
the question of a bank’s accountability to its investors
and the public in the form of full disclosure of
information. She believes that the knowledge that
disclosure will be made is healthy for the corporate
officers, on whose actions it will have a restraining
effect, and for the public, who is entitled to information.
On the other hand, a bank, besides fulfilling its
traditional financial transactions, often serves as
financial counselor to its customers. For this to be
accomplished effectively, total confidence in the
institution and its professional people is mandatory.
“Disclosure, therefore, in good times, might be fine; in
bad times, it could taint this sense of security.” Perhaps
this feeling could be obviated once people realized that
banks have, as Betsy explains,

human failings that don’t necessarily relate to the
soundness of the institution. It need not have an
absolutely error-free record in terms of the
judgment on the types of loans that it makes, in
order to fulfill a valid purpose in financial
counseling. If information about a financial
concern would be presented effectively without
impairing its ability to function, should it deserve
to function, then I think that good disclosure rules
would have been reached.

Until recently, Betsy Cohen literally divided her time
between lawyer-ing and banking, spending mornings in
Philadelphia practicing law and afternoons in Down­
ingtown at the Bank. She intends, in the next several
months, to devote herself completely to Jefferson. It is
in a period of enormous growth—another branch has
been approved and a site chosen—and “unless this small
ammount of time is captured, the many opportunities
built over the past year will not be fully developed.”

There is another career of which this woman is very
proud—that of being a mother. She and her husband
are the parents of three children, aged 6, 5 and 2.

Betsy Zubrow Cohen is, indeed, one of those truly
exceptional people. Gracious, acutely intelligent, only
34 years old and already successful in two careers. What
next? The best may be yet to come.
Children living in the State of New York should include Ruth Rosenberg in their nightly prayers. They have much to be grateful for since she has not only awakened the courts to the question of the rights of children to independent legal representation but has also laid some important groundwork for the determination of their rights to equal protection.

In February 1975, Ruth B. Rosenberg, L’63, on behalf of the New York Civil Liberties Union, entered a case in which she, as the legal representative of a child, established that the interests of the child were distinct and apart from those of the other parties in the case and were deserving of equal consideration under law.

A 17-year-old woman had gone to court to regain custody of her 2½-year-old daughter whom she had placed in foster care when the child was 4 months old. The foster parents refused to produce or make known the whereabouts of the child until a full hearing was held to determine the child’s future, thus provoking the court to send the foster father to jail on contempt charges and resulting in the granting of a summary judgment directing that the child be returned to the biological mother. An appeal was taken. Rosenberg recounts her feelings at the time:

I was appalled at these actions from my point of view as a lawyer, a parent, and a person concerned with the protection of civil liberties. A child is not a pawn or an object that gets handed over to someone with better proprietary rights like a piano or chandelier. Here was this little girl who was going to be returned without ever having had an opportunity for the court to review what was best for her. There had been no inquiry as to how the child had changed over the years since she had been placed in foster care. What had become her attachments? What kind of emotional damage would be caused by removing the child from her foster home? What was the biological mother like now? Was she capable of handling the child? Not one of these questions had been explored.

So, Ruth Rosenberg entered the case, having convinced the Court that she would have a better opportunity to do justice to the appeal on the granting of summary judgment than the legal aid law guardian who represented the child at the original abortive hearing. And so it was that Rosenberg successfully argued before the appellate division that the child had a right to “her own day in court.”

The rest is history. The case returned to the family court where extensive inquiries and full psychiatric studies of all parties were made. Rosenberg herself spent hundreds of hours developing evidence that the biological parent was, in fact, unfit to mother the child and that the child’s best interests were served by adoption by the foster parents where she had enjoyed a loving, stable environment and had developed soundly
and happily. After a four-week trial the decision came down denying the mother’s request for the child’s return.

Significantly, the final ruling included five observations made by the court pertaining to the lack of available means to invoke the standards of protection for children, the needs and rights of children to independent legal representation, and the changes that must be made within the system to ensure them proper and fair delivery of legal services. An additional reward for Rosenberg must have been the judicial recognition of these fundamental principles.

This case is unusual fare for a partner in the 100-year old firm of Nixon, Hargrave, Devans and Doyle in Rochester, New York. Yet Ruth Rosenberg, who practices law in the zoning, land use, preservation code, and litigation areas of real estate law, has maintained her intense, active commitment to the causes of human rights and civil liberties.

The ability to pursue her personal commitment to civil liberties’ causes is itself a reflection of the commitment of the nearly 100 attorney firm of which she is a part. The firm, long known for its responsiveness to the traditional calls upon attorneys to support community agencies, encourages Rosenberg and many other attorneys in the devotion of considerable time to less traditional social causes. The case in which Rosenberg acted as Law Guardian saw nine other attorneys in the office participate at various times, totalling several hundred hours in addition to the many hundreds of hours she spent in preparation and court time.

Her volunteer work with the New York Civil Liberties Union has been manifold. Organizationally, over the years she has held top positions on the state and local boards; professionally, her gifts as a talented advocate have resulted in many victories. In the turbulent 1960’s, a busy decade for civil libertarians, Rosenberg, under the aegis of the NYCLU, handled cases involving the rights of students—one in which students protested a dress code imposed by the school administration and another concerning the suspension of six students accused of incorporating allegedly “four letter words” into a school election poster. It was during this period that many people were charged with desecrating the American flag and protesting the war in Vietnam, and Ruth Rosenberg did her share of representing young people in this area.

She represented the City of Rochester in a matter that had wide civil liberties implications involving the City’s Police Advisory Board. This nonpolice organization, which reviewed charges of excessive physical force, was created in an effort to assuage Rochester’s outraged black and economically deprived citizens when, during a time of racial unrest, a policeman’s bullet paralyzed a man assumed to be a burglar. The local policeman’s organization challenged the board’s right to exist and Rosenberg, taking the case at the first appeal level, successfully carried it to the U.S. Supreme Court, where her motion to dismiss for want of a substantial federal question was granted. The board was ruled legal, and Rosenberg won again.

She participates in other community organizations such as the Board of Trustees of the Monroe County Bar Association, the Pre-Trial Services Corporation, the Jewish Federation, and the Society for the Prevention of Cruelty to Children, at all times asserting the civil liberties’ point of view to audiences of mixed persuasion on those issues.

Where did she develop her skills and expertise as a trial lawyer? In 1964, as the first woman to be hired by the then Philadelphia firm of Blank, Rudenko, Klaus and Rome, she worked as a member of a trial team consisting of Edwin Rome, L’40, and Morris Weisberg, L’47.

I could not have asked for two more talented people in the world to have trained me. Morry Weisberg taught me to think like a lawyer and to attend to the skills of putting down on paper with clarity and persuasiveness the position of my client. As for Ed Rome, I have never seen a trial lawyer with such talent, grace and genius. He has served as the model against which I measure my own efforts.

Ruth Rosenberg utilizes her career and, specifically, her abilities as an advocate in a very special way. One must admire her courage, for the causes she defends are, most often, not those to which a conservative community might be sympathetic. Yet, she is most influential and is looked upon with great respect in the Rochester area. One suspects that, over the years, her sincerity, her superior mental abilities, and her successful record of protecting those values that she considers right have afforded her credibility.

In addition to managing her diverse law practice, she and her husband, Allen P. Rosenberg, an attorney with the Administration at the University of Rochester and, incidentally, the U.S. Olympic Crew Coach, are raising four children.

The Rosenberg children together with the other young people all over New York State are very fortunate that a Ruth Rosenberg is out there championing their rights. They could not hope for a better ally.
One might envision the Saul Bellows and Joseph Hellers of our day agonizingly composing their "great American novels" in solitary New England or Bahamian retreats. One also might suppose the inner offices of an elegant, archetypal Philadelphia law firm, the location least conducive to inspiring a writer's creative genius. Yet, Arthur R.G. Solmssen, L'53, corporate partner with the firm, Saul, Ewing, Remick and Saul, Philadelphia, is a successful novelist—writing SEC documents by day and fiction by night.

He appears most content comingling the two worlds. The lawyer Solmssen not only financially subsidizes the writer (although his books do sell quite well) but provides subject matter for the novels; conversely, author Solmssen offers the technical knowledge and expertise necessary to the writing of bond issues. What more perfect a combination?

His three novels, of which two have merited Book-of-the-Month Club or Literary Guild recognition, might be viewed a trilogy. They are loosely related one to the other as a result of Solmssen's continuing dissection of the legal community and of society in general; his allusions to Penn Law School and Philadelphia and its environs; the reappearance and exploration of characters encountered in previous works; and, most significantly, the recurrent setting of the established establishment Philadelphia law firm of Conyers & Dean. Each work, however, is its own entity, possessing a complex protagonist, intricate plots and subplots, and well-delineated supporting characters.

Rittenhouse Square, Solmssen's first novel, chronicles the societal unrest and social changes characteristic of the 1960s. This dramatic backdrop complements the story of Ben Butler, a fledgling lawyer, who was loaned by Conyers & Dean to the voluntary defendant's office and, after a month there, discovered the rewards intrinsic to the defense of the helpless and the excitement to be found in the criminal courtroom. His return to the womblike world of mergers, debentures, and finance forced a crucial reevaluation of his priorities.

The plot of Alexander's Feast, the second novel, published in 1971, is extremely complex. Its action takes place in two cities—Philadelphia and Salzburg, Austria at the site of what Solmssen calls "The American Academy in Europe" but which bears close resemblance to the Salzburg Seminar in American Studies—and during two time periods, just after World War II and in the 1960s. The life and times of Graham Anders, partner in Conyers & Dean and the novel's multidimensional protagonist, are described amidst these settings and in these time periods.

Solmssen's latest novel, The Comfort Letter, a Book-of-the-Month Club alternate selection, explores the personality of Ordway Smith, another partner in
Conyers & Dean. He is an “everyman,” not brilliant or particularly dynamic but, as a result of his terrific social connections, is among the firm’s important “business-getters.” The novel traces the evolution and SEC registration of $100,000,000 in debentures and Ordway Smith’s handling of his erratic, difficult client, the head of the conglomerate that is floating the issue. In the December 1975 edition of Philadelphia Magazine, Professor Louis B. Schwartz presented his views on the book:

Can one distill literature from the taut, dry world of corporate finance or drama from the ethical crises of middle-aged lawyers who run errands for takeover buccaneers? The Comfort Letter answers with a tingling yes...Readers who feel guilt when experiencing merely sensuous pleasure in a good story will find here education and insight to gratify the most Puritan lust for self-improvement...For Solmssen’s book is a sociology of power...a textbook in the psychology of entrepreneurship.

Arthur Solmssen began his career as a raconteur very early; as a child he entertained classmates who should have been studying. He does not remember a time when he did not have a story inside wanting to emerge. At Harvard College, he did newspaper work but did not write seriously until he became well established as a lawyer. His legal education and first-hand experience as a practicing attorney provided Solmssen with the material to utilize his writing abilities.

Before I became a lawyer, no one would publish my work. Perhaps I had nothing to say. Now I do. This fascination readers have with the world of the lawyer has made those who can explain it with clarity—Louis Auchincloss and others—writers people want to read.

Solmssen admits to having characters living in his head, waiting to come out and be developed fully. He did just this in the case of Ordway Smith, the main character in The Comfort Letter, whom he was unable to forget since Smith’s minor role in Rittenhouse Square. Solmssen dismisses his characters as pure invention, amalgamations of many types of people. However, in Alexander’s Feast, one character was partially fashioned upon a Penn Law professor, now deceased, who made a vivid impression on his students.

When asked how much of his work is autobiographical, Solmssen replied, “I don’t know. All of it? None of it? Can it be measured? Some claim that everything written by an author is autobiographical, but that’s not true. A lot is made up. Sometimes ALL of it. I’ve talked with other writers about the curious fact that, after you have finished a book, you can’t always remember what is real, what was researched, and what was invented.” He does, however, seem to draw heavily from personal experiences for the framework of his novels. Ben Butler worked for a month in the Philadelphia defender’s office, as did Solmssen. Graham Anders participated in an international law conference at an academy modeled after the Salzburg Seminar in Austria. Solmssen was there in 1961 as an American Fellow and visited many times thereafter. The Comfort Letter so realistically describes, among other aspects, the complexities of the business practice—the area of the law in which Solmssen is actively engaged.

There are, of course, the “constants” found in each novel—the settings of Philadelphia and its Main Line suburbs, the law office, Penn Law School—all obvious parts of Solmssen’s life experiences.

Besides being a fine craftsman, he reveals a consummate knowledge of his area of specialization together with the ability to articulate its intricacies. Apropos of this, Professor Schwartz said in a review of one of Solmssen’s books, “His novels make fine literature out of investment maneuvers, proxy fights, and the tricky use of the antitrust laws—matters more often explored in The Wall Street Journal than in humanistic writing” (The Philadelphia Bulletin, November 14, 1971).

Arthur Solmssen is a refreshingly open, easy, unassuming person. It is amazing how these qualities of informality are carried into his writing. At the outset, a reader immediately feels included and comfortable, as though with a long-time friend. One should not be fooled, however, by this low-keyed, first-person narrative style, for the complex personalities that develop and the highly intricate plots that unfold make for exciting and tension-filled reading.

And what of the future? Will the trilogy become a quartet? Are there situations and characters within Arthur R.G. Solmssen yearning to emerge and say “I am”? The answers are probably in the affirmative, for this rare man, this lawyer/author, who is balancing and combining two fulfilling careers with equal mastery has stated, unequivocally, that he has no intention of relinquishing either one.
Professor Alexander Capron was named a Johns Hopkins Centennial Scholar and addressed a meeting at that university in October 1975. His book, *Catastrophic Diseases: Who Decides What?*, written with Jay Katz and published by the Russell Sage Foundation, New York, is a legal and psychosocial analysis of decision making about research and treatment in advanced fields of biomedicine, using kidney dialysis and organ transplantation as the examples under scrutiny.

Capron testified at the request of the New York Assembly Committee on Health on a bill to adopt a legislative “definition of death” in New York, December 1975. He has also appeared on numerous television panels discussing the case of Karen Ann Quinlan and, generally, the question of euthanasia/“allowing to die.”

He was a panelist at the Bench-Bar Conference of the Philadelphia Bar Association in September 1975.

Mr. Capron is presently acting Vice-Dean of the Law School.

Professor James O. Freedman is the author of an article “Delegation of Power and Institutional Competence” that appears in the Winter 1976 issue of the *University of Chicago Law Review*.

On February 14, 1976, he delivered a paper entitled “Expertise and the Administrative Process,” before the Council of the Section on Administrative Law of the American Bar Association. An article based on that paper will be published in the *Administrative Law Review*.


Mr. Goldstein was also selected as the area chairman of the Metropolitan Region of American Professors for Peace in the Middle East.

Professor George L. Haskins was elected an Honorary Fellow of the American Society of Legal History at the society’s annual meeting. The official announcement stated that “this election represents the highest honor the Society can bestow upon a member.” Fewer than five Americans have been awarded the title.

In January, Mr. Haskins attended the meeting of the American Council of Learned Societies in Baltimore, as well as the winter meeting of the Maine Bar Association in Bangor.

Mr. Haskins is scheduled to present a paper on the “Rights and Obligations of Government with Respect to Rural Communities in Colonial America” in May before the Societe Jean Bodin pour l’Histoire Comparatieve des Institutions, which will be meeting in conjunction with the Polska Akademia Nauk at Warsaw.

Professor Robert H. Mundheim has been elected Vice-Chairman of the Board of Directors of Investor Responsibility Research Center, a nonprofit corporation that analyzes shareholder proposals and writes in-depth studies of important social responsibility issues faced by United States corporations.

In December 1975, he chaired a discussion of “The Corporate Watergate,” an examination of illegal political contributions and questionable foreign payments by United States corporations, held at the Law School, with Professor Louis B. Schwartz as one of the panelists. Roughly 100 representatives of financial institutions, universities, foundations, and church groups attended the program, jointly sponsored by Investor Responsibility...

Mr. Mundheim, with Arthur Fleischer, Jr., cochaired The Practicing Law Institute's Seventh Annual Institute in Securities Regulation in New York City in November. The program reviewed major developments in securities regulation and attracted roughly 650 lawyers from the United States and Canada.

Professor Covey T. Oliver is consultant to the Department of State on matters relating to the Law of the Sea negotiations for the United States and is a member of the United States delegation to the Third Session of the UN Conference on the Law of the Sea, which opened in New York in March.

Mr. Oliver will teach international law at St. Mary's University this summer and then address the thirtieth International Conference on Human Sciences in Mexico City on the following topics: “Export Cartels, Trade, Aid, and International Justice.”

He will be on scholarly leave during the spring semester, 1977, and will be based in Paris, doing research through the Office of Economic Cooperation and Development on a comparison between the development assistance policy of the European Economic Community and that of its member states against a background of United States assistance policy. European positions as to the role and place of direct foreign investment in the development process will also be examined.

Professor Oliver was selected to prepare and has completed a study of the Constitution and the future of United States foreign policy for a bicentennial review of the Constitution by highly qualified persons, under the sponsorship of the American Academy of Political and Social Science, in Philadelphia this April.

Professor Stephen J. Schulhofer has been appointed Reporter to the Speedy Trial Planning Group of the U.S. District Court for the District of Delaware.

He is also serving as a consultant in connection with the National Survey of Crime Severity, a three-year project of the University's Center for Studies in Criminology and Criminal Law.

In April, Mr. Schulhofer will serve, along with several other faculty members, as a rapporteur for the Bicentennial Conference on the Constitution, sponsored by the American Academy of Political and Social Science.

Professor Louis B. Schwartz delivered a talk to the University of Pennsylvania College for Women Program on Continuing Education Series entitled, “Convicting the Innocent: Should There be Criminal Responsibility for Conduct Attributable to Ignorance, Mental Illness, or Bad Judgment?,” in November 1975.

In December 1975, Mr. Schwartz was a panelist, along with Securities and Exchange Commissioner Sommers and others, on “The Corporate Watergate” (pertaining to illegal political contributions and bribery of foreign officials) at the Conference on Investor Responsibility sponsored by the Investor's Responsibility Research Center.


Throughout the year 1975, he served as consultant with various senators and congressmen on the reform of federal criminal laws and participated in various radio interview shows discussing this subject among others.


In July 1976, Mr. Wolfman will become Fessenden Professor of Law at Harvard Law School (see Symposium in this issue).
'34 John S. Bernheimer announces the relocation of his law office to 6523 North 9th Street, Philadelphia, 19126.

W. Clark Hanna has retired as the Prothonotary's Solicitor, Court of Common Pleas, Philadelphia, and has announced the resumption of his private practice at 1420 Walnut Street, Philadelphia, 19102, and at 21 Church Road, Norristown, Pennsylvania, 19403.

'38 Irving R. Segal was elected to a four-year term as a Regent of the American College of Trial Lawyers, an organization in which he was active for approximately 15 years. Mr. Segal is a partner in the firm of Schnader, Harrison, Segal and Lewis, Philadelphia.

'41 John J. Dautrich has been elected to serve as President of the Association of Defense Counsel during the year 1976. He is a partner in the firm of White and Williams, Philadelphia.

'47 Robert M. Landis, a former Chancellor of the Philadelphia Bar Association, was elected President of the National Conference of Bar Presidents at the annual meeting of the American Bar Association held in the summer of 1975.

James P. Schellenger, Philadelphia, has been named Chief Executive Officer of the Delaware Management Company, Inc. He also serves on the Board of Governors of the Investment Company Institute.

'50 Hon. Joseph T. LaBrum, Jr., was recently sworn as Common Pleas Court Judge in Delaware County, Pennsylvania.

'51 Harold Cramer, Chairman of the initial Board of Directors of Graduate Hospital, has been named President of a new Graduate Hospital foundation created to acquire capital gifts, endowments, annual giving, etc. Mr. Cramer is a partner in the Philadelphia law firm of Mesirov, Gelman, Jaffe and Cramer.

'53 Thomas N. O'Neill, Jr., began his term as forty-ninth Chancellor of the Philadelphia Bar Association in January 1976.

Hon. David N. Savitt, Philadelphia Court of Common Pleas, has been appointed Court Administrator by President Judge Edward J. Bradley, L'53, as of December 1, 1975.

'54 Hon. Berel Caesar was named by Pennsylvania Governor Milton J. Shapp to a seat on the Philadelphia Common Pleas Court bench, replacing former Judge D. Donald Jamieson, L'50.

Morton S. Gorelick was elected to a one-year term as President of the Cheltenham Township Board of School Directors, Elkins Park, Pennsylvania. Mr. Gorelick is a partner in the firm of Steinberg, Greenstein, Richman and Price, Philadelphia.

Sidney T. Yates of Newtown, Pennsylvania, was elected to the Board of Directors of Saint Mary
Hospital, Langhorne, Pennsylvania, where he also serves as solicitor and secretary of the hospital authority. Mr. Yates is a partner in the firm of Stuckert, Yates and Drewson.

'55 Hon. Irving M. Hirsh was recently reappointed as Judge of the Municipal Court of North Plainfield, New Jersey, for another three year term.

'56 George L. Bernstein of Philadelphia will be President of the Pennsylvania Institute of Certified Public Accountants as of June, 1976. He is the National Management Advisory Services Partner in the accounting firm of Laventhol and Horwath.

Charles F. Ludwig has joined the firm of Silver, Lovitz and Atkinson, P.A., 3 Penn Center Plaza, Philadelphia, 19102, in the practice of insurance company law, regulation, investments, and litigation.

'57 Jerrold V. Moss of Philadelphia is Chairman of the Government Study Commission, which has drafted and recommended a home-rule charter for Cheltenham Township, Montgomery County, Pennsylvania. The charter will be submitted to the voters at the November elections. His offices are at 1201 Chestnut Street, Philadelphia.

'60 Rodman Kober has been named Vice-President in charge of transportation by Continental Grain Company's North American Grain Division, New York. He also serves as Deputy Mayor and Police Commissioner of Manalapan Township, New Jersey.

Hon. John A. Walter, Court of Common Pleas of Lebanon County, was elected to a 10-year term in November 1975.

'63 Gerald M. Levin of New York, President and Chief Executive of Home Box Office, Inc., addressed the International Radio and Television Society's Fifth Annual Faculty/Industry Seminar in Tarrytown, New York, in November. Mr. Levin, since joining Home Box Office, Inc., in 1973 has developed it into one of the leading pay cable networks in the industry and the first cable system to go nationwide by satellite.

Faith Ryan Whittlesey of Haverford, Pennsylvania, was elected Delaware County Commissioner, distinguishing her as the first woman in the State of Pennsylvania to become a county commissioner. Ms. Whittlesey resigned a seat on the Pennsylvania state legislature to assume the county post.

Prior to his death in January 1976, Edwin D. Wolf was the recipient of two awards: the Haverford Award, given each year by Haverford College to notable, deserving alumni; and the 1975 Fidelity Bank Award, presented at the Annual Meeting of the Philadelphia Bar Association in recognition of Ned Wolf's significant contributions to public interest law in the City of Philadelphia, specifically for his work as Director of the Public Interest Law Center of Philadelphia (PILCOP).

'64 Robert W. Tollen has become a partner in the firm of Chickering and Gregory, 111 Sutter Street, San Francisco, California, 94104, specializing in the representation of management in the private and public sectors in labor relations and related matters.

'65 Richard Gordimer has been named general partner in charge of the tax department in the office of Seidman and Seidman, Hartford Building, Orlando, Florida, 32800.

Harry R. Marshall, Jr., has accepted a position with the Office of the General Counsel to the U.S. Arms Control and Disarmament Agency and will reside in Chevy Chase, Maryland.
'66 Patricia Ann Metzer has become Associate Tax Legislative Counsel with the U.S. Treasury Department, Washington, D.C.

'67 Carmen L. Gentile announces the formation of a partnership under the firm name Bruder and Gentile, 1750 Pennsylvania Avenue, N.W., Suite 301 A, Washington, D.C., 20006.

Stephen Schoeman announces the formation of his law firm, Brotmann, Kornreich and Schoeman, with offices at 271 North Avenue, New Rochelle, New York, and 60 East 42nd Street, New York City.

Eric C. Woglom of New York has become a partner in the firm Fish and Neave, 277 Park Avenue, New York, 10017.

'69 Eric M. Lowin announces the formation of his new partnership under the firm name Bloom and Lowin, 666 Fifth Avenue, New York, 10019.


Paul J. Duca has become a member of the firm Silver, Lovitz and Atkinson, P.A., 3 Penn Center Plaza, Philadelphia, 19102.

'72 Keith S. Armour of the firm Shultz, Fahy and Street, has established a firm office at 100 East Main Street, Stillman Valley, Illinois, 61084.

Frank W. Bubb, III, is presently employed at the Scott Paper Company, Philadelphia.


'73 Joseph P. Coviello has announced the formation of his new firm, Dunn, Byrne, Coviello and Eisenstein, with offices at 234 Scranton Life Building, Scranton, Pennsylvania, 18503, and 234 East College Avenue, State College, Pennsylvania, 16801. He is Solicitor to the Dunmore school district and is cofounder and Secretary Treasurer of Sanbarco Planning Services, Inc., an educational consulting firm. Mr. Coviello spoke at the 1975 Law Alumni Day seminar on the topic of the Pennsylvania Sunshine Law.

Steven A. Kauffman has joined the law firm of Gever and Grife, 1313 Robinson Building, Philadelphia, 19102.

Frank J. Sensenbrenner, Jr., is the Assistant Attorney General in the legal services division of the Justice Department for the State of Wisconsin.

George W. Westervelt, Jr., has announced the formation of his firm, Royle and Westervelt, 738 Main Street, Stroudsburg, Pennsylvania, 18360.

'74 Leonard Cooper has become an associate in the firm Fidelman, Wolfe and Waldron, Suite 300, 2120 L Street, N.W., Washington, D.C., 20037, specializing in patent law.

James M. Franklin is a Deputy District Attorney in Colorado Springs, Colorado.

Jeffrey Horowitz and his wife announce the birth of their son, Joshua Andrew, on October 11, 1975.
From the Editor

Many are the rewards of this job. Having worked with the late Ned Wolf on his article, “I Have Promises to Keep...,” in the Winter 1975 Journal, was one such rare experience. His passing came just days after the Journal was circulated.

Not only was the personal exposure to this courageous man a gift in itself, but one feels that with the publication of his challenging article something special has been recorded for posterity.

Professor Robert H. Mundheim displayed incredible modesty when he described the quality of his tennis game in our “Conversation with...” Winter 1975 Journal, as something “to be kept a closely guarded secret.” Well, the secret is OUT. Mundheim and his partner were the first-place, silver trophy team in the Philadelphia Bar Association’s Fourth Annual Tennis Tournament held in December.

In this issue, the Journal introduces a new forumlike section, “Something to Say...a personal view,” to which we hope you will contribute.

It is our desire that the new feature will serve as a vehicle by which in-depth, personal opinions on subjects of your choice may be freely expressed in article form.

Please let us hear from you.

In Memoriam

'13 Isaac D. Levy, Philadelphia, November 29, 1975
'15 Justin S. Bamberger, Philadelphia, October 18, 1975
'17 John P. Creveling, Allentown, Pennsylvania, December 15, 1975
'21 Robert Dechert, Gladwyne, Pennsylvania, November 8, 1975
'22 Thomas McConnell, III, Haverford, Pennsylvania, November 6, 1975
'24 Charles D. Smeltzer, Philadelphia, December 26, 1975
'30 Peritz Berman, Chester, Pennsylvania, November 21, 1975
Bernard M. Zimmerman, Lancaster, Pennsylvania, December 2, 1975
'32 Eugene A. Nogi, Scranton, Pennsylvania, December 7, 1975
'37 Bruce S. Cronlund, Horsham, Pennsylvania, April 22, 1975
Irwin Slipakoff, Miami, Florida, September 2, 1975
'38 Frederick Y. Dietrick, Williamsport, Pennsylvania, December 10, 1975
Wendell R. Good, Erie, Pennsylvania, August 22, 1975
'42 Norman H. Abrahamson, Philadelphia, January 27, 1976
'44 William E. Taylor, Wilmington, Delaware, November 27, 1975
'51 John F. Healy, Bethlehem, Pennsylvania, December 6, 1975
'54 Bennet N. Hollander, Reston, Virginia, December 27, 1975
'63 Edwin D. Wolf, Philadelphia, January 21, 1976
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1975-1976

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