Reflections: An ESOP Fable, Profit-Sharing

by Prof. Robert S. Taft

Most persons are familiar with Amory P. Phibbs. On the other hand, not too many tax practitioners know the value of the fabulous ESOP. ESOP stands for Employee Stock Ownership Plan. The purpose of such a plan is to give employees a stake in the company through stock ownership. ESOPs resemble profit-sharing plans in that deductions are limited to 15% of payroll; distributions may be paid out other than at retirement or other termination of employment; allocation of contributions is made according to compensation to participants; forfeitures are redistributed to participants; and contributions may be at the discretion of the employer. The contributions of the employer can, but do not have to be related to profits. Benefits are distributed in the form of company stock.

As mentioned in the Qualified Benefit Plan into the Internal Revenue Code, this type of employee plan took on a new and additional meaning. Employers with employer stock eligible for tax-favored treatment were given the option of the qualified plan.

Regulation 1.49-10(a) (1) (ii) of the Internal Revenue Code of 1954 provides a definition as follows: "A stock bonus plan is an established and maintained by an employer to provide benefits similar to those of a profit-sharing plan, except that the contributions by the employer are not necessarily dependent upon profits and the benefits are distributable in stock of the employer company. For the purpose of applying the limitations under Section 401 of the Internal Revenue Code, the stock of the employer which is to be shared among his employees or their beneficiaries, such a plan is subject to the same requirements as would the plan were its benefits paid in money." Consequently, Congress specifically related the employee stock ownership plan to the employee profit-sharing plan. Nevertheless, it was the pension plan and the profit-sharing plan that received most if not all of the attention of tax planners in the last thirty years. In fact, after the 1954 Code was enacted, many Revenue Rulings were issued to clarify points with respect to pension and profit-sharing plans.

The first reference to an employee termed "conservative" proposals pension plan did not appear in the Revenue Rulings until 1966. Nonetheless, it was the pension plan under the aegis of the qualified Benefit Plan into the Internal Revenue Code which took on a new and additional meaning. Employers with employer stock eligible for tax-favored treatment were given the option of the qualified plan. First instance, a qualified stock bonus plan offers more flexibility than either the pension or profit-sharing plan. This is true both as to contributions and investment of funds. Unlike both the pension and profit-sharing plan.

(Continued on Page 3)

Crim-Justice Can Be Improved Without Reducing Liberties, Altmann Tells Group

by Paul N. Suteraser

Progress in improving the criminal justice system and in protecting society can be achieved without the adoption of schemes that would reduce everyone's civil liberties, the Honorable Benjamin Altmann, told a Dean's Hour lecture audience.

Altmann, Chairman of the City Criminal Justice Coordinating Council, spoke in the Moot Court Room as part of the Municipal Law Clinic lecture series, organized by Dean beam and Professors Bobb and Suteraser.

A former Judge of the New York City Civil Court, Altmann began his remarks with an outline of the organization of the GCCJ, the function of which is to allocate federal funds to various segments of the New York City criminal justice program.

Altmann criticized what he termed "sociocentric" proposals to deal with crime, such as restrictions on civil liberties, restriction in the age at which juveniles could be charged with crime, and the restoration of capital punishment to rid society of violent criminals and to save the $870 per day cost of imprisonment.

Instead he proposed a streamlining of criminal laws and the criminal justice system as a means of improving protection for society.

Echoing a theme raised in a prior lecture by Legal and Executive Director Archibald MacLeish, Altmann suggested that the so-called "sociocentric" crimes be eliminated. He said that enforcement of these laws takes up 50% of criminal justice system man hours and draws 50% of total court cases.

He praised the effects of swift justice and discussed the new ECAP program (Early Case Assessment Procedures) under which new cases are screened so that indictments reflect accurately the underlying set of facts.

Part of the reason, Altmann said, that plea bargaining has continued such a bad reputation is that charges often must be reduced by the prosecutor or the defense. The new program would eliminate anyone set on crime, but because the original crime is not investigated, the original crime is not investigated.

Altmann said that another beneficial result of the ECAP program was the saving of federal money.

(Continued on Page 6)

Students To Enter In Jan. Law Class

by Robert Gautin

The Spring Semester at New York Law School will take on new meaning this coming January. Traditionally, it has marked the final term for seniors, the halfway point for autumn students, and the end of the first semester for the novice class. Next January's term will now complete the beginning of a junior class at the law school.

Approximately seventy-five students have to date registered for the law school in the nation will commence their law studies in the three-year fulltime program. With graduation set for January, 1979, the class is well along the option of completing their studies once semester sooner. This degree requirement will be the same as for those presently in attendance, but attendance will be permitted for the first time.

Associate Dean Margaret Bearn

Moot Court Makes Semi-Finals

by Bruce Ginsberg

This fall the NYLS Moot Court Team displayed its proficiency in appellate argument. Jeffrey Kaplanner and Andrew Mendel, with Patrick McHugh on the brief, opposed the teams from Rutgers (Camden) and Seton Hall on the first day's arguments held at the Bar Association of the City of New York. Although the team lost the semifinal round against NYU, Presiding Justice Kopelman (from the Appellate Division) indicated both on and off the bench that NYLS had the edge in the oral argument but lost because of NYU's high brief score.

The Moot Court Fall Competition this year has had a fine turnout. Competitors are entitled to and posted numbers have noted the high quality of advocacy among the participants. Sixteen teams argued a criminal appeal involving issues of contempt, due process, and whether the Travel Act coders federal jurisdiction when bribery schemes use the telephone. The fall competition furnishes students with an opportunity to develop oral advocacy skills. An individual's performance score will form the basis for possible selection to the Moot Court and to speak about the installation of a new class with optimism, "We are very likely to attract some very great students wishing to get on with their education as soon as possible." The view was expressed in connection with the underlying notion that education for many "simply runs too long." Apparently many college students are finishing their requirements in less than four years. But they are not able to obtain admission to law school until the September term. So in many cases, unless the January Program of John Marshall or Stetson Law Schools are appealing to them, the waiting period can be as long as nine months.

On a recent trip to col­lages in Massachusetts, Dean Beam found a real interest in the spring admission policy among students at some of the more "prestigious" schools. Hopefully mid-year candidates will attract those students and others interested in the school. The college will not accept any applications and qualifications, to come to NYLS without delaying their education and the criteria for admission will remain at the present level. The college will continue to recruit to the Associate Dean. This will enable the school to admit only qualified students who are very likely to attract some college students with optimism, "We are very likely to attract some very great students wishing to get on with their education as soon as possible." The view was expressed in connection with the underlying notion that education for many "simply runs too long." Apparently many college students are finishing their requirements in less than four years. But they are not able to obtain admission to law school until the September term. So in many cases, unless the January Program of John Marshall or Stetson Law Schools are appealing to them, the waiting period can be as long as nine months.

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NYLS-CCNY 6-Year Program Off To A Promising Start
by Anita Miller

The cooperative program in Urban Legal Studies, jointly taught and administered by the faculties of City College and New York Law School, began its first year of operation this semester. The program is designed to meet a growing need for attorneys who are both highly qualified and personally committed to deal with the problems of urban communities which are not now provided with adequate legal services. Students who are admitted to the Urban Legal Studies Program will enroll in an integrated six-year curriculum, consisting of three years at City College, and three years at New York Law School.

The program at CCNY consists of a general education core curriculum of honors level courses, designed to foster the sense of breadth and humilitative concern traditionally characteristic of the liberal arts and sciences. They will also be enrolled in elective and specialized courses designed to define and illuminate the problems of the urban community.

In addition to the general curriculum, first-year students will qualify for the program when their professional training, community courses designed to meet the needs of students who are interested in law, will be offered as an option. There are several reasons for this, including the need for legal services, the need for legal training, and the need for legal education.

The students enrolled in the program will be required to undertake a summer internship during the summer session, which is conducted by the law school.

This semester, 45 students were admitted to the program in a specialized curriculum, designed to prepare students for careers in law-related fields. Students applying to the program were evaluated in terms of their overall academic performance, and their aptitude for the program.

The mean high school average of the group of 45 students was 86. Approximately one-third of the group are women, and more than half are of Spanish-speaking background.

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The ESOP Idea
(Continued from Page 1)
plans, which severely limit plan fund investments in employer-owned stocks, the provision of the stock bonus plan is investmen
tive to employees. It provides the most direct incentive to employees as they are given a jus
tifiable reason to benefit from the success of the employer. It also provides a means to accumulate retirement funds.

Should the employer be strap
ed for cash, it can contribute stock to the plan as long as the stock is marketable, which should free taxes for the employer and not necessarily deprive the employee of any portion of compensation because the stock is purchased from the employee.

The ESOP is designed to take advantage of the investment credit under the Tax Reduction Act of 1976. If shares are acquired by the plan in a transaction that does not constitute a taxable event to the portion of compensation that is deemed unreasonable by Internal Revenue. There is no market for company stock. Should the employer be unable to sell the stock at a profit, the employer Trustee would purchase it to avoid a tax liability. It may be sold to the employee at a fair market value, or it may be sold at a lower price and the difference paid to the employee as compensation. The employer could also choose to deduct the cost of the stock as a business expense.

The constant factor in the planning stages was the need to finance the stock purchase with cash. To resolve both problems, the ESOP Trustees would purchase the stock in cash, said contributions being credited to the employee's account in the employer's Retirement Plan. ESOPs are exempt from the consolidation and rehabilitation provisions of income tax law which apply to a financial institution if 50 percent or more of its stock is sold to the public. The portion of compensation deemed unreasonable by the ESOP Trustees would be taxable to the employee as ordinary income.

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SBA Meets; New Members of S-F-A Committee Approved

by Robert S. Frasier

Without an agenda, the SBA convened in the Must Court Room at 10:00 a.m. on Friday, November 1st, for its second meeting of the year. (Before the meeting, the President, appointed a new "monitoring" power faction of five- year old day and evening students to be a private candidate for the Student-Faculty-Alumni Committee.) Through a lack of smoke and the smell of freshly brewed coffee, the President opened by apologizing the Parliamentarian, Senator Pro Tempore.

From a procedural mixture of committee reports, old business, new business, points of order, motions, points of information, tabled motions, and edicts the following issues were raised and lowered:

- Professional Responsibility is a new pass-fail course.
- Certain members of the faculty and certain organzations which do not have office space were urged to join in an effort to acquire land.
- The bicycle rack is still in the planning stages.
- There is a large reduction in the lack of funding for student organizations, Mr. J. D. &. K. Company's contributions to the SBA were deemed highly insufficent. The SBA Curriculum Committee will investigate.
- Suggestions for new courses and seminars may be submitted to the SBA Curriculum Committee.

A letter will be sent to the faculty that members post office hours on their doors.

Another letter will be sent to the faculty asking that grades be posted promptly.

- Two more faculty-related issues were aired: How might the performance of teaching facilities be measured? And what are the criteria for assessing tenure at NYLS? (see Diana's column pg 38)

- Assistant Dean Biggs is preparing a two-year schedule.

The main business of the day started about 11:00 a.m. when those in attendance received copies to discuss the eleven candidates who presented their credentials for the Student-Fac
ty-Alumni Committee. The new power bloc of first-year students saw their candidate, Steve Cohen, confirmed. Second-year representatives voted for President Rastatter, and she received the necessary votes. Larry Silverman, a third-year evening student, was appointed as the third student member of the Committee.

The voting left most representatives fatigued, and after a few moments were bunched around the floor, the meeting was adjourned.

The November 15th meeting of the SBA will be reported in the next issue of EQUITIES.
From Small Town To The Big Apple

by Trudy Gardner

When William O. Douglas was advised, “Go East Young Man,” he took off from the city of Washington for New York City and a climb to Great Heights. When Abe J. Gardner, my husband, was advised, “Go East, young man,” by Ma Bell in April, he took off from the State of Oregon for New York City and a climb to Great Heights. (All similarities between persons living or dead are entirely coincidental.)

When I arrived two months later in June, I asked myself, “Can a small-town girl from Portland, Oregon find happiness as a New Yorker?” As our national leaders are being fostered by our national leaders, I tried lip-reading, but was afraid he’d accuse me of a lip-fixture. I knew it’s the difference in accents, that explains it all. (At law school in Oregon, there was very little, if any, influence in all phases of management.)

I answered the above question: “Yes.” Yes, Yes.

A NEW YORKER’S GOLDEN BOOK OF OREGON:

1. First, it’s pronounced OHL - RE - GUN (accent on the OR).

2. There are plenty of cowboys and Indians there. The cowboys are either (a) ranching in Eastern Oregon; (b) brewing in two-fisted towns in Southern Oregon; or (c) appearing as extras in the latest Hollywood on-location films. The Indians in the northern part of the State belong to the Confederated Tribes and live around the Warm Springs Indian Reservation in Central Oregon. They are famous for operating a beautiful desert-like resort and convention center called Klamath Springs. Their favorite tribes in southern Oregon, known collectively as the Klamath Indians, recently were in the national news as a result of receiving reparation payments from the Federal Government. They are advising the Indians on wise investments, etc. If students had been allowed to increase tuition, they could not very well pass on the merits of a tuition increase without such elemental knowledge.

3. The Indian community is made up of many different tribes, each with its own culture and language. For example, the Klamath tribes are known for their traditional dances and songs. They are also famous for their storytelling, which involves sharing stories that teach life lessons.

4. The Portland, the Jewish Community Center is a new and ultramodern structure, which has become the focal point for Portland’s Orthodox community.

5. The Portland Trailblazers basketball team is the city’s major sports team. They are known for their resilience and determination.

6. The Portland art scene is vibrant and diverse. It includes contemporary art, photography, and sculpture.

7. The Portland music scene is rich and varied. It includes jazz, blues, rock, and classical music performances.

8. The Portland community is known for its strong commitment to the arts. It has several museums, theaters, and art galleries.

9. The Portland food scene is diverse and ever-evolving. It includes everything from international cuisine to local farm-to-table dishes.
Letters to Editor

To The Editor:

As a recent graduate of NYLS I have been very pleased to receive copies of Equitas and other communications from the school.

However, one article in the last issue (October 31, 1975) was extremely distressing. As I read the opening paragraphs of The Changes at NYLS I desperately hoped that the edition was another in-house "April Fools" issue or at least the publication of a rival institution.

"Decades of ridicule and scorn." During the recent Pan-American Games, held in Mexico City American athletes were continually mistreated and scorned. During the post World War II decades, dozens of New York judges came from the ranks of NYLS alumni. Government officials elected and appointed proudly proclaimed their attendance at NYLS. Public prosecutors and defenders actively recruited our graduates as staff attorneys. No institution that was the subject of ridicule and scorn could have achieved such success in placing its graduates.

Certainly no one contends that conditions at the school in the 60's, 60's, or even currently are ideal. Major steps have been taken to eliminate any deficiencies and even Mr. S unconscious has noted that the improvements have been outstanding. Constructive criticism is one thing. Useless self-deprecation is another matter entirely and is particularly inappropriate when contained within a widely circulated publication that represents to many people their only contact with our school.

The deprecating remarks aimed at the library are especially unwarranted. The improvements made by Professor Simak, Mr. Moldowitz, Mr. Kazners, and Mr. Drumm are deserving of much praise. Until the spectacular growth of the library two years ago, such a guide did exist. Since then, every single volume in the library has been relocated at least once and it was impossible to keep it accurate. Now that the situation has stabilized, a new directory has been compiled. It is without a doubt the most complete and accurate library directory I have ever seen and it will make locating of any book simple.

Ron Goldfarb
Class of 1975

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Students' Group Aids Consumers

by Jeffrey Abrams

The Consumer Center of Lower Manhattan, staffed entirely by New York Law School graduates, advised by Professor Newman, will again be an integral part of the New York School year.

The Center is a complaint intervention service whereby law students research legal rights, make referrals to appropriate agencies and provide needed intervention on behalf of the consumer in dealing with the adversary party.

Last year the Center advertised citywide and accepted complaints by phone. To implement a new format, the Center in keeping with Dean Shapiro's goals of urban orientation and community ties, will offer a unique approach in consumer service.

The Consumer Center of Lower Manhattan is not connected with Prof. Newman's federally funded Consumer Law Training Center. The Center will operate only in the Lower East Side neighborhood, where many residents are non-English speaking, elderly, and sco1·n could have achieved such success in placing its graduates.

Although the Center only received complaints by phone. The Director of the Consumer Center, Rabbi Joseph Larger, is staffing a "pro bono" attorneys program which will arrange for clients to receive legal representation without cost.

Concentration on individual communities will enable staff members to deal with recurring problems endemic to the area. From this data, community strategies and proposals for legislative action will be developed by staff members to combat recurring consumer problems.

It was the experience of staff members from the first year of operation that working with consumer problems in both educational and rewarding. It allows for many law students the first opportunity to actually use their legal training while performing a worthwhile and rewarding function. New staff members join the Center each year and work beside experienced attorneys specializing in consumer law.

The Center, in keeping with the goals of the Legal Aid Society, is especially dedicated to serving the community of the Lower East Side. The Center's office is located at 255 East Broadway. New York Law School students are there Tuesdays and Thursdays from 3:00 to 5:00 p.m. taking complaints in person and by telephone. The Director of the Consumer Center, Rabbi Joseph Larger, has initiated a massive bilingual public relations campaign to inform the community of the services available.

Introductory lecture will be given on the topic of consumer services by Jeffrey Abrams, a JLSU spokesperson, "to provide Jewish Law Students Union (JLSU) was recently elected to represent NYLS students research legal rights, make referrals to appropriate agencies and provide needed intervention on behalf of the consumer in dealing with the adversary party. Last year the Center advertised citywide and accepted complaints by phone. To implement a new format, the Center in keeping with Dean Shapiro's goals of urban orientation and community ties, will offer a unique approach in consumer service.

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"...everyone knows everyone else's family history and business..."

(Continued from Page 1)

PDP Dance
Set for Dec 13

The semi-annual Phi Delta Phi dinner-dances will be held Saturday, December 13th at the Nether­

land Club of New York, 10 Rockefeller Plaza. The induction of 14 new members into Dwight

inn will precede the dinner-dance.

Ticket prices have been set as follows: Dwight Inn members, $6.00 per person; non-members,

and alumni, $6.75 per person. Tickets may be purchased directly from any inn mem­ber,

or by mail using the conven­

ient 'Ticket Order Coupon' on this page.

Drinks will be free during the complimentary cocktail hour begin­
ing at 8 P.M. During the din­

ner following, and throughout

the evening, drinks will be avail­
able for a small charge. Music

will be provided throughout the

evening by the 'Charlotte House.'

The Phi Delta Phi dinner-dance pro­

vides a rare opportunity for the entire NYLS community to come together in a purely social at­

mosphere. "A good time is had by all, as any who have ever at­

tended will attest. Those who

come once invariably come back again," said Phi Delta Phi spe­

kman Brett moist.

To help offset an anticipated deficit for the Fall dinner-dance, Dwight Inn is conducting a "60­

40 Raffle." Phi tickets are 50

cents each or three for one dol­

lar. Extra prize will be 15% of the net proceeds, and second prize will be 10% of the net pro­

ceeds. The two winning raffles

will be drawn at the dinner­
dance. Winners need not be pres­

ent. Raffle tickets may be pur­

chased from any inn member.

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(Continued on Page 8)

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The Phi Delta Phi dinner-dance pro­

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mosphere. "A good time is had by all, as any who have ever at­

tended will attest. Those who

come once invariably come back again," said Phi Delta Phi spe­

kman Brett moist.

To help offset an anticipated deficit for the Fall dinner-dance, Dwight Inn is conducting a "60­

40 Raffle." Phi tickets are 50

cents each or three for one dol­

lar. Extra prize will be 15% of the net proceeds, and second prize will be 10% of the net pro­

ceeds. The two winning raffles

will be drawn at the dinner­
dance. Winners need not be pres­

ent. Raffle tickets may be pur­

chased from any inn member.

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(Continued on Page 8)
New Prof. Finds Teaching Basic Courses A Must
by Vic Pino
With the expansion of the fulltime faculty in the last three years and the continuing efforts of Dean Shapiro, NYLS has and will continue to reduce significantly the professor-to-student ratio. One of the newest additions to the expanded faculty is Professor Douglas D. Scherer, who is teaching Basic and Contracts.

Professor Scherer brings to NYLS a diversity of experience ranging from technical chemistry work and commercial banking to a commitment to public service in the area of civil rights. Professor Scherer, a native of Ohio, graduated with a degree in chemistry from Case Western Reserve University in Cleveland, Ohio. After working as a chemist and technical sales representative for the Rohm & Haas Chemical Company in Philadelphia, Pennsylvania, for three years, Professor Scherer attended as a night student at Buffalo Law School in Buffalo, New York, where he became technical editor of the law review. During his studies at Buffalo, Professor Scherer was active in various phases of business, including a position with the Commonwealth Bank and Trust Company in Buffalo.

Upon graduation from Buffalo in 1969, Professor Scherer became associated with the Boston law firm of Nason & Chaplin. He left the firm to devote more time to his primary interest, civil rights. Although he has been involved in commercial aspects of the legal field, he says that he prefers his involvement in civil rights work, specifically blacks' civil rights. He left the firm to devote more time to his primary interest, civil rights. Although he has been involved in commercial aspects of the legal field, he says that he prefers his involvement in civil rights work, specifically blacks' civil rights.

As is evident from the multipublished teaching conflict in Boston, there is a great amount of work to be done to remedy the problems of discrimination in the public schools of Boston. Prof. Scherer began working in this area in 1965 when he first arrived in Boston to study law. In the years 1963-1974 Professor Scherer served as a member of the executive board and an legislative chairman of the Boston branch of the NAACP. Much of his efforts were directed toward drafting and lobbying for civil rights and related reform legislation, including bills to eliminate discrimination in the public schools and to alter the method of electing the Boston school committee. Professor Scherer explained that, at this time, appropriate legislation by the Massachusetts Legislature might have pre-empted the need for the federal suit that has been the subject of so much controversy in Boston.

In 1973, Professor Scherer was appointed to the post of commissioner on the Massachusetts Commission Against Discrimination. The Commission was composed of four commissioners who enforced the Massachusetts discrimination law and performed various intergovernmental functions concerning equal opportunity. The staff that assisted the commissioner in this commission was an experienced task consisted of sixty people, including fifteen attorneys and forty investigators.

In his own view, his present teaching assignment has provided a wonderful problem-solving opportunity. He feels that to develop as an educator one must know how to work with students in a multimodal environment.

Oliner Sees NYLS' Drive Bolstering Future
by Robert Schwarz
"Growth, potential, and drive" at NYLS attracted Prof. Mark Oliner away from his teaching position at New York University Law School to take a similar post here.

An honors graduate of NYU Law School, Oliner teaches tax law and is currently working on developing a sequence of tax courses for beginning students to take the basic tax courses before moving on to the advanced ones.

He is extremely optimistic about the future of NYLS. He believes it is becoming one of the best law schools in the city. He also believes it will take three to five years before the school's reputation will catch up with its present level of performance.

One of Oliner's distinguished admission decisions was his admission of Dean Donald Shapiro. He is also a member of the State Bar Association's Committee on Legal Education.

"I enjoy (the tax) area," he said. "It is easier to get things done here. There is more room for creativity and more room for the success of our students. I am glad to be here."
Oregon v. New York
Decision Is Pending

(EQUITAS Feature, Part II)

by Ed Sanocki

The future offers even more; immediate plans are designed to strengthen NYLS in many different respects. Potential faculty members are constantly being recruited from major law schools throughout the U.S., as well as the New York City area, which provides a great pool of talent for the adjunct faculty corps. The Personnel Committee, under

The present administration at NYLS, proud of its record since taking over in 1973, plans that many more changes are planned for the not-too-distant future. With the present efforts being directed toward improving quality, the eventual goal is to make this institution a source of pride for students, faculty, and alumni alike, while simultaneously attaining a high degree of respectability and prestige in the legal community.

Dean Beams, speaking for the first time on the subject, stated, "Since 1973 the school has become physically unrecognizable. Now we are concerned with atmosphere. Quality makes a difference when attending a law school, somewhat analogous to crossing the Atlantic as a first class passenger rather than being placed in a "stateroom." She maintains that the changes which have been made, as well as those which have been proposed, have a direct effect upon students' attitudes toward the study of law and the legal profession. "Certainly pleasant surroundings and better facilities are more conducive to student participation," the Dean stated. "Major alterations in the library and in the curriculum, and library, those

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