



Alfred Conard

Alfred Conard's Achievements

To the sound of enthusiastic applause reverberating through the large lecture hall in which his Enterprise Organization course met and carrying the champagne bottle with which the final class lucky enough to profit from his brilliant, exacting instruction rewarded him, Professor Alfred Conard swept out the door. For thirty-seven years Professor Conard has been stimulating law students and exacting the highest levels of performance from them. Tributes by former students and colleagues all expressed the conviction that Professor Conard will continue to educate through his writing and his example for many years.

Professor Conard came to Michigan in 1954. In his teaching and contributions to curricular planning, he has always been governed by his sense of the particular character and importance of legal education. Professor Conard is one of the foremost authorities in the corporate field; in addition he is a comparatist of international reputation. He has advocated the use of empirical research in legal scholarship and has demonstrated how that can be done to powerful and elegant effect.

Even in fields that were not his central concern, Professor Conard's contributions have been highly original and important. "Insurance," said Professor Jeffrey O'Connell of University of Virginia Law School, "is something that he has dealt with using only his left hand, just occasionally spending time with it. . . . But when he focused on insurance . . . the result was . . . as fine a piece on the nature and impact of insurance as anybody has ever done."

Former colleague Professor Stanley Siegel of the UCLA Law Faculty has spoken of Conard's wider contribution: "Al Conard is the magic combination of scholar, teacher, and colleague that we all seek to become. He has written authoritatively on an enormous range of subjects, from the problems of the tort system of reparation for automobile accidents to the responsibilities of corporate directors, from the abstraction of a complete rethinking of the perspectives of corporations to the practical details of revising the Model Business Corporation Act. He has not limited himself to the 'safe' and ready solutions to legal problems, but instead has blazed new paths. To name but a few: no-fault auto insurance, elimination of the concept of corporate stated capital, wholesale revision of the

derivative suit, reexamination of the personal liability of corporate directors. His approach is innovative, integrative, and scholarly. . . .

"Alfred Conard, a very special colleague, a most gifted teacher and scholar, . . . is a gift from The University of Michigan to the world of law, and to those fortunate ones . . . who have the joy of working with him."

Down with Equality Says Westen in *Harvard Law Review*

Law School Professor Peter Westen argues that equality is an idea that should be "banished from moral and legal discourse as an explanatory norm." In a *Harvard Law Review* article entitled "The Empty Idea of Equality" Westen maintains that this concept which pervades Western thought is really both superfluous and dangerously confusing.

Discussing rights in terms of equality is unnecessary, Westen claims, because "the entitlements people mistakenly attribute to the idea of equality all derive from external substantive rights." The claim that "likes should be treated alike," is tautological; it offers no moral, administrative, or legal guide in the absence of specific rules with regard to which individuals are judged to be the same.

In his article, Westen analyzes representative equal protection cases, demonstrating that the idea of equality is superfluous to them, since it is "logically indistinguishable from the standard formula for distributive justice, that is, that 'every person should be given his due.'" One modern day application of Westen's argument which is discussed in the article is the proposed Equal Rights Amendment (ERA).

The ERA seeks to guarantee that "equality of rights under the law shall not be denied . . . on account of sex." Westen argues that the term "equality" adds "nothing whatever" to the substance and meaning of the amendment. Without the use of the word "equality," says Westen, the ERA would have essentially the same message and implications: "Rights under the law shall not be denied . . . on account of sex."

Westen goes on to argue that the idea of equality is not merely redundant but also harmful to logical, moral, and political discourse. Throughout history, he says, respect