

# The W&L Law News

School of Law, Washington and Lee University, Lexington, Virginia

VOLUME I

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Number 5

## '24 Plus 46

### Dean Light To Close Long Teaching Career

By STEVE ELKINS

After 46 years of teaching, Dean Light has other things he wants to do. And so, he's retiring at the end of this semester.

"This is the hardest semester I've taught in a lifetime," said the senior faculty member, leaning forward at his desk. "I've got Con Law II, Federal Jurisdiction and two sections of Con Law I this time. And one of those first year sections meets at four this afternoon."

He laughed. "I wouldn't dare inflict anyone with a four o'clock Friday class unless it were my last semester."

Charles Porterfield Light Jr. spent his first semester in Lexington back in 1919. That's when he entered VMI. Finishing up there, the Dean left town long enough to get a J.D. at Harvard. But he returned in 1926 and the fall of that year found him teaching Constitutional Law in "old" Tucker Hall.

One of his Con Law students from those days went on to become a Supreme Court Justice. But you've probably heard something about that already.

So, Dean Light settled in and found himself standing on the front steps of Tucker Hall along with Charles McDowell and other faculty members as a procession of law school graduating classes had their pictures taken.

World War II interrupted the pictures. Called to active duty, the Dean served as staff Judge Advocate and as Legal Advisor to the War Department General Staff. But in 1946 Colonel Light came back to W&L and picked up where he left off.

In 1960 he took over from Clayton E. Williams and became head of the law school, a position he held until 1967 when President Huntley stopped by the Dean's office for a few months on his way to Washington Hall. And the Dean occupied the front office again the following year until the new man could get to Lexington from Michigan.



Dean Light

But now Dean Light is going to leave Tucker Hall and get caught up on his reading.

"I'll continue to keep up with the Court's advance sheets, of course, but there are some treatises and magazines I want to read as well. I'm really quite far behind."

So, from his home at Rockbridge

Baths, Charles Porterfield Light Jr. will be able to look up from opinions written by former students and gaze across the Maury River as it flows through Goshen Pass.

"I intend to enjoy my OLD age very much," he said, chuckling immoderately.

### University Council Votes Not To Oust Faculty 'Squatters'

In its November 10 edition, the Law News reported that two W&L faculty members, earning \$16,000 and \$11,000 per year, resided at the Davidson Park complex for married students.

On November 29, the University Council overwhelmingly defeated a resolution which had called for the ouster of the University faculty and staff living at the complex. The consensus of the Council seemed to be that the aggregate of married law students were as affluent—or nearly affluent as the faculty members housed at Davidson Park.

The only vote favoring ouster of the Faculty was cast by Ted Ritter, the Vice-President of the law school Student Body and also author of the resolution.

Those voting against ouster included law professor Andrew McThenia, President Robert Huntley, all University administrative personnel on the Council, nine members of the undergraduate faculty and eight undergraduate students.

Tom McJunkin, a law student representative, abstained. Dean Roy Steinheimer was absent from the meeting.

Discussion in favor of the resolution was limited to arguments by Ritter. He cited faculty pay versus law income as the crux of the issue.

Dean Watt inquired whether admissions to married student housing were currently made according to financial need. Answer: no.

Typical of the discussion concerning the proposal was the statement of one professor who observed, "If law students are so poor, why are there speed boats parked behind some of the apartments at Davidson Park?"

Another faculty critic of the resolution asked, "Why don't these so-called indigent law students move into the vacancies at Hillside Terrace?"

Ritter replied, "Because, frankly, Hillside is a hole!"

"But I lived there for a while and enjoyed it," added another faculty member. Ritter, visibly upset by the tenor of the remarks made by the Council, declined rejoinder.

Dr. Ray, an English professor, commented, "When I held a fellowship at the University of Virginia, I lived in a small cottage while a law student lived in a big house up on the hill."

Dean Atwood, an undergraduate official, summed up by saying, "Nobody forced the law students to get married."

At that point, an undergraduate called the question and debate ended.

During the meeting it was revealed that Hillside Terrace would be phased out over the next two years. It

(Continued on page 3)

### First Year Students Excluded

## Pass-Fail Grade System Approved By Faculty

On November 17 the Faculty overwhelmingly voted to implement a Pass-Fail system at the Law School. The system will go into effect next semester providing approval is forthcoming from the Faculty at its meeting scheduled for today.

According to D'Arcy Didier, Chair-

man of the SBA Academic Standards Committee, the Pass-Fail scheme applies only to second and third-year students and prescribes a "floor" of ten graded hours.

The minimum 'pass' mark has been set at 2.0. A grade of 1.5, as the minimum requirement for passing

had been recommended by the SBA Academic Standards Committee but was rejected by the Faculty.

Didier recently stated that "the over-all purpose of the Pass-Fail system is to encourage students to enroll in a greater number of courses, including the more difficult ones." "At the same time," he added, "the retention of a certain number of courses on a graded basis will allow a continuation of comparative measurements of student achievement."

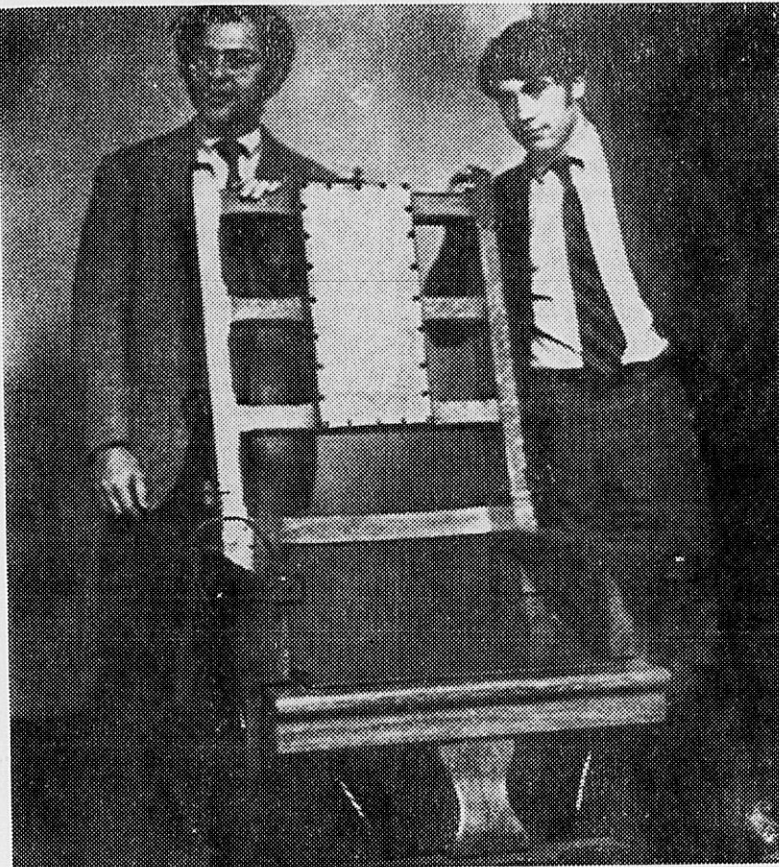
The highlights of the new law school Pass-Fail system are:

- Exclusion of first-year students.
- Minimum grade needed to "pass" 2.0.
- At least ten hours of each semester's work must be "graded." (Presently, Criminal and Juvenile Justice, etc. will qualify as graded hours, but "extra-curricular hours" will not.)
- Number of Pass-Fail credits permitted in any one semester is unlimited (subject to the ten graded hour requirement).
- Election of the pass-fail basis must be made within three weeks after any given course has commenced.
- Elections are irrevocable.
- Pass-Fail courses may be dropped, subject to the usual rules.
- Anonymity has been preserved. Elections of the pass-fail basis will not be disclosed to professors.
- The minimum requirement for graduation remains 85 hours.

The basic components of the Pass-Fail system, as approved on November 17, were first authored by SBA President Mac Squires and then submitted to the SBA Academic Standards Committee which worked out a proposal to forward to the Faculty.

The only area of controversy which developed over the new system centered on the question of the minimum mark needed to qualify a student for a "pass." The SBA urged a 1.5 as the minimum standard. The Faculty Academic Standards Committee disagreed, noting that anything below a 2.0 was, in its opinion, really evidence of "failing" performance. The Faculty Committee further noted that a grade below 2.0 after the first year was evidence of sub-standard performance.

What effect the new system will have on grading and competition for class rank is not clear. Chairman Didier commented that the law school Pass-Fail scheme may eliminate some competition for grades and at the same time allow for distinguishing excellent students from the average or poor.



Electric Chair

Two members of Prof. Ritz's Criminal Justice Seminar, Dick Mandelson and Jim Patterson, stand beside the electric chair at the Virginia State Penitentiary (Richmond). Despite the U.S. Supreme Court's ruling against the death penalty, Virginia's "Chair Room" may not be dismantled. Last Friday, a Powhatan County Court sentenced Malcolm M. Jefferson to die in the electric chair following his conviction for murder in the slaying of a Virginia state prison guard.

—Photo by Harder

## Drug Trials Slated

By JOHN HAMMOND

At 3:15 p.m. Wednesday in the Rockbridge Circuit Court all but two of nineteen defendants were accounted for as the first public legal action commenced against W&L students and others indicted November 14 on assorted drug charges. The packed courtroom had an ever so slight air of anxiousness as Judge Paul Holstein (W&L '32L) began calling the names on the docket. Tom Spencer (W&L '69L), who represented the first named defendant, Corwith, asked the court to give the defense more time for discovery and trial preparation. The indictments, Spencer contended, originated from a secretive Grand Jury session thereby denying defense the benefit of a preliminary hearing's openness.

Considerable argument ensued as defense attorneys, Pat Coleman (W&L '34L), Bernie Natkin (W&L '51L), Bill Roberts (W&L '58L), Shuler Kizer, and John Gray Paul (W&L '69L), sought to support Spencer's motion. Holstein turned to Sisler (W&L '69L), the Commonwealth Attorney, who explained that he wanted

ed the cases against Hummer, Bruell, and Darby definitely set for trial. The court obliged the State and set the trials for February 2, 13, and 16 respectively. These defendants individually accounted for 19 of the 55 indictments. The other 12 defendants

(Continued on page 3)

## News Briefs

Jeffrey M. Diamond, a third-year law student, was critically injured on November 11 when his car collided with a truck on Interstate 81 south of Roanoke. Mr. Diamond, who was a regular contributor to the sports page of the Law News, is hospitalized at Roanoke Community Hospital. His condition is reported to be steadily improving.

The Law School tuition fee for 1973-74 has been set at \$2,100. This represents a fifty percent increase over the tuition in 1970-71 which was \$1,400.

The SBA Board of Governors recently passed a unanimous resolution asking that unmarried female law students be allowed to live in Baker Dormitory.

The resolution noted that unmarried women students are uniquely disadvantaged in obtaining suitable, reasonably priced housing in the Lexington area and that accommodating them in the law dorm could be accomplished without inconveniencing male residents.



## Tuition Hike--Revisited

You all know what a catharsis is. That's a college student trying to express himself.—Shelly Berman

In its last issue the Law News editorialized against rising tuition. There were two very serious errors in the editorial: tuition figures were wrong for several of the law schools listed and the issue of the tuition hike was not precisely delineated. Because there has been no publication during the examination period the Law News has been unable to correct its mistakes. We would like to do so now.

We might be able to explain the fact that the editorial did not take a correct aim at the intended target and take another shot. We cannot be so blithe about the inaccurate figures. They were wrong and a quick check with the Dean's office would have eliminated the misinformation. The correct tuition figures are: Yale, \$3,100; Michigan, \$2,400; Columbia, \$3,080; University of Puget Sound, \$1,900. The Law News regrets and apologizes for its lapse of diligence and responsibility.

Now for the aim. Despite most individual reservations, law students believe that this school has been improving dramatically in the last several years. But this belief does not make the tuition hike more palatable when law students feel that they are not receiving their money's worth for law school services and facilities and for that part of tuition which represents costs of the non-academic university services.

We hope we got it right this time.

## Anonymous Grading

Mid-year exams are a community trauma. Even without exams, post-holiday depression exacerbates the minor hells of law school during January. When exams are interjected into this already stewing pot, we're caught up in a true witches' brew. Threatened egos and carefully cultivated poses dissolve in the toil and trouble. Veteran wives take the kids to visit mother just as terrified citizens fled the cities during plague epidemics. The lost souls left behind with no hope of escape eventually squirm out of the cauldron, but everyone gets parboiled, at least, and many get thoroughly scorched.

Since we're analyzing exams as a psychological phenomenon, we should note that they have a healthy effect as catharsis or purgative (by analogy to Freud or Maalox). But withdrawal symptoms arise when grades are posted and can poison faculty-student relations. The mandatory anonymous grading system for exams helps insure that professors stir the pot impartially rather than pinning particular poor souls to the bottom. Many grades are at least partially determined by mid-term problems, papers and tests. Some professors grade these anonymously when the grading pot is on the back burner during the semester. Others do not, even though it might be possible to do so, and, as a result, students often feel that animosity or favoritism determines grades. Whether this actually happens is beside the point. The trauma and withdrawal are severe enough without the suspicion that personality conflicts determine who rises or sinks in the stew.

The forthcoming suggestions of the Academic Standards Committee may prove to be excellent therapy.

## Mac Squires

Congratulations to Mac Squires on his unopposed re-election in December as SBA President. Historically, SBA leaders have fallen into two categories. One group dropped out of sight shortly after election and did not reappear except for occasional alumni luncheons. The other group consisted of PR specialists who continually praised their own conduct of office even when their performances were de minimis. Mac does not fit into either group. He has been attentive to the duties of his job. His conduct of office has been refreshingly free of pretense. Quietly Mac gets a lot done.

## Calendar

Wednesday, February 21—Dean Steinheimer addresses the SBA and answers questions about anything and everything. 10 a.m.

Friday, February 23—SBA Party. This is a wine tasting party if the SBA manages a favorable interpretation of the law and encourages the wine tasting expert to show. 7-10 p.m. Evans Dining Hall.

### Male Chauvinism

Editor:

After reading "Pete's Sportin' Life" December 8, 1972 issue, I felt compelled to inform the unenlightened columnist that his comments make him appear somewhat less than the twenty-five year old "man" that he is. While I hesitated to comment on his first in-print reference to women as "broad," the second time made Mr. Wimbrow appear not only to be a chauventist (sic), but a small-minded bore. His description of the swimming competition was not only degrading and embarrassing to the particular woman involved, but to women in general.

I find it discouraging that any Law Student would find this type of 19th century humor amusing. I suggest that in the future Mr. Wimbrow save his mentality for the "Playboy Advisor." In the vernacular of Mr. Wimbrow, it was a "cheap shot."

Marian Shuttleworth

### Librarian Speaks

Dear Sir:

I feel compelled to take issue with your recent editorial concerning the tuition increase, not so much for the gross inaccuracies that were presented in your so-called 'comparative tuition rates,' because anyone truly interested in making an accurate comparison can do so simply by consulting current catalogs; but, for the misconception you give as to where the tuition dollar goes.

Your attempt at levity, in characterizing "recent improvements to the law library" went no further than recognizing the "cage." However, I believe your readers are entitled to know something of the actual increase in library operations this year. In fact, many of your fellow students are much better informed, and are making great use of these better facilities.

The full time library staff has been increased from three to six, and additional part help, including students, adds four equivalent workers. Library hours have been increased from 50 hours weekly to over 66, and the reading rooms continue 24 hour operation.

The Annex provides added space for Tax and International materials, as well as over 5,000 volumes. An expanded basement "quiet" area has added more seats and books.

We have also added more than 7,000 volumes to the collections; acquired more than 10,000 volumes for which we have no present shelf space, but many of which are available if needed; increased coverage in loose-leaf reporting services by 600%, and advance-judicial reporting by 400%; broadened coverage in serial and special subject material considerably, including the addition of over 400 new periodical titles and inclusion of the full output of the U. S. Congress from 1970.

I will not go into detail about the expanded faculty and staff, or the plans to increase both in the coming year; nor will I point out the increased administrative work load in admissions, alumni affairs and publications.

I must say I cannot understand your reference to the disparity of "suffering with the last days of Tucker" and your characterization of Lewis Hall as the "air conditioned Taj Mahal." Certainly you do not mean to imply that all those who have prepared for our profession here in Tucker have had less of a legal education than will be available in the new Law Center?

When you also make statements that "(T)his tuition increase cannot be seen as a response to any claim of increased facilities or services," then I wonder if you are blind to what is taking place here in the Law School, or if you simply do not wish

## Letters to the Editor

to admit what is taking place before you make your statements. Neither situation would, by my thinking, reflect a responsible editorial policy for a law school newspaper.

From what I have seen of this outstandingly qualified student body at the W&L Law School, it is my belief that most students appreciate what is being done as well as what is planned. They take full advantage of it, and even accept the fact that such progress must be paid for partly by increases in tuition. I would hope that the small but sometimes vocal minority would re-evaluate their responsibilities and obligations to themselves, to their fellow students, and to the profession they hope to become a part of, before they would use these pages for less than well founded objecting.

Sincerely,  
Peyton R. Neal, Jr.

### Bond Criticized

Editor:

Initially, I had decided not to submit this letter, but I felt that it was imperative that I make my feelings known. I think that we as students should begin to speak out against the sham and mock efficiency which prevails among some of the members of our faculty. I am speaking principally, about one of the newest members of the law school faculty, Mr. James E. Bond.

Let me make it perfectly clear that this writing is not in conjunction with the Peter Wimbrow v. James Bond issue. While I am in sympathy with Wimbrow, I am writing this letter from personal knowledge. Some of the students have said that Wimbrow put the school in a bind and the faculty had to decide the way it did. I do not know on what basis the faculty made its decision, but I cannot agree with the remarks made by students. I have never advocated student take-over or control, but I do feel that if a student has a legitimate complaint, then it is the duty of the school to hear it and rule accordingly.

I imagine that I made an unpardonable sin of taking two courses from Mr. Bond last semester. In one course, we had to write a paper as part of our final grade. Mr. Bond did not completely read my paper because he was trying to get excerpts from it to use in class discussions. He used other papers also. I received a "2.0" in the course. There were other things involved, but I am limited to the number of words which I can use. While I am accustomed to getting 2.0's, I dislike getting them because of the petty idiosyncracies typified by Mr. James Bond.

As a teacher, Mr. Bond is inept, incompetent and immature. Some of the students have said "give him a few years and we might have a good teacher," but what happens in the meantime? I have grown to hate pioneering. We must begin to hire

people who know something about the field they are teaching, or are willing to work at it. Mr. Bond, seemingly, has a "I am God" attitude; thus, there is no room for improvement.

Although I find it essential to make these comments concerning Mr. Bond, I do not suggest that there are not others on our faculty who are above reproach in their teaching expertise. Nevertheless, if this law school is to reach the kind of elite prominence surpassed only by the larger schools, that zenith will never be reached if the law school continues to hire teachers of the caliber of Mr. Bond. I feel that we need to make a serious evaluation.

Sincerely,  
Larry D. Jones

### Davidson Park

Editor:

Re your article in the December 8 issue entitled: "University Council Votes Not To Oust Faculty 'Squatters'." I found the statements reported therein to be the most puzzling inane collection of trash I have ever read.

Probably the most preposterous item reported was that undergraduate faculty and students seem to regard law students as affluent, or nearly so, as the two squatters at Davidson Park. On the basis of this information, I and the rest of the law school should inform the school and the banks that we do not need any more loans; allow our wives to retire from their low-paying jobs, and return to the hearth to care for their country-squire husbands; give up the hand-to-mouth existence we have so mistakenly adopted. And of course, my motivation to attend law school has been considerably diminished. I figure I can live quite comfortably on \$11,000-\$16,000 per year.

Everyone should know who owns those speedboats at Davidson Park. For myself, there is my fifty-foot luxury air mattress which keeps me busy on weekends at the shore. What's most amusing about this particular comment made by one of the undergraduate "faculty" is that he should mistake undergraduate assets for law school "wealth."

Another appropriate remark made by one of those daffy undergraduate "faculty" members was to the effect that nobody forced me to get married. Well, these things happen. Equally relevant is the fact that nobody forced them to accept positions at Washington and Lee. And perhaps, given their aversion to married students, W. and L. would be better off without those persons who display such incisive reasoning.

Then, there is always Hillside Terrace. "But I lived there for a while and enjoyed it," whined a "faculty" member. Why then did he move out? Maybe the mice, bugs, leaky plumbing, rescue squad alarm, etc. were

(Continued on page 3)

## The W&L Law News

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# The W&L Law News

School of Law, Washington and Lee University, Lexington, Virginia

VOLUME I

LEXINGTON, VIRGINIA, FEBRUARY 9, 1973

No. 6

## Bar Apathy Closes Waynesboro Office

Last week it was announced that the Waynesboro Legal Aid Office was shutting down its operations. Jim Stalnaker, Chairman of the W&L Legal Aid Association, attributed the closing to the apathy of the local bar and to the lack of funding by the City of Waynesboro.

The effect of the closing is that all people in the vicinity of Waynesboro residing east of Interstate 81 will not be eligible to receive legal aid. The Staunton bar, it has been learned, will only provide legal services to those living west of I-81.

According to Stalnaker, the Waynesboro Social Services Office requested the City Council to withhold funds from Legal Aid because of the recent federal case of *Coleman v. Brown*. That case requires welfare offices to place a stamp on rejected applications indicating that individuals have a right to appeal and a right to utilize the services of local legal aid offices. Waynesboro Social Services, Stalnaker explained, feared that, as a consequence of the decision in *Coleman*, every rejected welfare applicant would "come running to Legal Aid, the result being a greater number of appeals for Social Services to fight."

Chairman Stalnaker noted that from the time the Legal Aid Offices opened last spring the local bar

manifested almost total disinterest, and in some instances, outright refusal to take cases. Many attorneys' for instance, believed that indigents should not be entitled to free divorces.

In summing up the closing down of Waynesboro Legal Aid, Stalnaker stated, "The attitude of many Waynesboro bar members is a poor reflection on their professionalism."

W&L Legal Aid soon hopes to secure approval for the opening of an office at the Western State mental hospital.

## Subject: Prof. Bond

# Censure Motion Argued At Student Bar Meeting

By STEVE ELKINS

After vigorous debate, the SBA Board of Governors voted down a motion of censure directed against a law school professor at its Wednesday morning meeting.

"I move that this body censure Professor James Bond for his unfair and arbitrary grading practices which can best be described as un-

professional," said Jeff Twardy, third year E.C. representative.

"Jeff, what will this accomplish?" asked SBA Veep, Ted Ritter.

"A snub, a slap in the face by the student body," retorted Twardy. "A dangerous precedent has been set. The situation is 'shaky' regarding law school grading unless we censure Bond now."

The motion for censure grew out of the denial by the Faculty of a petition put to it on Friday by Pete Wimbrow. Wimbrow had objected to the grade he received in International Law, calling the grading system employed by the professor "arbitrary." Twardy's aim in presenting his motion was to make known the student body's dissatisfaction with the faculty decision.

Chairman of the SBA Academic Standards Committee D'Arcy Dider was quick to respond to the Twardy motion.

"This censure proposal would jeopardize the proposal sent today by the Academic Standards Committee to all the faculty members. That proposal points out that questions are now in students' minds as to how grades will be determined. It represents a solution to this whole prob-

lem."

But some members of the Board were not content with prospective application of SBA suggestions.

"The question is whether the censure motion should be punitive or a deterrent," said Law Review representative Jack Mason. "I don't feel that we should preclude censure on the ground that it is purely punitive. To do nothing is to go against the tide of public opinion. If we don't do anything, the students are going to think that we're all moral midgets!"

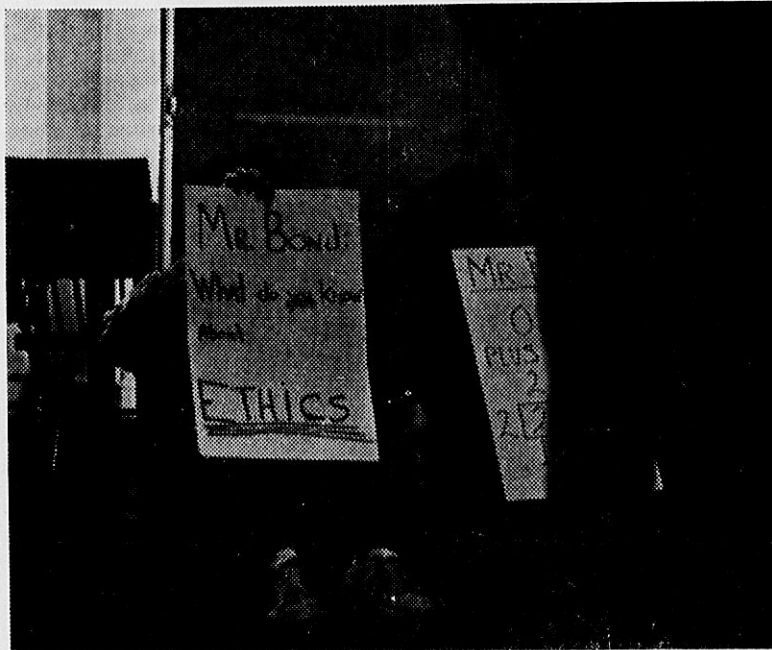
Ritter again voiced his opposition to the motion.

"I feel that Bond is not an adequate professor and shouldn't be retained at the law school. But this isn't the way to proceed. Too much progress has been made by the SBA in the last two years toward becoming the functioning arm of the student body. Censure will merely polarize students and faculty."

President Mac Squires asked for the vote. Nine voted against the motion to censure. There were two in favor and two abstentions.

First year representative Steve Robinson proposed a second, less militant, motion. After substantial discussion it was adopted by the

(Continued on page 3)



Protest

Students demonstrate against Prof. Bond's grading practices prior to his Administrative Law class Monday. —Photo by Hauser

## 1,261 Seek Entry To Class Of '76

By JOHN BROADWAY

Next week the formal selection begins for filling the 80 places in next fall's first year class. As of last Monday, a total of 1,261 applications had been received. Approximately 100 more are expected to be in the Admissions Office by February 12, the final date that applications will be accepted. Dean Steinheimer does not believe that the final number of applicants to the School of Law will be greater than last year's. However, the Educational Testing Service of Princeton, N.J., which administers the LSAT, reports that law school applications are down from 10-15% across the country. The faculty Admissions Committee will continue reviewing and passing on applicants until March.

Emphasizing the law school's recruiting efforts this past fall, the Dean said, "We are very anxious to establish contact with minority applicants," and added that Virginia Union College in Richmond, Virginia State College in Petersburg, and Norfolk State College were all visited as part of the law school's minority recruitment program. Recruiting trips were continued this year at a number of women's colleges, both in Virginia and among the Seven Sisters schools in the Northeast. The number of women applicants for the class of 1976 has not yet been tabulated in the Admissions Office, but is expected to be somewhat higher than last year's 49.

Transfer applications are being accepted from qualified students at other law schools, although the number admitted will not exceed the attrition total of the current first year class.

In most years, three or four transfers are enrolled to bring the incoming second year class back up to 80 students.

## Minimum Age Jury Bill Urged By Student Group

A memorandum arguing for the inclusion of 18-20 year olds on Virginia juries has been prepared by The Legal Research Association and distributed among members of the Virginia legislature. The report, requested by Del. John C. Towler (D-Roanoke), was written by Michael Campilongo and David Walsh.

Twenty-eight states have lowered the minimum age for jurors to eighteen—and although the Virginia legislature granted 18-year olds substantial rights last year, it did not extend these rights to include jury service.

The report stated that the continued exclusion of 18-20 year olds from jury raises "substantial constitutional questions," by depriving defendants age 18-20 of having members of their peer group participate in their judgment. The report based its constitutional objections to the law in Virginia as it now stands on three grounds: the due process requirements of both the state and federal constitutions, and the equal protection of the laws clause of the Fourteenth Amendment of the United States Constitution.

An eighteen-year-old juror bill, sponsored by Del. Ford C. Quillen (D-Scott), passed the House of Delegates on January 29 by a vote of 88-8, but faces an uncertain future in the Senate. The Senate Courts of Justice Committee has already killed one bill this term lowering the age

for jury service from 21 to 18. Sen. Edward M. Holland (D-Arlington) proposed the version defeated in committee.

In addition to legislative reform work, the Legal Research group is also participating in two test cases being brought in Ohio and in Connecticut.

The voluntariness of a guilty plea made solely to avoid the death penalty (where the defendant believes he is innocent) is being questioned due to the *Furman v. Georgia* standard (which applies retroactively) of the death penalty as "cruel and unusual punishment." The case was heard in December and a decision is pending.

The Connecticut Civil Liberties Union is contemplating an action against the Town of Westport for charging parking fees to non-residents of the town. The beach is a "public beach" and federal monies have been obtained for its maintenance. The Association is preparing a memorandum at the request of the Westport town attorney, and a hearing is tentatively set for April.

## U.S. Supreme Court Gets Alderson Brief

# Litigation Increases

A recent year-end report indicates that the Alderson Legal Assistance Program has become increasingly involved in litigation on behalf of prisoners at the Alderson Reformatory. The report also discloses that the program handled a larger caseload during the last six months of 1972 than during any previous period.

With the help of Washington, D.C. attorney Fred M. Vinson, Jr. (Law '51) participants in the program have prepared an amicus curiae brief in the case of *United States v. Bradley*, now before the U.S. Supreme Court. The Bradley case concerns the rights of federal narcotic offenders to parole consideration, and the amicus brief represents the interests of several women prisoners who will be affected by the Court's decision. The case should be decided sometime late in the spring or early summer.

In connection with the Bradley case, several suits have been filed in various federal district courts around the country to obtain parole consideration for prisoners at Alderson. Washington and Lee alumni have assisted in preparing these cases as well. The cases are currently at various stages in the judicial process. One of these is currently being appealed to the Fourth Circuit Court of Appeals. Professor W. J. Ritz, Director of the Alderson Program, will appear as one of the attorneys in the case.

The Alderson Program also began litigation to prevent the deportation

of two inmates (who are sisters) to South America. Prof. Ritz filed a petition in the Fourth Circuit to review the government's deportation order. The Government has subsequently suspended the order, and the sisters have been able to remain in the United States on parole status.

Beyond representative litigation participants in the Alderson Program have assisted prisoners in the preparation of numerous habeas corpus and appellate documents.

The Program's year-end report



Prof. Ritz and students Bill Simon and Larry Framme prepare Alderson litigation.

states that 126 of the 186 cases completed between July and December of 1972 involved questions of criminal law and procedure. During the same period 32 cases involving domestic relations (primarily child custody matters) and five cases involving deportation were completed.

## IN THIS ISSUE

Exclusive Interview With Wilt Chamberlain

See Page 4



## Abortion: Bozell v. Supreme Court

## Right to Choose is Challenged

By SARAH ELLERSON

As I walked out of the Student Center Monday night, I felt as though I had gone through a complete brainwashing. Inside that room we had passed an hour with a vivid color movie, "The Reality of Abortion," and L. Brent Bozell, an anti-abortion leader. Upon each chair were day-glo orange and black bumper stickers proclaiming "Abortion is Killing" and pamphlets containing graphic color pictures of aborted fetuses. The movie itself also consisted of views of embryos and was narrated by a doctor who may have correctly portrayed the grotesqueness of abortion, but who also did not try to conceal his moralistic bias.

In spite of this, I tried to reconcile this anti-abortion position.

The crux of the matter is the issue of whether or not the embryo at conception is human and has the right to live. Mr. Bozell believes that all innocent human life is inviolate. While this may be true, the question concerning us is whether the embryo is indeed human. Mr. Bozell says yes. I differ.

At conception the embryo has no likeness to a human nor can it survive outside the womb. Although the fetus may eventually develop a human nervous system, it will not have a distinct human nature for quite some time. As it develops during the first three months of pregnancy, it may resemble a human, but it is still a part of the mother's body. At common law the fetus was not recognized as human until the 16th to 18th week of pregnancy. Prior to that time it was considered a part of the mother. This view was adopted in New York State law in 1828. The destruction of the fetus prior to the 18th week of pregnancy was a misdemeanor, while abortion after this time was second degree manslaughter. Then, in the latter part of the 19th century, laws tightened and abortions could only be performed if the physician deemed it absolutely necessary to save

the life of the mother. Mr. Bozell believes that the physician can never say a mother's death is certain unless an abortion is performed; therefore abortions should be avoided at all costs. I fail to see his logic. Is it not better to save one life than to lose two? Most state laws require two or more physicians to confirm the attending physician's belief that the mother's life is at stake. What more does Mr. Bozell want? Doctors can never be one hundred per cent sure of anything, yet they are required to be scrupulous when treating patients.

The recent Supreme Court decision, *Roe v. Wade*, recognizes that the life of the prenatal infant should not be forgotten altogether. The law did not and could not decide whether or not the embryo was a human at conception. Although the court adopted the so called "trimester rule," allowing the mother and attending physician to decide whether to undergo an abortion within the first three months of pregnancy, it also clearly stated it was not an absolute right for the mother to have an abortion. The state is left to regulate hospital standards and to license physicians for the purpose of performing abortions.

Justice Blackmun stated the opinion of the Court. He notes that the law has never recognized the fetus as a person. It is only after birth that the person becomes entitled to certain rights enumerated in our Constitution and Bill of Rights. He further notes that the law cannot deal with potentialities but must work with actualities. According to the opinion, the fetus is not a human but a potential human. Thus the decision to abort must be left to the mother because she is entitled to privacy, due process, and all that is embodied in our laws.

Irrespective of Mr. Bozell's dogmatic opinions, many women, myself included, welcome the decision in *Roe v. Wade*. After all, Mr. Bozell will never have to suffer any unwanted pregnancies.

## Flicks

## STATE THEATRE

Fri.-Wed., Feb. 23-28—*Valachi Papers*. Charles Bronson plays a talkative Italian.

March 1, two weeks—*Deliverance*. After seeing this nature movie, even the most avid outdoorsman will hesitate to canoe up from Goshen. Burt Reynolds and Jon Voight star.

## LYRIC THEATRE

Fri.-Sat., 23-24—*Gone With The Wind*. Frankly, I don't give a damn.

Sun.-Tues., Feb. 25-27—*Trouble Man*. Another black film about another super-cool black dude who avenges his a) mama's death b) Papa's death c) brother's death d) sister's rape. Choose one of the above. Generally on the short end of the stick is a not so super-cool group of Italian hoods and Irish cops.

## JERRY LEWIS CINEMA

Sun.-Tues., Feb. 25-27—*Thunderball*. Ian Fleming's James Bond is a principled ethical secret agent. All of which goes to show that there is not a common-Bond between all Jameses.

Flicks: "Tell us it ain't so, Larry!"

## Disillusioned Staffer Ends Porno Career

If they want sex... give it to 'em  
If they want violence... give 'em that  
If they want both... GIVE 'EM DONNA!

—advertisement for *Dirty Lovers*

Well, well, thought the reviewer, this looks like the type of cinema that might interest the readership of the *Law News*. Warily parting with twelve bits, he entered the muted sublimity of the Lyric Cinema for the 1000th time. After viewing some particularly offensive short subjects, he signed with relief as the French Feature began. Alas, elation was short-lived. Soon after the show began a gnawing sense that something was missing formed in the back of the mind; mid-way through it sprang full-blown into his consciousness. The Question: Where is Donna? There's no one named Donna in this movie! What's going on?

The reviewer never recovered. After anticipating Donna, a bunch of ordinary French broads (apologies!) just didn't make it. Here was promotional deception at its worst. What has happened, he wondered sadly, to the art. Even in the interest of professionalism, it was impossible to sit through to the end. As he shuffled away from the scene of this travesty, he looked back on past pinnacles of the celluloid art: the poignant beauty contest of South-

ern Comforts, the humor of *Tobacco Roody*, and the clinical climax of *Doctor, I'm Coming*. He asked himself, would Mr. Novak ever have allowed his name to grace a film promoted by deceptive advertising? Unthinkable. Would Mr. Buckalew ever have agreed to film such a thing? Never!

Only one path remains: Adieu, good readers, and best viewing to you all! —Larry Carlson

(Because of this loathsome fraud our reviewer has vowed not to review a film in Lexington ever again. —Ed.)

## LETTERS

(Continued from page 2)

erns voted against censure, whereas two voted in favor and two abstained. The front page carried a photograph of the demonstration; the editorial page a peculiarly timely gripe letter concerning of all things, Professor Bond's grading system; and the "Dear Al" column a humorous allusion to the same events. Really, gentlemen, even the least subtle of us got the point.

Wholly apart from the merits of the Bond controversy is the more important issue of your publication's credentials as a newspaper and as a representative publication of the School of Law. Unless you can restrain yourselves from indulging in written temper tantrums and begin reporting the other side of news stories, perhaps you should change your name to the *W&L Law Editorial* and have an ever so small column on the inside left-hand column of the second page for real news. That way, at least, we would have truth in labeling, and some of your more impressionable readers would know what they are getting.

Sincerely yours,

R. Curtis Steele, Jr.

(Don't know about you Mr. Steele, but we consider a student-faculty confrontation, a censure proposal from an ELECTED representative, and a demonstration on the third floor of Tucker Hall pretty "sensational" items to be forthcoming from a school which is noted for its circumspect and non-militant student body. Would you have preferred that we ignore the unpleasant and the embarrassing?—Ed.)

Alvin-Dennis

## ITEMS FOR SPRING

Chemise LaCoste

Top Siders

Butterfly Bow Ties

Wallabees

## The Law Student Advisor

By Al Hulten

Dear Al,

I've just attended my first Dean's press conference and boy was I impressed. A formidable figure who somehow resembled Nelson of Albany was fielding questions with remarkable dexterity before a group of people-like placebo receptacles. The aforementioned personage proclaimed that he could be tried before any university body to dramatize his point that honor is basically an inflexible concept especially as far as potential lawyers are concerned. Could you please inform me if any proceedings are now pending involving this august gentleman?

Judiciously,

Paul Probe

Funny you should ask because I've just become privy to some information that not even the broadest shield law would consider privileged. It seems that the Grand Inquisitor for Library Affairs has called a special secret grand jury which returned a true bill indicting the Dean for Conspiracy to Obstruct Library Expansion. But the advocate from Michigan was not to be denied as he immediately filed a motion to quash the indictment on the grounds that the composition of the special grand jury was legally insufficient because there were not enough minority group students and women students on that judicial body. The learned judge, after a brief perusal of the composition of the law school student body, laughed the Dean's motion out of Court. The last I've heard on the matter is that the Grand Inquisitor is threatening to indict the staff of the *Law News* so that their office space can be turned into the new Dean's office as his old office is presently being filled with rare books on the Migratory Bird Treaty.

\* \* \* \* \*

Dear Al,

When are you male chauvinist pigs on the staff of the *Law News* going to come out of your sty and get a woman columnist? All I read in your paper concerning women are derogatory remarks referring to "Broad" and perverse reporters seeking interviews with poor exploited souls such as Linda Lovelace. Perhaps you can summon up enough journalistic integrity to publish a balanced viewpoint for a change. I am sending a carbon copy of this letter to Clay T. Whitehead so you'd better shape up.

Liberatedly,

Rosa Restraint

Well, I am all for changing the hue of the *Law News* from bright yellow to subtle pink (Sorry Clay, but if you thought elitist gossip was bad...) but as yet we've had no one approach us seeking such a position. But if you or any one else (male or female) cares to write for the *Law News* for the remainder of this year and next year, it would behoove you to talk to our next editor and chief Steve Elkins as the *Law News* will be entering a transitional phase in the near future.

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## Law Students, Get Organized

At The

## University Supply Store

FOLDERS

INDEX CARDS

LAW NOTEBOOKS



# The W&L Law News

School of Law, Washington and Lee University, Lexington, Virginia

VOLUME I

LEXINGTON, VIRGINIA, FEBRUARY 23, 1973

Number 7

## News Analysis—From the Streets

### W&L Drug Scene: Sisler To Prosecute

By JOHN HAMMOND

One bright Spring day in 1970, a little old D.A.R. witnessed a W&L student transact a dope deal on Main Street. One letter to the Governor, an order to the State Police, and a couple of weeks later a concentrated "drugnet" descended on Lexington. That's how it started. Caught up in the net were 19 defendants, one indicted for distribution of marijuana on the slim evidence of passing a joint from the person on his right to the narc on his left at a party.

There were no morphine junkies or scag freaks indicted—no opiates at all. Nor were axes used to smash into opium dens filled with the thick blue haze. In short, the nars netted small fish. Nevertheless this "small-change" could draw 5-to-40 at hard labor, and was good publicity for them.

The cases are simple enough to work up for the narc. All that's needed is to get someone to just pass him anything listed on the "Schedule of Controlled Drugs" and bingo he's got a case ready made. The problem seems to have arisen responding to the outcry of the little old D.A.R. broad who wants action. The first thing to do then is to get as many different counts as possible and call a Special Grand Jury. This seems spectacular in the media, about the lengthy investigation and all. Bond—\$10,000 plus, which is about half the normal for armed robbery.

One defense counsel remarked, "Jesus Christ, these people are being treated like hard-core thugs. You'd think they'd participated in the St. Valentine's Day massacre." The Commonwealth Attorney, on the other hand, replied, "I personally believe that marijuana leads to harder stuff." The State Police consider the indictments "as another jewel in (their) publicity crown" and keep statistics as if the indictments were so many parking tickets. The court relented and lowered the bonds—\$5,000 plus.

Of those indicted, three have had trial dates definitely set—all with juries demanded by the Commonwealth. One source says, "Eric (Sisler) wants some people to serve time out

with a tight case, the defense counsel seems to think you stay with what you've got. He also said flatly, "Eric's doing himself more harm than good with this thing."

"If only these people would realize the dangers of using the stuff," says one attorney about marijuana, "not from the physical harm, which to my knowledge doesn't exist, but from society's wanting to put them in jail for it."

Less than one month after the arrests a W&L student held a bag of dope above his head, eyed it to see how full it was and continued on his way. This was in the middle of Jefferson Street at 3 o'clock in the afternoon.

NEXT: Where's the real problem with drugs in Lexington?

### Three Seniors Get Federal Clerkships

By MARK RIEGEL

Rhett Flater and Jack Mason have been appointed as clerks for the Fourth Circuit Federal Court of Appeals. Ridge Porter has been appointed clerk for the Eastern District Court of Virginia. All three seniors will begin their one year appointments shortly after graduation in June.

Rhett Flatter will begin his duties July 2 in Abingdon, Virginia, with Fourth Circuit Judge H. E. Widener (W&L '53). Mr. Flater expects to write "bench memoranda," which are designed to prepare the Court for upcoming cases. It is customary for clerks to draft and revise opinions of the judge.

Jack Mason will serve with Fourth Circuit Senior Judge S. E. Sobeloff in Baltimore. Mr. Mason will begin work July 15. His duties will include writing "bench memoranda" and opinions. Judge Sobeloff has been invited to sit for several months with the Ninth Circuit later this year in California. Mr. Mason expects his travels with Judge Sobeloff to be demanding and enlightening.

Ridge Porter has accepted a clerkship with the United States District Court (Eastern District of Virginia). Mr. Porter will be assigned to work with either Judge W. E. Hoffman (W&L '31) or Judge J. A. MacKenzie (W&L '39). One of the advantages of working on the district level is observing what trial methods influence the judge most effectively.

## Dean Fields Questions At Student Bar Meeting

By STEVE ELKINS

Dean Steinheimer took the podium of a packed South Room Wednesday morning and answered questions put to him by members of the student body.

Faculty selection and tenure proved a popular topic and questions on this subject came to the Dean from all parts of the room. Third year student Scott Turner asked for an explanation of faculty selection procedures.

"We receive upwards of 300 resumes a year from persons interested in joining the faculty here," said

the Dean. "Of those 300, we manage to speak to fifteen or twenty at 'the slave market'."

The so-called "slave market" is the annual meeting of the American Association of Law Schools. There, members of the legal profession who are interested in joining the teaching profession gather to talk to prospective employers.

"If we find a real 'live one' at the meeting, we ask him to come to Lexington to be met by all the faculty," said Steinheimer. "Students also talk to prospective faculty mem-

bers. Mr. Gores's SBA committee has done a very effective job of interviewing prospects this year. This is the first year that students have been involved in the faculty selection process."

Why no women professors?—asked Angelica Didier.

"We got a half-dozen resumes from women seeking faculty positions. The one we were most interested in got away. But we're still keeping our eye on her," replied the Dean.

Eric Hauser, a third-year student, asked that tenure procedure be explained.

Steinheimer revealed a somewhat complicated, yet understandable tenure policy which is spelled out by members of the Board of Trustees of the university. He added, "While students have no voice in the actual decision of whether or not to grant tenure, I should hope that student course evaluations and the like would provide input and help us decide whether or not to grant tenure in a given situation."

John Gee asked about minority student recruitment.

The Dean explained the efforts currently being made to interest black students in Washington and Lee. He praised black law student Larry Jones for his "missionary efforts" at Virginia colleges, and the Dean further discussed the problems of interesting Blacks in W&L.

"The black student who has the potential to do law work is a rare commodity. He's being bid for by all law schools, and places like Harvard and Michigan have more money to spend than we do. Also, black students are often not attracted to a small rural area like Lexington. But we're trying. I hope we can break through and establish a base of black students here."

From the back of the room, a supine Al Hulten phrased a question in which "Pete Wimbrow" was the subject and "Faculty" was the predicate.

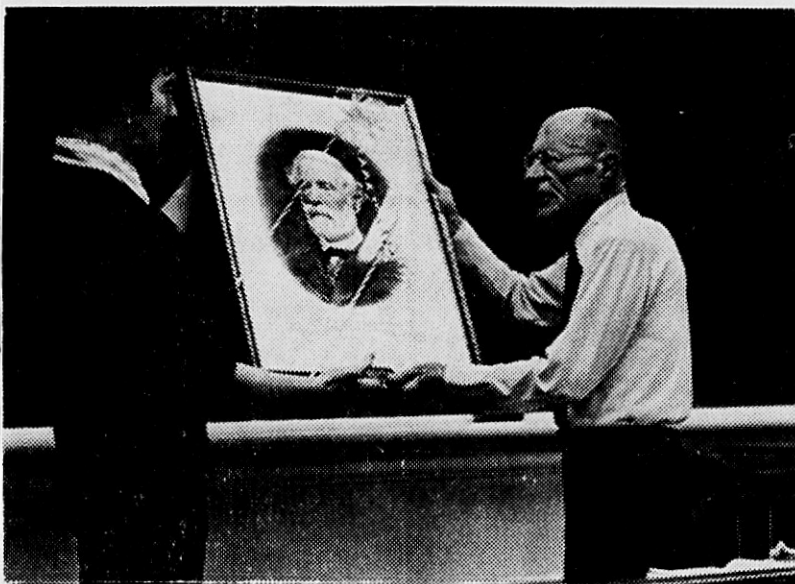
"This matter of grading has to do with academic freedom," said Steinheimer. "No Dean in the country would tamper with the grade a professor gave a student, REGARDLESS of the circumstances. I told Mr. Wimbrow that he could file a petition regarding his grade, but I was not surprised at the conclusion which the faculty reached. Grading is a matter of the professor's prerogative. That being the case, the faculty was hesitant even to take jurisdiction to hear the petition. But, the petition was heard and it was decided on the merits that Mr. Wimbrow's grade had not been unjustly given."

Second-year Populist Tom King asked about the relationship of the law school to the undergraduate college.

"The best law schools pride themselves in their autonomy," said the Dean.

SBA Secretary Larry Framme asked when complaints regarding the library should be made directly to the Dean's office.

"The Law Librarian is in charge of day-to-day operations and staffing. Day-to-day complaints should be made to him. Other problems could be taken up by the SBA Library Committee. My intercession should be necessary only where long-range policy considerations are involved. But my door is always open to students," the Dean said.



### Dean Light Honored

On behalf of the first-year class Tom Ryder presents Dean Light with a limited edition print of General Lee. The presentation, which was made last month in honor of Light's retirement (and his nearly 2,000th Con. Law I class), also included a bottle of "Vick's Formula 44" cough syrup and a fifth of "Jack Daniels."

## Assistant D. A. Joins Law School This Fall

Dean Roy L. Steinheimer, Jr. announced Wednesday that the School of Law has employed Mr. Herman Kaufman of New York City to become an Assistant Professor for next fall. The Dean stated that Mr. Kaufman had been sought after by a number of other schools.

Mr. Kaufman received a Bachelor of Arts degree in 1964 from the University of Pennsylvania. He received his Juris Doctorate in 1967 from the University of Michigan. While at Michigan his activities in-

cluded Dean Steinheimer's course in Commercial Transactions, the editorial staff of the *Law Review*, the Barrister Society and Order of the Coif.

Upon his graduation from law school, Kaufman joined the state bars of Michigan and New York. In 1967 he served as Clerk for the U.S. District Court for the District of New Jersey. Since 1968 has been an Assistant District Attorney in the office of Frank S. Hogan, District Attorney for the County of Manhattan in the City of New York.

Commenting on the teaching areas Kaufman might assume, Steinheimer said that the new professor had broad experience in appellate practice, but that no definite decision had been made. Criminal and Civil Procedure were listed as possibilities.

Mr. Kaufman visited the campus last fall and was interviewed by the Student Bar Association's Curriculum Committee. The Committee reported that the applicant was genuinely interested in student activities and particularly student morale. Committee member Steve Elkins demonstrated the group's opinion — "It was refreshing to speak to a prospective professor who was interested in students' problems."

Dean Steinheimer recently noted that one more new faculty position will be filled for next year.

## News Briefs

In response to the closing of the Waynesboro Legal Aid Office earlier this month, Professor Lawrence Gaughan noted that Waynesboro lawyers had simply "chosen to meet their service obligations in another way." Gaughan's remarks, which were made in a letter to the editor of the (Waynesboro) News-Virginian, also included a reminder to the local bar of the Virginia Code's Professional Responsibility provision which requires lawyers, inter alia, to render "free legal services to those unable to pay reasonable fees."

This year's moot court problem is now in the hands of most members of the first-year class. According to Bruce Phillips, former W&L National Moot Court Team member and Burks Scholar, the problem involves the constitutionality of U.C.C. Section 9-503 (summary repossession without notice or hearing). The moot court problem also includes procedural questions involving "state action" and federal jurisdiction.

The four first-year students who reach the competition's Finals will argue on May 11 before a three judge court.

The judges this year include Norman Roettger (U.S. District Court, Florida), Patrick Sullivan (Court of Appeals of Indiana), and James Turk (U.S. District Court, Virginia).



Dope is readily available for any W&L law student who wants it.

of this." When asked why, no reason was advanced. At least one defense counsel believes that a jury might be better than the court because there's less chance his client will be used as an example. However, with a strong case, the right to demand a jury and a fairly unenlightened community drug-wise, the Commonwealth wields an ominous hand. But even



## Minority Recruitment

Minority recruitment is new at our law school and results show that present minority recruitment is inadequate. At this time it is a benevolent expression lacking content. Washington and Lee has made efforts to recruit minority students but the low number of minority entrants indicates this law school should increase its effort substantially.

The arrival this fall of W&L's newest minority — women — demonstrates that an improved effort can be made in our approach to Tucker Hall's smallest minority — black law students.

For years women were denied admission to the Law School — and then, for reasons which are now well-known, the ban was lifted last year.

But W&L's long history as a single-sex law school has not discouraged female applicants because women know that they will be regarded skeptically at nearly any law school they attend.

A similar situation does not exist for blacks. Black applicants do feel that because of our history as a white school they will not be as welcome at W&L as they will be at other schools. Their apprehensions are understandable. Until W&L takes convincing steps to dispel such worries we can expect little change in the impression black college students have of this law school.

W&L can dispel these worries if it begins to attract blacks in the numbers it has begun

to attract women. The very fact of a significant increase in black enrolment will do much to remove existing black apprehensions. One positive improvement would include major recruiting efforts in the fall at black institutions outside Virginia. Dean Steinheimer is the logical person to expand minority recruiting efforts. But he should not be expected to act alone. The SBA must develop and articulate a stronger sustained effort toward minority recruitment.

A significant feature of Dean Steinheimer's tenure, besides the expanding faculty and growing endowment, has been the increased diversity of the law student body. His determination to give the law school a national character and the multiplication of applications have made that possible. Recent indicators reveal a serious decline in applications across the country. If that decline continues, it will become more difficult to maintain a truly diversified student body. Significantly increased minority recruitment will overcome that difficulty.

In the future the public will have requirements for more lawyers with a working knowledge of administrative law, environmental law, consumer protection, and constitutional litigation. To meet these requirements adequately the profession will need more diversity. That diversity begins — or ends — in law school enrollments.



*Faculty Attitude Toward Colleagues' Competency or Actions: 'See No Evil, Hear No Evil, Speak No Evil.'*

### Recent Decision

## Burger Court Legislates

By RHETT FLATER

The Constitution, said Justice Holmes dissenting in *Lochner v. New York*, "is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States." When Justice Holmes' now-famous dissent was written in 1905, the Supreme Court was in the process of deciding social and economic issues on the basis of its own convictions of what was wise, derived from the laissez-faire philosophy of Herbert Spencer. Routinely, the Court gave substantive content to due process in an effort to protect values not specifically stated in the Bill of Rights.

Today, rejection of the *Lochner* heritage is a common starting point for modern justices who react against the excessive intervention of the pre-1937 Court. "We have returned to the original constitutional proposition," announced Justice Black in 1963, "that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws." On January 22, however, the Supreme Court, paying formal tribute to Holmes' 1905 dissent, but violating its spirit, undertook to settle the abortion issue.

In the companion cases of *Roe v. Wade* and *Doe v. Bolton*, the Court struck down in their entirety most, if not all, state laws regulating abortion. In their place, the court prescribed an alternative statute virtually comprehensive in scope. For the duration of the first trimester of pregnancy, the abortion decision and its effectuation must be left completely to the medical judgment of the pregnant woman's attending physician. During the second trimester, the state may regulate abortion procedure in ways reasonably related to maternal health. Only during the last trimester may the State, in promoting its interest in the potentiality of human life, regulate or proscribe abortion.

Declaring the challenged state laws unconstitutional, the Court specifically held that the right asserted by Jane Roe, the right of privacy, is embraced within the personal liberty protected by the due process clause of the fourteenth amendment. The court considered but rejected the opportunity to base its holding solely on the ninth amendment, or in vague penumbras of the first, fourth, fifth and ninth amendments. Substantive due process? Certainly in this context the due process clause represents more than mere procedural due process.

The Court, moreover, added a new wrinkle to the "compelling state interest" test by transposing it from the legal considerations associated with the equal protection clause of the fourteenth amendment to this case arising under the due process clause of the fourteenth amendment. Only a compelling state interest, Justice Blackmun opined, could justify regulation limiting fundamental rights—here, the woman's right to privacy. Any regulation during the first trimester would be invalid as failing to meet that standard, even a requirement that abortion be performed within a hospital. Yet, historically, health and safety regulation has been well within the state's police power.

Arguably, this particular piece of national legislation prescribed by the Court is reasonable. But what direction now in the name of due process? A national gun control statute? A uniform divorce law?

## Letters to the Editor

### 1st Year Reaction

Dear Sir:

At a fairly recent SBA meeting, I stated that even with the addition of the downstairs reading room and the Annex, library seating is grossly inadequate. I further noted the tuition increase and wondered aloud if another was in the works for the following year, stating that it appeared we are being asked to pay for benefits which will accrue to ensuing classes in the new law school building. Therefore, I made a motion that the SBA request the members of the Board of Trustees to view the inadequate library seating conditions. I further moved that they be asked to reconsider the tuition increase in light of these conditions. As I recall, the motion passed with no opposing votes.

My comments were and are in no way meant as criticism of Mr. Neal or his staff. One would have to be blind not to recognize the improvements in both the number of periodicals and books (a 20% increase is remarkable) and in the quality of library services provided. The "cage" is a very tired bone of contention

which badly needs burying. It is not Mr. Neal's fault that reserve books get "lost" but the fault of the students, and its necessity cannot be questioned.

The following arguments are made for a tuition increase: (1) Our tuition is comparable to that of other schools. Does that mean that if Georgetown raised its tuition to \$3,000 we would follow proportionally, or does it simply indicate we are not pricing ourselves out of the market? Regardless, it is not a very strong argument for tuition charges. (2) Costs are increasing. Barring full disclosure of the Law School's financial status, this is not very convincing either in light of the more than \$10 million the Law School has recently received. (3) Resources are increasing in the form of more faculty and course offerings. (4) Resources are increasing in the form of more books and periodicals in the library plus and expanded library staff.

These last two arguments would eliminate my objection to a tuition increase if we had adequate space in which to research, and apply

these resources. The fact that we do not largely neutralizes the advantage of having them. Extensive efforts have been made to find further study areas but it appears unlikely any will be found. Therefore, in spite of the much broadened resources, the fact remains that even with the space available in the downstairs reading room and the Annex, library seating is and will likely remain, highly inadequate. According to the standards set by the American Bar Association, the total number of seats now available in our library (including the Annex) is twenty-eight fewer than the minimum requirement. The fact that these standards do not go into effect until January 1, 1975, does not make the situation any less acute at present.

For the reasons set forth above, I do not think it is unreasonable to ask the Board of Trustees to personally view the situation in the library and to reconsider the tuition increase. Those signing with me agree on this matter as, I believe, does a majority of the first year class.

Sincerely,  
Charles B. Tomb

(12 members of the first-year class also signed Mr. Tomb's letter.—Ed.)

## Calendar

### LAW SCHOOL

Tonight—Wine Tasting Party, Evans Dining Hall, 8:30-11:00 p.m.  
Friday, March 17—SBA Cocktail Party, Alumni House, 6:00-8:00 p.m.  
Monday, March 26—P.A.D. Rush Party.  
Wednesday, March 28—P.D.P. Rush Party.  
Friday, March 30—D.T.P. Rush Party.  
Saturday, March 31—SBA Party with combo. Trip to Bahama Island will be raffled off. Many other goodies.

### UNIVERSITY WIDE

Saturday, February 24—SABU's Black Culture Week Ball, with music by Black Rock. Price: \$5.00 per couple. Evans Dining Hall, 8:30 p.m.  
Wednesday, February 28—Frank Mankiewicz, former McGovern adviser will speak on "Freedom of the Press." Lee Chapel, 8:00 p.m.  
Thursday, March 1—Betty Friedan, feminist, will speak. Lee Chapel, 8:00 p.m.  
Friday, March 2—James Dickey, poet and novelist, will read and comment. Lee Chapel, 8:00 p.m.  
Monday, March 5—Dick Gregory will speak, 8:30 p.m., Gym.  
Tuesday, March 6—FBI Director Patrick Gray, 8:00 p.m., Lee Chapel.

### Sensationalism?

Dear Sir:

I am unable to restrain myself from objecting to your increasingly sensationalistic manner of reporting the "news." Of course, it was to be expected that a semi-journalistic howl would arise when a professor dared to encroach upon the inner sanctum of your staff's egos by downgrading one member's ability. But little did we know that we were to be the honored recipients of what for posterity must be referred to as the Crucifixion Issue. There, nestled among the diatribes and venom expectorated upon Professor Bond, was the seemingly irrelevant fact that nine members of the SBA Board of Gov-

(Continued on page 3)

## The W&L Law News

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# The W&L Law News

School of Law, Washington and Lee University, Lexington, Virginia

VOLUME 1

LEXINGTON, VIRGINIA, MARCH 16, 1973

Number 8

## Student Poll Slated On Smoking Issue

By STEVE ELKINS

After fuming over fumes for two weeks, the Board of Governors decided at its Wednesday morning meeting to let the student body clear the air.

Actually, the student body will be telling the Board whether or not the air **should** be clear, because the decision by the legislative body of the SBA enacted Wednesday a week ago drew spirited (and somewhat panic-stricken) response from the Law School United Nicotine Freaks (hereinafter LSUNF).

The LSUNF started getting worried a while back when a petition appeared on the bulletin board condemning smoking in class and asking for signatures. The smokers didn't really take it too seriously though, and only token representation was apparent at the Board meeting a week ago. But when Clean Air advocate Steve Robinson proposed a ban on smoking in class and in the library, immediate response was engendered by visiting LSUNF spokesman Paul Pysell.

"Where will this move toward formality in the classroom stop?" Pysell cried. "We might as well go back to wearing coats and ties as stop smoking! (Cough, cough) I for one have tried to stop smoking and I have noticed the same symptoms as withdrawal from hard drugs! (Cough) There is scientific evidence that smokers have fewer automobile accidents."

Pysell went on, and on, and apparently would have kept going. But Squires took the floor away from him, neatly checking a clever attempt to filibuster.

"All we're asking is that people not smoke for 50 minutes at a time. Smokers can go out in the hall between classes," said Chuck Brown.

Bob Osmond, no less outspoken than usual, took a drag on his Marlboro and insisted that official action was not the way to proceed.

"By the time you get to law school, if you don't have the \*\*\*\* (a term denoting masculinity) to turn to the guy next to you and ask him to stop smoking, then you have no business asking the SBA to do the asking for you!"

The discussion escalated. Someone mentioned "tyranny of the masses." There were claims and counter-claims and threats of surreptitious removal of every ashtray in the law school. But Squires finally called the motion. It passed nine to four. (Jeff Twardy

"abstained," not being able to decide which side represented the minority position.)

And so, the ban on smoking went into effect (sort of) last Monday morning. But Wednesday, a goodly contingent from LSUNF was present at the Board meeting. After thirty minutes of proposals, counter-proposals and snide comments, the Board voted ten-zip to put the matter to a referendum.

"The referendum will be merely advisory," said Squires.

By a separate vote the Board lifted the ban on smoking in the library. But the prohibition remains in force in classrooms.

## Dean Names Groot As Faculty Addition

By MARK RIEGEL

The Dean announced that Roger D. Groot, Assistant Professor at the University of Georgia School of Law, will join the faculty next fall.

Mr. Groot received a Bachelor of Arts, magna cum laude, from Vanderbilt University, where he majored in Russian. He received his J.D. with high honors in 1971 from the University of North Carolina, where he graduated first in his class. While at U.N.C. he was managing editor of the *N.C. Law Review*, and was a member of the Order of the Coif and Order of the Barristers. He received the Justice Walter Clark Award, which is given to the top five in the class.

After graduation, Mr. Groot became Assistant Professor at the University of Georgia, where he is presently teaching Property, Land Finance, and Trusts and Estates.

Dean Steinheimer indicated that Mr. Groot will most likely teach Property, Real Estate Transactions, and Urban Law. These are fields of law in which Mr. Groot has specialized. He has testified before the Georgia House of Representatives Finance Subcommittee about real property taxation, and he has written numerous law review articles.

S. B. A. Curriculum Committee Chairman Andy Goresch reported unanimous committee approval, following a meeting with Mr. Groot.

Mr. Goresch stressed that Mr. Groot is an experienced instructor who is unlikely to encounter the pitfalls of the beginning teacher.

## \$6.6 Million

## Contract for Lewis Hall Awarded to N. C. Firm

The University announced Wednesday that George W. Kane, Inc., a general contractor in Durham, N.C., has been awarded a \$6.6-million contract for the construction of Washington and Lee University's new law school building and a central cooling plant.

The contract price for the combined project is \$6,683,998. Of the total, \$5.7 million is for construction of the law building and \$983,000 is for construction of the cooling plant, which will serve the new law building and other proposed and existing campus buildings as well. The Kane firm was low bidder among seven general contractors whose bids

were opened recently, according to Washington and Lee officials.

The W&L project will be directed from Kane's Henderson, N.C., office under the supervision of Mach G. Parsons, vice president.

The new law building will be named Lewis Hall, in recognition of the \$9 million gift made last year by Frances and Sydney Lewis of Richmond to support constructing and equipping the facility, and for the endowment of the Frances Lewis Law Center, which will be associated with the law school.

The new law building will be located on previously undeveloped land owned by W&L immediately to the

west of the main campus area. Ground clearing work was begun last fall, by Charles W. Barger & Son, Lexington contracting firm.

Work on the law building, expected to be completed by September 1975, will begin this month, according to Kane spokesmen.

Architects for the law building and cooling plant are Marcellus Wright, Cox and Cilimberg of Richmond. Hankins and Anderson of Richmond is the mechanical and electrical engineering consulting firm, and Harris, Norman and Giles, also of Richmond, is the structural engineering firm for the project. Griswold, Winters and Swain of Pittsburgh, Pa., is the university's landscape architectural consulting firm.

Chairman of a special development committee for the School of Law—being constructed as part of Washington and Lee's ongoing \$56-million program for the 1970's—is Ross L. Malone, a trustee and graduate of the university, now vice president and general counsel of General Motors Corp. and a former American Bar Association president.

Mr. Malone's committee has raised \$11,231,788 to date for the law school and its endowment.

With almost 118,000 square feet, the new building will be more than six times the size of old Tucker Hall. The new facility will contain individual study carrels for every student, 22 faculty offices, five classrooms ranging in capacity from 50 to 75 students, a number of seminar rooms, and complete facilities for co-curricular activities such as Law Review, legal research and aid programs, and the Student Bar Association.

It will house a library with a capacity of 150,000 volumes and seating for 70. The new building will also contain an innovative 175-seat moot court auditorium, designed to resemble an actual courtroom and equipped with closed-circuit television and videotape equipment.



### Bahamas Bound

Dean Steinheimer was one of the first customers to purchase a ticket to the upcoming SBA sponsored Nassau Party to be held on March 31. The Nassau soiree will be a trifle different than most SBA bashes. One lucky ticket-holder and his date will win a four-day trip to the Caribbean. Gathered around the Dean are Sally Greene, Bill Walsh, and John Hanzel. —Photo by Hauser

## Law School Hosts Prison Conference

By JOHN BROADWAY

After almost a year of planning, the first Virginia Conference on Correction will convene April 26-28 on the W&L campus under sponsorship of the university.

The conference schedule includes a panel discussion on "Corrections Today and Tomorrow," moderated by Professor Charles H. Whitehead of U.Va. Law School. Sitting on the panel will be former Senator Charles E. Goodell of N.Y.; Martha Wheeler, President of the American Correctional Association and Superintendent of the Ohio Reformatory for Women; and John O. Boone, Commissioner of the Massachusetts Dept. of Correction. Several Virginia state officials will serve as commentators. There will also be a number of discussion seminars centered around the subjects of incarceration, alternatives to incarceration, and community involvement.

In his letter of invitation to partici-

pants in the conference, Gov. Linwood Holton (W&L '44) said, "One of the vital challenges of our time is to maintain a system of corrections which truly corrects, rehabilitates, and restores." He went on to outline the goals of the conference as being "to acquaint those persons working in corrections with the efforts of one another and to promote an exchange of ideas and expertise."

About 250 participants are expected, including representatives from the four law schools in the state plus the JAG School in Charlottesville, a number of other Virginia colleges, the Virginia Civil Liberties Union, the House of Delegates and Senate of the General Assembly, Commonwealth Attorneys, police officials, sheriffs, parole and probation officers, and even inmates from state penal institutions.

W&L students may take part in the conference without charge by submitting a pre-registration form by April 3.

### BULLETIN

Yesterday Douglas R. Schwartz, a second year law student from Great Neck, L.I., defeated undergraduate Lewis Powell for the presidency of the student body. The vote was 660-637. Schwartz, a Cornell graduate, is a member of the W&L International Moot Court team.

Schwartz ran as an advocate of co-education and equitable funding for the law school. He supports the W&L honor system but favors suspension for some violators as a means of strengthening the system.

Schwartz also favors doubling the present co-ed exchange program in the interim while co-education is being achieved. He also indicates that improved efforts to recruit black students to the undergraduate and law schools will have a high priority during his term.

Schwartz is not the first law student to become student body President. He has many predecessors from the law school, including Professor Andrew W. McThenia.

## News Briefs

This past Wednesday the SBA Board of Governors approved a proposal which would allow the President of the SBA to sit at Faculty meetings with full voting power. The proposal, however, excludes situations involving student disciplinary proceedings.

It was recently announced that Edward H. Levi, President of The University of Chicago, will be delivering The 1973 John Randolph Tucker Lecture. The lecture will be given during Law Day Weekend this May.

Stephen G. Elkins, a second-year student from Oxford, Mississippi has been named Editor-in-Chief of *The W&L Law News*. Mr. Elkins, who is co-editor of *The Lawyer* magazine, will be relieving Toby Harder, the current editor of the paper. Members of Elkins' staff will include: Richard Kaufman, Business Manager; John Broadway, Executive Editor; and David Beyer, Sports Editor. Other positions are yet to be named.

**Faculty Notes:** Prof. Bond has written a book on the law of war which will be published this summer by the Princeton University Press. Prof. McThenia, who continues to serve as a member of the Virginia State Water Control Board, is preparing a two-part article for the Washington and Lee Law Review on the subject of the federal Clean Water Act.



## Up From Neglect

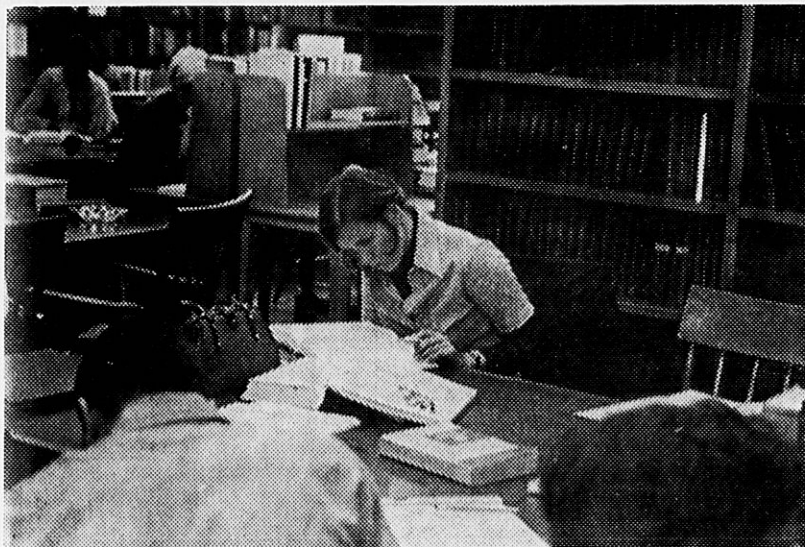
Chief Justice Burger once noted that criminal justice had long been "the neglected stepchild of the law." During the last fifteen years, the proper administration of the criminal justice system has become not only a preeminent legal issue but one of the nation's most central political concerns. As a political issue, Law 'n Order has partially replaced Patriotism as the "last refuge of a scoundrel." On the other hand, the major result of appellate courts' consideration of criminal justice matters has been to raise procedural safeguards to the level of constitutional rights. This apparent conflict has fed the reaction against the sweeping series of Supreme Court rulings exemplified by **Miranda**. A Justice Department official told the Criminal Justice Seminar last fall that the present administration is prepared to make a frontal assault on the exclusionary rule. The President himself feels it politically sound to blame "crime" on "soft-headed judges" and to propose harsher penalties as his solution to the Law 'n Order crisis.

In the face of this reaction, the central emphasis of reform seems to be shifting from incidents of investigation, arrest and trial to sentencing and what happens afterward. William Cunningham, former head of Virginia's Division of Corrections, is the first major local casualty of the effort to extend due process to prisoners. The debacles of Attica, San Quentin, Lorton Reformatory and similar places have fed the relatively recent interest in the internal affairs of correctional institutions. On a more fundamental level, the semantic trend, at least, seems to be from retribution to rehabilitation. It seems likely that institutional reform may be as broad as the procedural reforms of the last decade.

The law school curriculum has necessarily begun to adapt itself to these developments. In a memorandum submitted to the faculty two years ago, Professor Ritz said that "... the administration of criminal justice is still the neglected stepchild of legal education." To counteract the extraordinary imbalance between civil and criminal courses offered here, he proposed a series of interlocking seminars which would include observation of the actual workings of the system, expansion of criminal procedure offerings, and a recognition that teaching substantive criminal law has less practical value than the above two approaches.

Since then, Mr. Ritz has initiated successful criminal and juvenile justice workshops and the Alderson Legal Assistance Program. Those of us who have participated in the present criminal justice offerings here have noticed the enormous and crucial gap between the theoretical constitutional concepts broadly surveyed in the Criminal Procedure course and our observation of the system at work. This gap should be filled by more procedural courses attuned to the practical realities of criminal litigation. Without the preparation, none of us are fully competent to represent a criminal after admission to the bar, much less during the hoped-for third year practice program.

Mr. Ritz also suggested that there should be no expansion of civil offerings until a "decent beginning" had been made on a broader criminal justice program. The social and legal importance of this area of the law demand that the best resources of this law school be devoted to the development of a comprehensive criminal justice program.



**OVERCROWDING** isn't apparent in the above picture . . . But things might be alot less cramped in library areas if everyone stopped "staking out" pieces of library turf as their very own—and stopped dumping books in the main reading room "on the way to class." Let's get rid of Tucker Hall's now infamous Homesteaders. We might start, for example, with those two squatters occupying faculty office space in the Annex. And how about the "Homesteader of the Year" who staked out in the basement with a prayer rug and an electric heater!

## Letters to the Editor

### Smoking

Mr. Editor:

This letter is addressed to the smoking problem. At the outset let me make one thing clear—I'm biased—I smoke.

The non-smokers of this law school have a very valid argument—Smoking of any kind bothers them. They point to other schools that don't allow one to smoke while in class or the library. They aptly describe the condition of classrooms and library after the smoke has risen—pollution, plain and simple. They hold that most requests to butt a cigarette have been totally unsuccessful when and if they (individually) have the nerve to ask. They claim there should be no delegation of authority—don't go to the professors with a request to have smoking banned—go to the Board of Governors (the student representatives). They feel there would be defeat for their cause should the entire student body vote. I personally don't agree. In fact, I don't care.

The one problem I find is with the lack of "backbone" on the part of anti-smoking advocates. Just how sincere were their efforts, individually, to ask smokers to stop when the conditions bothered them physically or mentally? Was it after two or three people ignored their request that an outside source of authority was sought? Was it after realizing that they didn't have the "guts" to ask someone else to stop smoking? Mr. Robinson and his cohorts admit their shyness, openly. So, what have they come-up with—someone else to point to as the villain. You won't hear them explaining how the smoke adversely effects their health or concentration. It's now the Board of Governors' ruling that must be respected. The scapegoat with a fancy name and little power.

So, who won? The anti-smokers who no longer have to muster their own intestinal fortitude to accomplish a goal? The Board of Governors whose mandate is ignored? Or, smokers who draw chuckles whenever they blaze-up in class.

I don't claim to have any answer to the problem. As Mr. Gray would say: "It's not the answer that's important but can you recognize the problem." Where I come from, you stick-up for your own convictions—you don't pass the buck. You got something to say—say it. Your popularity may suffer but that's how it goes—at least others will know you are your own man (or woman). Start building some self-respect now. Life is far too short.

Robert T. ("Oz") Osmond

### Man & Bird at W&L

Dear Sir:

Like all dogs every bird must have his do. But one would think the Dean's obligation to this enlightened community fall short of providing homeless pigeons a roost on the pilasters of our castle royale. It is not that the presence of such a bird whose dignity and stature eclipses the American Eagle goes unappreciated. Forsooth. As one of these sculptured beauties swoop down from the sky, we all languor in the pride and individual freedom of the quest so personified by Johnathan Livingston Seagull. And isn't one reminded of the grace of the ballet or some classical poem as we see these belated pigeons walking about our pastoral campus with their quaint waddle and head bobbing up and down like a disjointed and poorly timed piston. A pox on anyone who would bring harm to these creatures who have inherited the wind.

And don't we have the satisfaction of knowing that the ancestry of our friends have desecrated such historic shrines as the Lincoln Memorial, the New York Public Library, and

the Rockbridge County Court House. Certainly when we step out of our cloister and see the latest op-art addition to our own desecration we can say the Washington and Lee University School of Law has truly gained a place in this national pestilence.

But are we worthy of such an esthetic tort at our front door. These magnificent feathered symbols of freedom should be restored to a place commensurate with their position in eternity. The architectural environs of the Lee Chapel, or the eaves of President Huntely's house, or the rear seat of coach Miller's auto would all provide more suitable accommodations than the dean now permits our honored guests.

So I say do unto them before they do on to you.

Sincerely,  
Beau Robinson

### Alumni Rage

Editor:

With each new issue of The W&L Law News, I become more convinced that our individual and school standards have fallen to an abysmal low. Perhaps the more honest action would be for the staff of The W&L Law News to resign in toto and regroup to edit one of the underground

papers. I find it impossible to believe that The W&L News truly reports the news of the Law School of Washington and Lee University.

If the standards and philosophy reflected in the pages of the current edition of The W&L News are representative of the majority of the law students at W&L, then something must be very wrong with the admission standards of the school.

To refer to any woman as a "broad" is crude, at best. But in this day it is stupid. Without getting into the rights and wrongs of marijuana use, for a law student to condone the flaunting of the law causes one to wonder what type lawyer is being trained at W&L. Are we now ignore at will the laws we do not agree with, or are we to continue to work to change by lawful means and through the courts those laws?

And adding more insult to your pages, we are bombarded with the intensely boring "reporting" of whatever writes "Pete's Sporting Life." From his level of usage of the English language, perhaps he would be more at home in the sporting life as it was used back in the dark ages, i.e., before the birth of the present day enlightened generation of students. Such filth does not belong

(Continued on page 3)

### Viewpoint: Ralph Nader

## What Price Law Review?

FOR YOUR INFORMATION . . . The following is reprinted from the **Harvard Crimson**, February 28, 1972.

Ralph Nader Saturday night urged Law students to terminate nearly all participation in the Harvard Law Review as part of an overall de-emphasis of the pursuit of higher salaries without regard for the public-interest aspects of law.

Speaking before a capacity crowd of 700 at the Law School's Ames Courtroom, Nader said, "I would advocate the complete abolition of the Law Review as a student-run publication."

He said that he thought the Review should be run by the Law faculty and a permanent staff, with occasional student contributions.

"The Law Review is the most pernicious aspect of the conveyor-belt carrying law students away from social concerns toward more profitable positions and material comfort," Nader said.

Nader, who graduated from the Law School in 1958 estimated that 2500 hours per week, "possessed by some of the brightest students at the Law School," were being spent on the Law Review.

"I couldn't think of a more useless application of these talents," he said, suggesting that instead the time be spent on consumer law, environmental law and other forms of public legal assistance.

Nader said that the Law Review could have been created by a conspiracy to corrupt law students. He accused students of cooperating with this con-

(Continued on page 3)

## Calendar

Wednesday, March 21—SBA Constitutional Referendum and "Smoking Poll."  
Monday, March 26—P.A.D. Rush Party, 8:00 p.m., Alumni House.  
Wednesday, March 28—P.D.P. Rush Party, 8:00 p.m., Alumni House.  
Friday, March 30—D.T.P. Rush Party, 8:00 p.m., Alumni House.  
Saturday, March 31—SBA Combo Party. A Trip to the Bahama Islands will be raffled off.  
Monday, April 2—Speaker for SBA—Bryce Rea, Attorney from Washington, D.C.  
Wednesday, April 3—Speeches by candidates for SBA offices, 10:00 a.m.  
Friday, April 6 to Sunday, April 15—SPRING VACATION.

## The W&L Law News

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# Curriculum Committee considers Tenure, Evaluations

By Judy Herndon

Last semester's course critiques, compiled by the S.B.A. Curriculum Committee, are now out. A copy is in the student lounge. These critiques contain the reactions of a sampling of students to each course. Questions from the committee, the Dean and the professors themselves were asked on the forms. Because of the limited number of course offerings and professors the function of the critiques here is more that of a guide for the professors in improving their courses and teaching methods than a menu for student course selection. However, they make interesting and sometimes entertaining reading as well as providing a certain amount of forewarning as to what to expect when the inevitable occurs.

The Committee is chaired this year by Angelica Didier and Cliff Walters and vitalized by strong interest and participation by members of the first-year class. It is currently involved in two major projects. The regular course critique survey will be run again after Thanksgiving and there is a special project concerning tenure as well. Three professors, Mr. Groot, Mr. Neal, and Mr. Vandegrift are being considered for tenure this year. Although the student body has no official voting voice in the decisions made by the tenured faculty, student opinion on teaching ability is one of the pressing factors in the final decision.

Thus the committee is conducting a survey similar to the one done last year concerning tenure for Mr. Bond. Randomly-

selected members of the student body who have had courses under the professors being considered have been asked to comment on the professor's teaching ability and to offer their opinions as to why tenure should be granted or denied. Because of the timing of the decisions on tenure (it will be made before the end of the first semester so that any person denied tenure will have the opportunity to look elsewhere for employment) the questionnaires should be returned to the Curriculum Committee by Monday, November 4. Mr. Groot will be commented upon by all three classes, Mr. Vandegrift will be commented on by the second and third year classes, and Mr. Neal only by third year students. Any student not asked to complete the survey forms who has

a desire to express an opinion, may do so in a personal interview with one of the members of the faculty *Ad Hoc* Committee on Tenure which includes Professors Ritz, McThenia, and La Rue.

It is interesting to note that no professor has been denied tenure in the history of the law school, perhaps due to the quality of the hiring process employed. The committee is chiefly concerned with presenting the students' views on tenure to the faculty as fairly and accurately as possible so that the continuing drive for excellence in the law school will include the most basic aspect of a legal education, quality teaching.

The Committee chairmen are currently involved in the Faculty Curriculum Committee's discus-

sions on the teaching of professional responsibility and proposed curriculum distribution requirements. The A.B.A. has mandated that there be required instruction in professional responsibility. It is up to each school to decide whether to require a course in a given semester or have each professor devote time in his courses to the subject, the so-called pervasive method. Discussion of curriculum distribution requirements will begin after the professional responsibility question is settled. The chairmen particularly seek student views on these matters. ATTENTION: First-year students contemplating practicing in Indiana. Check the S.B.A. bulletin board for the list of courses required for admission to the Indiana Bar as of 1977.

## The Law News

School of Law, Washington and Lee University, Lexington, Virginia

Volume No. III

LEXINGTON, VIRGINIA, NOVEMBER 1, 1974

Number 3

### women law students report activities progress & hopes

A few evenings ago two members of the second year class sitting in the Cockpit having dinner and discussing the grand and glorious facilities to be offered in Lewis Hall at some misty future time. As they conversed a third student, carton of o. j. in hand, approached and asked to sit with them. Upon being told that he was welcome he took a seat and inquired, "Well, what are you ladies doing, planning a revolution?" CLICK (as they say in *Ms.* magazine).

Why CLICK? Because it seems that every time two or more women are gathered together at this law school the men automatically assume that they are discussing some aspect of the women's movement. This is far from the truth. Women here in fact discuss a wide variety of topics. But it is true also that the assumption is not altogether erroneous because women at W&L Law do have specific and unique concerns which they need to air to each other, something the men here do, quite happily, appear at least to be aware of. But there has been a considerable amount of flak over the fact that there now exists a women's organization to help channel those concerns. It is a group frequently assailed as sexist, stupid, and/or profligate (\$150 in SBA funds for women when it could be going for some useful purpose?) Other special interest groups have been proposed in protest, notably Granade's Swinging Singles Club and Duemmler's Neo-Brown Shirt Stein-Raising Society.

So what are the women up to? Really quite a lot. In examining the list of activities, moreover, it becomes apparent that many of the activities of the Law Women, headed by the ever-talented H. Dorsey, have relevance to all law students, both male and female.

1) 3 Speakers: Ms. Sylvia Roberts spoke several weeks ago on the role of the new feminist lawyer and sex-discrimination suits. Granted, her speech was

directed largely at women, but how likely is it that all future sex discrimination cases will be handled by all-male counsel? It's an area of law all lawyers need to be aware of. On the agenda for later this year (whenever she can break out of Judge Sirica's courtroom) is Jill Vollner, assistant Watergate prosecutor, a speaker who should interest all of the student body. (N.B. a special thanks from the law women to Chuck Brown's TLF cabal for their help in this area.)

2) Conferences: Amber Smith and Debra Yarbrough were among the W&L students attending the recent ABA/LSD conference in Charlottesville, glean- ing much useful information for the school in general as well as for the women.

3) Swimming pool: Toni Gados is continuing her drive to have the main Doremus Gym swimming pool made safe for democracy and declared on limits for women at the university. Who among us is to dispute that intersexual swimming has the potential for being lots of fun?

4) Placement and employment: Looking into the hassles encountered by job-seeking women. Among the practical benefits could be preventing a situation arising where the law school could be sued on its liability as agent for a sexually discriminatory interviewing firm.

5) Recruitment: Now that women are here, it is still necessary to keep them flowing in. Most practical and basic reason because a segregated W&L Law School would be a non-ABA-accredited W&L Law School.

Women in law are still something of an anomaly and because of this both men and women in the profession need to be aware of prevailing attitudes and have the knowledge as well as the courage to make lawyers a neuter term, one that conjures up an image of, say, Jill Vollner, as readily as Richard Ben-Veniste.

### WHO'S WHO

By Ken Harris

The *Law News* is pleased to announce that no less than five members of the L75 Class have been chosen to appear in the current publication of *Who's Who Among Students in American Colleges and Universities*. The five are, in alphabetical order, Bill Hamilton, Ray Hartwell, Henry Jernigan, Steve Robinson, and Jeff Willis, and we salute you without reservation.

For the benefit of those non-cognoscenti readers who perchance do not recognize the mere names of our luminaries, the following guidance is tendered:

Bill Hamilton, the World's Greatest Nice Guy, Oenophile and General in the Kentucky Militia, is also president of the SBA. He may be recognized by his white canvas trousers and mildewed sneakers.

Ray Hartwell is the Law School's answer to the Biblical contention that Jesus had black curly hair and a dark complexion. Our man has red hair, a fair skin, and very properly sits upon the right hand of You-Know-Who.

Henry Jernigan is our Strong

Quiet Man in the Burks Scholar-Moot Court Complex. Neatly groomed and impeccably dressed, he seems to have been designed to go far in this world.

Steve Robinson makes his second appearance in the Win column of *Who's Who Etc.*, having scored as an undergraduate. This nomination no doubt reflects Steve's success in Law School as Hoop Freak, Student Representative of Everything, and merely serves to second the nomination made by Ben Franklin that he be designated the National Bird.

Jeff Willis shares all of the attributes of his fellow *Who* travellers, but has the sole and singular distinction of having taken Judge Gray's tax course Pass-Fail while receiving a 4.0 on his final exam.

Those requiring a further description of these our finest are encourage to consult *The Lawyer*, Placement Edition (1973). Those desiring to add to these descriptions are encourage to cast their adulations and indignations in the form of a Letter to the Editor.

### BALSA ORGANIZED

By Johnny E. Morrison

The Washington and Lee University School of Law now finds itself with the opportunity of either taking advantage of perhaps one of the most important organizations at the Law School or letting that respected organization become a victim of what so many like it end up because of irrelevant because of a lack of support and commitment from not only the administration but the faculty and student body as well.

The Black law students thought that it would be both advantageous and beneficial to them and the school if the former instituted a formal organization on campus which reflects their needs, goals and mode of thought in respect to the administrative-academic-social functions of the University.

A chapter of BALSA—Black American Law Students Association—has been started at the

law school. BALSA is an organization of national scope and has already been established at the other three law schools in Virginia.

Elected as chairman was third year student Don Willis. After talking to Don, it was revealed that the organization conceives of itself as the official representative of the seven Black law students presently enrolled. It was also conceded that BALSA will not alienate, nor divest itself from the undergraduate school and the community but will make a concerted effort to assist in the following: 1. Know where it is now; 2. Evaluate its priorities and where it thinks it should be; and then to develop a sense of direction in respect to getting there.

The organization is very small in number because there is not a discernable number of Blacks at the moment. However, there

(Continued on page 3)

### The REPORTER

During these financially troubled times, see 11 Rptr. 1 (1974), advice abounds as to how to trim the family's budget. This of course becomes particularly necessary for those of us who have chosen to yield three years of earning power for the sake of acquiring a working knowledge of the law. Now, however, *The Reporter* offers a suggestions of its own for project WIN. Instead of spending those extra few dollars on "entertainment" periodicals or the best-selling legal text book, *The Reporter* suggests that you consult your local F. Supp.

One example of how the F. Supp. can provide low cost entertainment is found in the recent case of *National Lampoon, Inc. v. American Broadcasting Co.*, 376 F. Supp. 733 (S.D.N.Y. 1974). The gist of this case was that plaintiff *National Lampoon* (hereinafter referred to as plaintiff or *National Lampoon*) sued for an injunction against American Broadcasting Company (hereinafter referred to as American Broadcasting Company) to prevent American Broadcasting Company from using the name *Lampoon* in connection with one of its television shows. While the legal issues and the decision is not particularly noteworthy or exciting, the court's opinion is packed with useful information and entertaining footnotes. *G. Shalit*, 272 *Today* 7:43 E.D.T. (1974).

As for informational value, the district court spends several pages of text on the history of the *National Lampoon*. *Lampoon* at 736-39. The court describes the founders of the periodical as a group "unwilling to leave their childhood days behind." *Id.* at 736-37. The court then traces the phenomenal growth of the periodical, noting that the *National Lampoon* is second only to *Oui*, "a voyeurists' publication," in terms of growth among nationally circulated periodicals in the United States. *Id.* at 738. Citing such cases as *Pike v. Ruby Foo's Den*, the court also gives the reader not one, but six different definitions of the term "lampoon", from six different

(Continued on page 2)



# The Law News

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## Two Of The Great Ones To Depart From Faculty

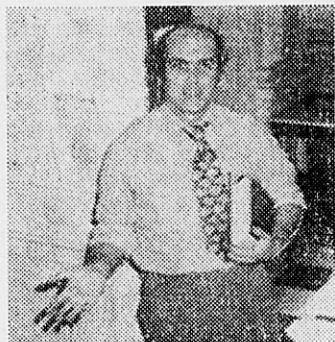
By K. L. HARRIS

Judge Gray's infamous decision of March 7 is confirmed: he will "resign" (not retire) and remove himself to (again, not retire) his extensive holdings in Appomatox. Extensive interrogation of the Judge by this reporter revealed only that, like Micawber, the Judge feels that "something will turn up." I still feel that he is going to run for the governorship of the great State of California, but can get no confirmation. See "eulogy" by CVL elsewhere herein. I was able to confirm, however, that Herman Kaufman has decided to leave because of an "offer too good to refuse" not unlike remittur. Professor Kaufman and Diane will leave our bucolic environs for the bustle of a partnership forming to specialize in criminal law in New York. His partners will be two of his former accomplices in the Attorney General's Office in Manhattan. Nothing like a year's vacation in the country to refresh one's soul and sharpen the mind for such challenges.

New courses greeted students registering for the Fall 1974 semester, and by the time that you read this informative piece, your selection of them — or rejection — will have been made. In case you care to reexamine your decision, and in case you feel that the school know-nothing has anything of value to relate, by all means read on.

Family Wealth Transactions comes on board this Fall as the Wills, Trusts, and Future In-

terests Conglomerate. Mr. LaRue and Mr. Stewart will conduct this six-hour, two-semester excursus and the good old computer has punched your card into one class section or the other, preference be damned. Those of you who feel that there is overlap between Family Wealth and Estates should be assured that Mr. Graves will handle in depth what Mr. LaRue and Mr. Stewart only introduce—federal estate and gift taxation. So take both: it builds character as well as skill.



Law and Psychiatry debuts this Fall as a seminar of limited enrollment. Dr. Jones and Mr. Penrod have qualifications for teaching this course which would make a resume of each into a course outline on How To Be Pre-eminent In The Field Of Your Choice. Per the Bulletin the seminar "will explore a wide variety of legal implications of mental illness and mental retardation." Credit Mr. Gaughan for putting this one together, and don't make an unruly fight trying to get in.

Law and the Poor has as its purpose the drawing together of "legal theory learned elsewhere into and operating context, and in the process gain (ing) an appreciation of the effect of our legal structure and institutions on the poor." Mr. Henry Woodward, General Counsel for the Legal Aid Society of Roanoke Valley, is, like Dr. Jones and Mr. Penrod, qualified beyond mere credentials by his experience, and again, Mr. Gaughan was instrumental in getting Mr. Woodward's proposal before the Curriculum Committee.



## On the Docket

Congratulations to the 14 soon to be graduated Tucker Hall men who passed the February Bar. Only 55% of the Washington and Lee men who took the bar passed, as compared with the state-wide average of 74.5%.

The International Moot Court team spent several days in Washington the last week in April arguing in the national finals. The brief written by Charlie Tomlb, John Sheldon, and Jim Sturgeon finished second among the teams arguing in Washington and fourth among all the briefs submitted for the competition. The Tucker Hall team had won the regional competition in March.

Another team, this one composed of Chuck Brown and Tom Ryder, competed in late March in the national finals of the Client Counseling Competition at Notre Dame, in South Bend, Indiana. Although the team did not place at Notre Dame, after winning the regional, Messrs. Brown and Ryder represented Washington and Lee admirably in the school's first excursion into this field.

The Senior Cocktail Party and Dinner will be held on Wednesday, May 15. The affair is sponsored by the Washington and Lee Alumni, Inc., and will feature excellent food and drink as well as a presentation by William Washburn, Alumni Executive Secretary.

Graduating Seniors who wish to keep up on next year's events in Tucker Hall may subscribe to The Law News for \$4.00. If you are interested contact Tom Ryder, Business Manager.

## The REPORTER

For many years, states have been zealously guarding the rights of their law-abiding citizens by the enactment of what have commonly been referred to as "long arm statutes" or "minimum contact provision." As any first year student should know, these statutes provide for personal jurisdiction if a non-resident conducts business or commits a tort in the forum state. See Martin Zientz, Everything You Always Wanted to Know about Civil Procedure, but were afraid to ask \*\*\* For the average Tom, Dick, and Larry, the effect of these statutes is summarized by the legislative maxim, "Beware the long arm of the Law!" The Supreme Court of Minnesota, however, has seen fit to give added meaning to that phrase, especially to the average Tom, Dick, and Harry in the recent decision of *State of Minnesota v. Hard Luck Nelson*, 42 U.S.L.W. 2468 (1974).

In the Nelson case, the Minnesota Supreme Court held that the Minnesota courts had personal jurisdiction over a non-resident father of an illegitimate child, born to a Minnesota mother following an act of conception that occurred in Minnesota on the novel theory that the non-resident father had committed a "tort" in Minnesota. The court ignored the non-resident father's contention that the long arm statute was inapplicable on the ground that a consensual sexual relationship did not involve a "tort" at common law. The court, noting Minnesota's policy of protecting its moral citizens, determined that the question is not so much whether the alleged conduct is technically a tort, but rather whether it was of a tortious nature, involving MINIMUM CONTACTS with the forum state. Finding no problem with minimum contacts, *Gray v. American Radiator & Sanitary Corp.*, 176 N.E.2d 761 (Ill. 1961), and ignoring proximate cause, (See S. Ct. decision on pornography,) duty, and foreseeability (evidently contraceptives are not judicially noticed when they don't work), the court held that the complaint alleged a tort within the meaning of the long arm statute. Compare *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) with *Cher v. Gypies, Tramps and Thieves*, 123 Decca 45 RPM (1973).

The court also dismissed the second defense of the defendant, Hard Luck, that there was no personal injury or property damage involved as required by the statute. Here, the court relied on economic considerations relating to the mother's earning power to stretch the state's arm a little further.

While the court's holding cannot be questioned in this historic case, it seems that the court would have been on firmer ground had the court pursued a simpler and more direct route to reach that result under the long arm statute. By finding that the defendant, Hard Luck, had conducted "business" in the jurisdiction, the court could have avoided the more difficult concepts of duty and proximate cause. Certainly there was on oral agreement in the forum which would (Continued on page 2)

## Moot Court, Tucker Lecture Mark Law Day Activities

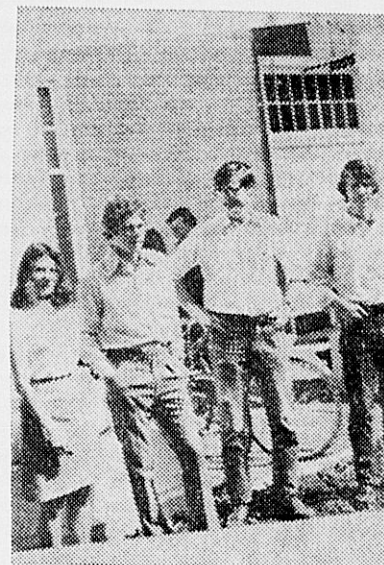
By KILLIS HOWARD

On Friday, May 10, at noon begins the annual Law Day Alumni Weekend at Washington and Lee. The two main events of the weekend are the finals in the Burks Moot Court Competition and the John Randolph Tucker Lecture.

At 2:00 p.m. on Friday the finals in the Burks Moot Court competition will take place in the South Room of Tucker Hall. This year's contestants are Debbie Susman, Tom Schmutz, John Thornton and Kim Preston. Judging the competition will be Justices I'Anson, Carrico and Harman of the Virginia Supreme Court. At 7:00 p.m. on Friday there will be a Banquet honoring the Burks Finalists. This year, the school is especially fortunate in that Martin Burks, grandson of Judge Burks for whom the Moot Court Competition is named, will be present at the banquet.

In 1949 the Board of Trustees of the University established the John Randolph Tucker Lectures, in honor of the first Dean of the Law School. 1949 was also the Bicentennial of Washington and Lee. This year's Tucker Lecture will be delivered at noon on Saturday, May 11, by George D. Gibson, Esquire. Mr. Gibson received a B.A. from the University of Virginia, and an A.M. and L.L.B. from Harvard University. He has been a member of the Association of the Bar of New York City, the American Law Institute, the American Judicature Society, and the Bar Association of the District of Columbia. Mr. Gibson is presently a partner in the Richmond firm of Hunton, Williams, Gay and Gibson, the former firm of Justice Lewis F. Powell, Jr. In addition, Mr. Gibson is General Counsel for Vepco.

It is hoped that all members of the Law School Community will attend the activities of the Law Weekend.



The finalists for today's moot court competition are Debbie Susman, Tom Schmutz, John Thornton and Kim Preston.

—Arey Brothers

## Bond Is Bonded

Professor James Bond has been recommended for tenure, the Law News learned just as we were going to press. It is news only in the sense that it is a new announcement: it was not unanticipated by most of us familiar with Mr. Bond's considerable skills both as lecturer and author of learned articles for various reviews.

## SBA Committees Reorganized

By C. J. HABENICHT

The first official duty of the newly elected S.B.A. president, and possibly his most crucial one, is the selection of chairman for the S.B.A. committees. Since the real work of the S.B.A. is conceived, studied, and implemented in these committees the selection serves to set the pace for the whole academic year.

Bill Hamilton has made his selections and it seems that he has collected an able group. Bill believes that the committees should be wholly independent units and that he should interfere only in those rare cases where a particular committee is suffering from a lack of direction. Under this system the committees would be directly responsive to student input and pressure.

Angelica Didier and Cliff Walters will co-chair the Curriculum Committee, one of last year's most active committees. That committee will handle such matters as course critiques, scheduling, interviewing prospective faculty members, and tenure review.

The Admissions Committee will again be headed by Steve Robinson and Don Willis. The two will continue the innovative programs begun last year and are also planning a minority recruitment day. This will draw minority stu-

dents from area schools for a day long meeting with simulated classes and discussions with faculty members.

The Academic Standards Committee, which perhaps directly affects the largest number of students, will be directed by Tom Wotring and Mike Bagleye. Their areas of concern will be the exam illness policy, the pass-fail system and requirements for Order of the Coif.

While aware that the zeal of this year's athletic czar will never be equalled, Terry Smith and Al Chipperfield hope that their training under the master will give them the inspiration necessary to lead the Athletic Committee. The process of assimilating the freshmen and their families into the law school and Lexington communities will be the concern of Bruce White and Pat Ferrance in their capacities as co-chairmen of the Orientation Committee. Dan Krisky will have his job cut out for him as head of the Placement Committee. Chuck Brown and Dave DeJong will attempt to improve on the excellent programs provided by this year's Speakers Committee.

The positions of chairman of the Social and Library Committees are still vacant at this time. If you have any interest—sign in please!