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# THE COLONIAL LAWYER

LEGAL ISOLATION—

Is the law too far  
away to help?



FALL—1970



**THE COLONIAL LAWYER  
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**THE COLONIAL LAWYER**

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**The staff welcomes reader  
comment and ideas.**

*THE COLONIAL LAWYER is a publication of the students of the Marshall-Wythe School of Law, College of William and Mary, Williamsburg, Virginia, dedicated to the exploration of the law as it acts in our society, and with the hope of a contribution to the growth of that understanding which inspires the greatest in our chosen profession.*

*The opinions expressed are those of the writers, and do not necessarily reflect an official position of the school.*

# THE COLONIAL LAWYER

## FALL 1970

### Contents:

#### ARTICLES

Legal Isolation: Is the law too far away to help? .....	1
Legislation by and for the people The Hon. G. William Whitehurst, M.C. ....	3
Interns in the Law—A model court rule for Virginia .....	5
Rap House — the lawyers make the scene .....	9

#### FEATURES

Marshall-Wythe News .....	11
CONTACT! .....	14
Notations .....	15

## LEGAL ISOLATION—IS THE LAW TOO FAR AWAY TO HELP?

The bumper sticker says, "Support Your Local Police!". Politicians and commentators deplore and discuss the decline in respect for the law of the land. The qualifications and attitudes of persons nominated to the Supreme Court become dinner table conversation pieces across the land. The catch phrase "Law and Order" turns elections into small crusades: Surely this hazy monolith, The Law, is central to the thoughts of America in the seventies.

We sit in a classroom and hear students heatedly claim the Constitutional right of high school girls to wear slacks to English class, and their parents despair that criminals go unpunished because the courts are too soft on the obviously guilty. And policemen, harrassed and sometimes bitter, read aloud in crowded streets the formula demanded to protect a criminal defendant's right to due process.

Everybody has a theory, a concept, an image of what The Law is. To far too many The Law begins and ends with an armed man in blue who catches people. The scope of law as a balancing of civil remedies, of wills, of taxes, of consumer protection, of real estate transactions, rarely if ever, enters their picture. To others the Law is simple confusing and expensive; confusing in the strange language, the unfamiliar atmosphere of courtrooms whose ritual pattern leaves the uninitiated helpless in the hands of strangers while his fate is ground out slowly according to rules he does not know. The expense seems unfair to clients who see only a man in a tastefully decorated office, who asks questions and then perhaps says only a little in court. They never see the hours of work and study, or the conversations that, conducted skillfully, may lead to settlement outside the courtroom door.

Most of those who go to law are people in trouble; angry, confused, trapped. To most the lawyer's office is reached only at the point of no return, "when all else fails". For the majority of the population there is no actual experience of the law at all, except in the 'mail-in' parking ticket, or the occasional appearance in traffic courts, usually without a lawyer, and resulting in a hasty and shamed plea of guilty, followed by a resented fine. Realistically, it is no wonder that the Law has image problems.

Our system of government is built on the cornerstone of the Law. If the conflicts among our citizens—from borrowed lawnmower to the great Constitutional issues—are to be peacefully resolved, those who have chosen to make the Law their primary interest, lawyers, judges, and the lawmakers, must move to change the layman's image; to inform, to educate, to clarify, and to make real the dignity, and the usefulness of our centuries-old system.

The layman needs information which will enable him to foresee possible legal difficulties and act in such a way as to either prevent the problem from arising, or to insure the working out of the problem in the least expensive and fairest manner. The young, the minimally educated, the low income groups, all generally less sophisticated in legal matters than the average layman, are candidates for a program which would distribute information on simple legal problems and the ordinary measures which will set them within the Law's protection.

PREVENTIVE LAW which could foresee the crisis and find early solutions, depends upon drawing the legal profession into contact with the community, making

guidelines available, extending legal assistance at lower cost to those who cannot afford it otherwise, and educating the public to see the lawyer not as a courtroom orator—Perry Mason to the contrary—but as informed *counsel* in the solution of day to day problems. And, at the very base of this effort, legislators must remain in contact with the people they represent, and act to give protection and aid where necessary by the wise exercise of their creative legal roles.

We are, of course, not the only group, or the earliest, to recognize this problem. Hard-working and dedicated members of the legal profession throughout the country have applied their efforts to the needed change. Legal aid societies staffed by volunteers are growing into important parts of most urban and many rural communities. Governmental agencies, federal, state, and local, which deal with the disadvantaged are introducing legal advice to those for whom they are responsible, either by the use of volunteer attorneys, or by employing a legal staff. Local and state bar associations finance and staff programs of public education, such as Norfolk's "Rap Clinic" reported in this issue.

The recent recommendation by the Virginia Bar Association that Virginia permit some law students to appear as counsel may add to the number of volunteers available to help the disadvantaged at a low cost, while providing an "internship" in the preparation of students for full practice. The early exposure of budding lawyers to the problems that find their way into the Legal Aid societies may also show the additional benefit of creating a generation of professionals who are aware at first hand of the communications gap between professional and the legally unsophisticated.

Much more remains to be done. The ideas are many; the force to implement them is lacking. Civic clubs, garden clubs, many organizations, as well as the legal profession itself can be the starting place for programs of education. This is the age of television. Public service announcements are freely available on most stations. Could the Law avail itself of the thirty second spot announcement, as does medicine and dentistry? What of the formation of Bar Association speaker's bureaus, to fill the constant demand for programs in a multitude of clubs? (And perhaps provide a forum for all those hopeful politicians).

The challenge of the program may be long standing, but the need for its solution is today peculiarly pressing. It is our hope that in the seventies, the Law will not be judged "too far away to help".

## **Government:**

### ***A Voice for the People***

The Hon. G. William Whitehurst, M.C.

*The Hon. G. William Whitehurst, M.C. represents the second Congressional District of Virginia, which includes his birthplace, Norfolk. Majoring in history, he earned a B.A. cum laude from Washington and Lee University, an M.A. from the University of Virginia, and his Ph.D. from West Virginia University, with a dissertation on American Far Eastern policy.*

*Congressman Whitehurst is a member of the House Armed Services Committee, and serves on the Board of Visitors to the Naval Academy, the Antisubmarine Warfare Subcommittee and the Seapower Subcommittee. He was a member of the special subcommittees investigating the seizure of the USS PUEBLO, and the Air Defense of the South-eastern United States. He was also appointed to the Presidential committee which visited Vietnam during the Cambodian missions.*

This is an impatient age. Anyone in public office will readily verify this statement, and those who have served for a generation or longer will tell you that impatience has intensified in recent years. It shows no sign of abating. The old say the young are too impatient. The whites say the blacks are too impatient. The men say the women are too impatient. But the truth is, the nation is impatient. The factors that have led to this impatience are manifold—social, economic, and technological—and need not be explored here. The major ones are known to all of us. The point is that the system by which we govern ourselves is under an unparalleled challenge for change, and for the first time in more than a century, serious question exists about its ability to survive this stress.

It was an Englishman, William Gladstone, who paid our Constitution its highest compliment, calling it the most remarkable instrument ever struck off by the hand of man. Before the 20th Century has run its course, most Americans now living will probably have the opportunity to see whether or not Gladstone was overly optimistic. But before we cast it aside as someone recently suggested and draw up a more "relevant" instrument of government, we might well consider the

progress we have made under the Constitution and the changes we can still effect in an orderly way within its framework.

The growth of government, in terms of both size and power, has inevitably produced a feeling of remoteness on the part of the average citizen. One Congressman now represents nearly a half million people, so the ordinary American has a feeling of helplessness when he is confronted with one or several of the national problems which now beset us. Because solutions seem to come slowly from Washington, he believes that no one really would listen to him if he tried to make direct personal contact, or would respond if he did. He is wise enough to know the volume of mail his elected representatives receive, and he may understand that his Congressman or Senator reads only a portion of it. In view of this he wonders if his voice or opinion counts for anything. As a matter of fact, his opinion, if given intelligently and in sufficient numbers, is the most powerful influence upon any legislator.

The House has responded to public pressure for change or to national priorities. In 1969 there were three excellent examples. The Congress made the first significant overhaul in the tax structure since the income tax was instituted over 50 years ago. Why? Because the American



taxpayer was on the verge of revolt. The inequities in the tax system had become so obvious that it was impossible to damp down the frustration. The final bill did not eliminate all of these inequities, but it equalized the tax burden more. The House passed an amendment to the Constitution providing for the direct election of the President and Vice President. The House took this action because of the public awareness of the potential complications which could have resulted from the 1968 Presidential election. That amendment is now before the Senate. It may die there, but passage in the House nevertheless reflects a response to the national will. Finally, the House and Senate passed a draft reform act, creating a lottery. Again, it was the result of the widespread and legitimate dissent, not over selective service, but the uncertainty a young man was subjected to between 19 and 26. I have chosen these examples because of their significance, but countless other measures were introduced and some passed because of the national consensus. The House is really a mirror of national will. The drive to clean up our environment, which came of age last year, resulted in a spate of anti-pollution bills. Every Member wanted to be "Mr. Clean." Furthermore, it was the one national issue on which all Americans were united.

What about less important items, those of more limited scope? If John Doe will take the trouble, he can make a lot of ripples. The My Lai Massacre probe resulted from one ex-soldier who bothered to send letters to selected Members of the House

and Senate. It may surprise readers of this article to know that those Members generally considered to be "Hawks" were the ones who responded to his allegations and forced an investigation of the affair.

In my own District, I had a constituent who wrote a letter to me, based on an editorial from the *Norfolk Ledger-Star*, regarding the disappearance of oil drums in the Far East and their subsequent reappearance and resale in the United States. We undertook an investigation through the General Accounting Office and exactly a year later got a report supporting the charges of carelessness in accounting for thousands of oil drums. As a result, changes were made in the procedures for handling them and the government was saved nearly a million dollars, all because one man cared enough to write about it.

In substance, then, legislation and government responsibility depend upon an alert electorate. A thoughtful letter, sincerely composed, has an excellent chance of catching a Member's eye and will often produce serious reflection on his own part. Most of us have reached a point where marches and demonstrations have lost their effectiveness. In some cases, they are even counter-productive. But the ordinary citizen with something on his mind will always be listened to and there are usually two positive results. He gets it off his chest and lessens his own frustration. His Representative or Senator knows that all of his electorate is not indifferent and that his own actions are accountable. In the final analysis, that's what the system is all about.



## A STUDENT PRACTICE RULE FOR VIRGINIA

In July of 1970 the Virginia State Bar Association meeting in a convention at the Greenbriar accepted a report of the committee on Legal Education and Admission to the Bar which recommended to the Virginia Supreme Court of Appeals that the American Bar Association Model Rule for student practice be adopted in Virginia with some modifications. The suggested changes are, first, that the supervising attorney be present for all court hearings, which would increase the amount of in-person supervision of the students under the rule, and second, in the area of clarification of the rule, the VSBA suggest that it be stated that the program is understood to be voluntary, and that the supervisors must themselves be practicing attorneys.

The acceptance of the VSBA report is another step toward the establishment in Virginia of a program which would permit third-year law students a practical introduction to the problems and challenges of actual practice. The Virginia State Bar Association is not the official state Bar, but a voluntary association of attorneys. The Virginia State Bar, the official organization, has at this time a committee which is studying the ABA model rule. That committee will also report its recommendations to the Virginia Supreme Court of Appeals.

The question of student practice or internship has been a cause for much debate in the profession. The rules and statutes which authorize law students to engage in at least some phase of legal practice are so varied that they almost defy categorization. They include general provisions which authorize limited lay practice, imprecise and obscure exceptions to statutes prohibiting lay practice, and one court opinion, in addition to the detailed administrative schemes so in vogue recently. In 1969 alone, at least five states and the ABA have adopted rules with surprisingly varied terms. Probably more student court appearances have been made subject to a

1935 Massachusetts opinion which states that "the gratuitous furnishing of legal aid to the poor . . . in the pursuit of any civil remedy . . . do(es) not constitute the practice of law" than under any other rule or statute.

The purpose of the ABA model rule (the text of which follows this article) is social: to provide "competent legal services for all persons, including those unable to pay for those services." This jurisdiction is reflected in the text which, though allowing students to take part in a broad range of legal problems, limits students to representing indigents, ONLY four states do not limit students to indigents or legal aid clients; Iowa, Nebraska, Oklahoma and Wyoming. The primary objective of these rules is educational.

It is important to note the dual purpose and effect of all student practice rules, and the philosophies behind their adoption. On the one hand the exposure of students to the practicalities of the working law makes an important contribution to the preparation of members of the bar. This goal in itself is rightfully a weighty consideration in the adoption of court rules permitting student practice. On the other hand, student practice can be used to extend legal services to those who now find it difficult or impossible to reach the law's advantages. It is this facet of the programs that places consideration of them within the scope of this issue of the Colonial Lawyer. Where the rule adopted is thoughtfully administered, both benefits can be achieved.

The approaches are discernable in the rules in deciding which students are to participate in any program. The ABA rule is representative of the group which concentrates on determining each student's qualifications and grants certification on an individual basis. Students must have completed their second year, be enrolled in an ABA approved law school of the state in which they intend to appear, be certified by the Dean of their law school and

be introduced to the court in which they are appearing. Certification may be revoked at any time by the Dean or court without showing cause. Many rules go further than just introduction. Oklahoma has a somewhat unusual method of certification in that it requires a student's application to be approved by a panel of practicing attorneys appointed by the State Supreme Court. The ABA's standards of supervision are also typical. The supervisor must be a member of the bar, approved by the Dean of the student's and must assume professional responsibility for the student's work. Kansas and Oklahoma limit private attorneys to two and three student interns respectively. Florida requires that the supervision be provided by the Public Defender or an assistant.

The Indiana, Iowa and New Jersey rules are representative of the second group. Rather than concentrating on certification of individuals, they require students to be participants in an approved program. New Jersey requires the program to be approved by the State Supreme Court; and in Iowa, the program must be approved by the school's faculty and not disapproved by the State Supreme Court; and in Indiana the programs must meet guidelines jointly developed by all schools offering them. Georgia's statute straddles the fence in that it requires both the program and its participants to be certified by the Dean and approved by a judge. It also requires the program to have a full time faculty supervisor and it is the only state which requires the applying agency to have malpractice insurance.

The final form of Virginia's decision on a court rule involving student practice is still ahead. The development of such a rule will continue to be of interest to both law students and attorneys of Virginia. It is to be hoped that the form of that rule will emerge to serve both the needs of those being educated in the law, and those who can benefit in legal advice from that process of education.



*NOTE: The Student Bar Association of Marshall-Wythe School of Law, College of William and Mary, has available a chart comparing the various state rules with the ABA model rule. It will be mailed to interested persons upon request.*

*Editor*

ABA MODEL RULE

**PROPOSED MODEL RULE RELATIVE  
TO LEGAL ASSISTANCE BY LAW  
STUDENTS**

Report of action taken by American Bar Association House of Delegates, mid-January meeting, 1969.

Judicial Administration (Report No. 28)

The resolution recommended by the Section was approved. It reads:

WHEREAS in 1967 the House of Delegates approved in principle the promulgation and adoption of provisions permitting students in the final year of a regular course of study in an approved law school to appear in court, under adequate supervision by members of the bar in good standing, in behalf of indigent persons or the prosecution in both criminal and civil matters; and

WHEREAS it is the senses of the Council of the Section of Judicial Administration that the provisions permitting law students to appear in court should, as nearly as practicable, be uniform throughout the several states;

BE IT RESOLVED that the American Bar Association adopts the draft of a Proposed Model Rule Relative to Legal Assistance by Law Students appended hereto and urges its consideration by the several states.

**I. Purpose.**

The bench and the bar are responsible for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rule is adopted.

**II. Activities.**

A. An eligible law student may appear in any court or before any administrative tribunal in this State on behalf of any indigent person if the person on whose behalf he is appearing has indicated in writing his consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

1. Any civil matter. In such cases the supervising lawyer is not required to be personally present in court.
2. Any criminal matter in which the defendant does not have the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer is not required to be personally present in court.

3. Any criminal matter in which the defendant has the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer must be personally present throughout the proceedings.
- B. An eligible law student may also appear in any criminal matter in behalf of the State with the written approval of the prosecuting attorney or his authorized representative and of the supervising lawyer.
- C. In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administration tribunal.

**III. Requirements and Limitations.**

In order to make an appearance pursuant to this rule, the law student must:

- A. Be duly enrolled in this State in a law school approved by the American Bar Association.
- B. Have completed legal studies amounting to at least (4) semesters, or the equivalent if the school is on some basis other than a semester basis.
- C. Be certified by the dean of his law school as being of good character and competent legal ability, and as being adequately trained to perform as a legal intern.
- D. Be introduced to the court in which he is appearing by an attorney admitted to practice in that court.
- E. Neither ask for nor receive any compensation or remuneration of any kind for his services from the person on whose behalf he renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the State from paying compensation to the eligible law student, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require.

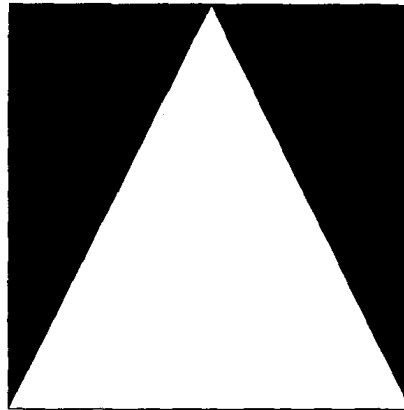
**IV. Certification.**

The certification of a student by the law school dean:

- A. Shall be filed with the Clerk of this Court and, unless it is sooner withdrawn, it shall remain in effect until the expiration of eighteen (18) months after it is filed, or until the announcement of the results of the first bar examination, whichever is earlier. For

any student who passes that examination or who is admitted to the bar without taking an examination, the certification shall continue in effect until the date he is admitted to the bar.

- B. May be withdrawn by the dean at any time by mailing a notice to that effect to the Clerk of this Court. It is not necessary that the notice state the cause for withdrawal.
  - C. May be terminated by this Court at any time without notice or hearing and without any showing of cause.
- V. Other Activities.
- A. In addition, an eligible law student may engage in other activities, under the general supervision of a member of the bar of this Court, but outside the personal presence of that lawyer, including:
    1. Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer.
    2. Preparation of briefs, abstracts and other documents to be filed in appellate courts of this State, but such documents must be signed by the supervising lawyer.
    3. Except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of this Court, assistance to indigent inmates of correctional institutions or others persons who request such assistance in preparing applications for and supporting documents for post conviction relief. If there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of such a client must be signed by the attorney of record.
    4. Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If he participated in drafting only a portion of it, that fact may be mentioned.
  - B. An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.



**THE AMERICAN BAR ASSOCIATION**  
Law Student Membership

- VI. Supervision.
- The member of the bar under whose supervision an eligible law student does any of the things permitted by this rule shall:
- A. Be a lawyer whose service as a supervising lawyer for this program is approved by the dean of the law school in which the law student is enrolled.
  - B. Assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.
  - C. Assist the student in his preparation to the extent the supervising lawyer considers it necessary.
- VII. Miscellaneous.
- Nothing contained in this rule shall affect the right of any person who is not admitted to practice law to do anything that he might lawfully do prior to the adoption of this rule.

## RAP HOUSE

### THE LAWYERS MAKE THE SCENE



In a house condemned and waiting for the bulldozers of Norfolk's Redevelopment Housing Authority there is a sign on the bulletin board, "De lawyers are here." Young people, some garbed in the extravagant styles of the "hippie" drift by, some to stay and talk, others simply to check out briefly this new item on a changing scene. The place is new, called "Rap House", and sponsored in its origin by the Young Lawyers Section of the Norfolk-Portsmouth Bar Association.

In Virginia Beach, off the main streets of a summer resort, a group of lawyers, doctors, and dentists have been given the use of a series of locations, the back tables of a coffee house, a room in a house named Jove's Mountain, where young people experiment in community living, and now another place, a room above a shop that caters to the cult of the surfer.

Several nights each week legal and medical advice is made available without charge to the burgeoning population of young people at the beach scene.

These two experiments, of two different styles and origins, are part of a continuing involvement of those in the legal profession with the problems of their communities.

Those involved speak in terms of two problems they wish to attack; drugs, and the intangible but present "drug scene" which have surfaced in the urban area as in many others, and the communication gap between the adult and teen-age world—the drop-out and the establishment. Success is hard to measure; the Virginia Beach project is a year old and the Norfolk experiment has been in being for about six months. But the workers are enthusiastic, hopeful and planning long range.

Rap House was born when a group of volunteers approached the Norfolk-Portsmouth Bar Association, asking for backing on a project that would help "get the kids off drugs." The volunteers, many



from Old Dominion University, planned their effort for the middle-class white post-teen-agers and late teens of a specific area of the city.

Rap House is conceived as a youth center, offering alternatives to the way of life represented by the drug scene — outlets for creative writing, art, drama, photography, ceramics, and ecology and public service projects. Legal counseling on problems of broken leases, and information about the processes of the law seemed most needed. Police co-operation with a “no confrontation” policy was enlisted. At this writing Rap House and their neighbors are still getting acquainted. Finding the initial constant presence of the lawyers threatening to some of the young, Rap House now posts a schedule of hours at which legal advice is available, and a schedule for the volunteer doctors.

Attorney John Ryan of Norfolk discussed some of the problems of legal help of this kind. The volunteers are advisors, not advocates. Where legal help is necessary the inquirer is referred to the Norfolk Legal Aid Society, and in criminal matters the process of court appointed attorneys is explained. AWOL soldiers seeking conscientious objector status are referred outside the organization, as are all draft problems, for counseling. “We don’t advise how to evade the law,” says Ryan, “but inform those who ask what the provisions of the law are.” The notebook for volunteers kept at Rap House includes the text of the new Virginia drug laws, for handy reference.

Virginia Beach’s Free Clinic has developed a different life style than Norfolk’s experiment. No organization originally

backed the Beach project. Attorney Bernard Barrow itemized some of the differences. The Beach has no place of their own to work out of, there is no college age group to call on for volunteers. The age group worked with is different, and the focus is on a transient summer population of youth, rather than the young residents of an urban neighborhood. At first the volunteer doctors and lawyers went to the clinic only one night a week; now they are scheduled into the program five nights.

The load varies from night to night on something of a crisis basis. There is no legal aid association available in Virginia Beach, so advice relies more on court appointed attorneys. Problems run to the omnipresent landlord-tenant battles, school problems of expulsion, suspension, etc. (including rights under dress rules) minor traffic offenses, and draft and drug problems. The longer presence of the free clinics has built more confidence in the program, and Virginia Beach is busier than Norfolk’s fledging operation. The doctors deal with hepatitis, venereal disease, and some bad trips.

The long range goal? Barrow speaks in terms of personal relationships with those they talk with, hoping that the youth caught in the drug scene will learn by example, “not by telling.” The results are not startling. “Some are so alienated, but at least we provide some adult to talk to.” The communication is a side product, but an important one to the volunteers.

As time passes these projects will have more to suggest to others who wish to begin similar operations. Where they succeed they will have blazed an honorable trail for a society reaching out to those outside the structure.

# MARSHALL WYTHE NEWS

Alan Enderle

The Student Bar Association of the Marshall-Wythe School of Law was adjudged the best in the nation at the 1970 convention of the Law Student Division of the American Bar Association.

A plaque, emblematic of the award, was presented to Rich Ashman, the ABA-LSD representative, at the convention in St. Louis. Duncan Garnett, SBA president, and Tom Reavely, a third year student at Marshall-Wythe and Circuit Governor of the Fourth Circuit, ABA-LSD, also attended the convention.

The award is based upon careful scrutiny of a 185-page report submitted by the ABA-LSD representative detailing all of the past year's activities of the SBA. This year, 145 law schools competed for the award.

At the same convention, Marshall-Wythe received another award for having enrolled more than 70% of its student body in the LSD. The 78% enrollment at Marshall-Wythe is the highest in the nation.

The LSD convention was held in conjunction with the ABA convention during the week of August 6-13. Chief Justice Warren Burger delivered the first State of the Judiciary address at the convention.

The halls of Marshall-Wythe, which last year seemed wonderfully spacious after the many years when the Law School didn't even have its own building, now begin to take on an air of near inadequacy as almost one hundred and ninety new students have entered in the first year class.

The new first-year class was selected from among 770 applicants. The median Law School Aptitude Test score of those admitted is 575 and the median grade point average is 1.6 on the 3.0 scale used by the College of William and Mary.

Dean James P. Whyte has cited the admission of this unusually large class as the first step towards achieving a total enrollment of 450 students. "There are many reasons why we chose to expand our enrollment," said Dean Whyte, "but foremost among them was the fact that our facilities permit of more students and we were turning away as many qualified students as we were accepting."

The enrollment of a class nearly two and a half times the size of classes previously enrolled will, naturally, present some problems, classroom and library space being the two that come immediately to mind. Dean Whyte said that classroom space presented no particular problem, and was in fact readily available in nearby Rogers Hall. The library facilities are another story and one for which Dean Whyte has no ready answer but about which he is optimistic.

"Perhaps my greatest concern at the moment is the matter of off-campus housing for the new students," said Dean Whyte. New students annually arrive in Williamsburg without an appreciation of the difficulties to be encountered in securing low-cost family housing within reasonable proximity of the college. Therefore, no accurate gauge of the problem can be made until the new class arrives and actually starts making their plight known.

Along with the enrollment of 190 first-year students and an announced projected increase in enrollment to 450 students the opening of the 1970-71 school year has seen the appointment of an associate dean and six new faculty members at Marshall-Wythe, the former no doubt influencing the latter.

Effective September 1, 1970, Professor John E. Donaldson became the associate dean of the Law School. In announcing Professor Donaldson's new status, Dean James P. Whyte, Jr. said that the associate dean would bear "considerable responsibility" for the implementation of admission and administrative policies. Professor Donaldson has been teaching part-time in the area of tax law at Marshall Wythe and will continue to do so. He has served for two years as an assistant vice-president of the College.

Professor Donaldson received his A.B. from the University of Richmond and his J. D. from the College of William and Mary. He has also earned a Master of Laws degree from Georgetown University. He is a member of the Virginia Bar and served as an attorney in the office of the chief counsel for the Internal Revenue Service from 1964 to 1966.

The new members of the faculty are as follows:

**GARY L. BAHR**, Assistant Professor of Law. B.S., and J.D., University of South Dakota; LL.M., N.Y.U. Subjects: Contracts, Legal Method, Torts. Member: South Dakota Bar.

**RONALD C. BROWN**, Assistant Professor of Law. B.S. and J.D. University of Toledo; LL.M., University of Michigan. Subjects: Contracts, Business Organizations, Constitutional Law. Member: Ohio Bar. Counsel, N.L.R.B. 1970.

**TOM A. COLLINS**, Assistant Professor of Law. A.B. and J.D., Indiana University. LL.M., University of Michigan. Subjects: Civil Procedure, Equitable and Legal Remedies, Administrative Law. Member: Indiana Bar. Indiana Legislative Council, 1966-1969.

**ANTHONY J. SANTORO**, Assistant Professor of Law. A.B., Boston College; J.D., LL.M., Georgetown University. Subjects: Tax Administration and Procedure, Business Planning, Federal Income Taxation. Member; Massachusetts and District of Columbia Bars.

**RICHARD E. WALCK**, Assistant Professor of Law. A.B., Pennsylvania State University; LL.B., University of Virginia. Subjects: Criminal Law, Legal Profession, Torts. Member: Florida and Virginia Bars. Staff Judge Advocate, TAC, 1967-1970.

**RICHARD A. WILLIAMSON**, Assistant Professor of Law. B.B.A., Ohio University, J.D., Ohio State University. Subjects: Conflicts, Legal Method, Property. Member: Ohio Bar. Private practice of law, Columbus, Ohio 1969-1970.

It's an ego trip for has-beens, might-have-beens, and neverweres. It's short, blessed, relief from law books, law libraries and law professors. It's an opportunity to match faces and personalities to names in those first harrowing days of law school. In any case, the intramural sports program at Marshall-Wythe is lively and flourishing.

Last year's intramural teams were reminiscent of the professional teams from Baltimore in the past few years. They blitzed to the championship in their own league and then fell prey to fraternity teams in college championship games. This was the case in football, basketball and volleyball. The basketball team acquitted itself particularly well in losing an exciting overtime battle by one point.

There was sufficient interest and talent for two teams to represent the law school in football and three in softball. There was a first-year team and a combined second and third year team in football. This, of course, lead to the inevitable blood matches with the end result being a stand-off for superiority, the second/third-year team winning in football and the first-year team gaining revenge in softball.

Quality was the hallmark of the basketball team, with four starting players having had varsity experience in college. The nucleus of that team is returning, including player-coach, Al Treado, who gained his college experience on those great West Point teams of a couple of years ago.

Emmet White, Intramural Director for the Student Bar Association, organized law school tournaments in golf, tennis and darts in the spring. Participation among students and faculty was very high, with the top three in each tournament being awarded trophies at the annual SBA luncheon. Handball is expected to be added to the school tournament program this year.

Bob Marks will direct the intramural program this year. Bob is the man for all seasons in intramural sports, having starred last year in football, basketball, volleyball, and softball. He took the third place trophy in golf, placed high in the tennis tournament, and found time to do very well in all-college handball and table-tennis tournaments. Bob was also named this year to a defensive backfield position on the all-time football team of his alma mater, Bucknell University.





*Oscar L. Shewmake, Jr., at the unveiling of the portrait of his father, Judge Oscar L. Shewmake.*

An oil portrait of the late Judge Oscar L. Shewmake, who revived the historic law program at the College of William and Mary in 1921, was unveiled at ceremonies in the Moot Court Room of the Law School Building on April 18, 1970.

Oscar Lane Shewmake was born at Brandon, Virginia, February 5, 1882. He obtained the A.B. degree from the College of William and Mary in 1903 and the Bachelor of Law degree from the University of Virginia in 1909. He was admitted to the Virginia Bar in 1909 and engaged in the practice of law in Surry County, Virginia until 1925. He served as Commonwealth's Attorney in Surry County, 1915-16; as counsel of the Virginia Tax Board, 1916-18; as counsel to the Virginia Corporation Commission, 1918-23, and as a member of the commission in 1923-24.

The law curriculum at the College of William and Mary had been dormant for sixty years when College President J. A. C.

Chandler brought Judge Shewmake to the College as Professor of Government and Citizenship and later appointed him Dean of the School of Government and Citizenship—in which the Law School served as a division. The first class consisted of eight students, all of whom passed the bar examination.

Judge Shewmake was a member of the Richmond, the Virginia, and the American Bar Associations; the Virginia Historical Society; Phi Beta Kappa, Pi Kappa Alpha and Phi Delta Phi. He died February 18, 1963.

Judge Shewmake's son, Oscar L. Shewmake, Jr., unveiled the portrait of his father while four members of Judge Shewmake's first class looked on. The portrait was commissioned from the Royal Academy, Royal Society of Painters, London, England, and is the work of H. Andrew Freeth.

# CONTACT! PEOPLE AND LAW

*The lawyer of the eighteenth century in Williamsburg holds a romance captured in the images of the founders of a nation; gentlemen planters, many of them, educated far beyond the average, leaders in the great issues of the day, far-sighted as they planned and wrote the documents on which a nation came to rely as philosophy and heritage.*

*Part of the heritage of the colonial lawyer is the ability to look beyond rules and citations and precedents to the ebb and flow of human affairs that the law undertakes to serve and guide. CONTACT is a record of human affairs taken from the press of Virginia, an image of the law's impact on people.*

*In Estimated 1,000*

Virginian-Pilot, July 28, 1970

## Migrants Suffer Job Loss

By Virginian-Pilot Correspondent

EXMORE—An estimated 1,000 migrant workers are wandering through Accomack and Northampton Counties without work or income, a Virginia Employment Commission worker said here.

The unemployed farm workers come to the Eastern Shore on speculation, said James N. Belote of the VEC office here, without any contract or job offers.

An overabundance of rain during the harvesting season, coupled with mechanization of harvesting procedures, has left some migrants jobless.

But Employment officials say the big hindrance comes from Federal restrictions on recruitment of migrants.

Belote said local farmers have almost entirely quit using the Exmore VEC office as a source of migrant labor, primarily because the camps they maintain for the migrants, while they come up to state health standards, do not meet new, stricter Federal standards.

The Employment Commission cannot recruit migrant labor from other states to come to Virginia unless they come to camps that meet the new Federal stand-

ards.

Some state employment spokesmen say the new Federal restrictions have brought about a virtual "ban" on state recruitment of migrants. The Federal health laws apply in all cases where the state does interstate recruiting.

Some farmers say they cannot meet the expense of keeping the camps up to Federal standards. This factor has led to urging by several farmers' groups, including the Virginia Association of Potato and Vegetable Growers, that farmers move to mechanization of harvesting methods to cut

down the labor problem.

Many Eastern Shore farmers have increased their use of mechanical potato and bean harvesters.

Another method used by some farmers to deal with the problem, Belote said, is keeping migrant labor crews under contract from year to year. Migrants with such private contracts come to Virginia knowing they will have work.

This private recruiting by farmers is not subject to the Federal health regulations, and the VEC is not involved in the transactions.

## NOTATIONS



*- GUESS WHO REPRESENTS THE LAW SCHOOL -*

On September 26, 1765, Dr. Samuel Johnson wrote the following prayer to be used before the study of law.

"Almighty God, the Giver of Wisdom, without whose help resolutions are vain, without whose blessings study is ineffectual, enable me, if it be thy will, to attain such knowledge as may qualify me to direct the doubtful, and instruct the ignorant, to prevent wrongs and terminate contentions; and grant that I may use that knowledge, which I shall obtain, to thy glory, and my own salvation."

### Also see . . .

This column is devoted to the odd and interesting in cases, presenting a brief introduction to the subjects of the litigation, in the hope that some will be enticed into reading the reporter accounts.

\* \* \*

State v. Goode, 130 N.C. 651, 41 S.E. 3 (1902). The defendant was an elderly lady who allowed Wallace to enter her house, whereupon he demanded the payment of a debt owed his employer or return of a bedstead. He began to examine the piece of furniture and he threw her clothes upon the floor. When he started to remove the mattress, Mrs. Goode picked up her son's baseball bat and hit the collector with what Judge Clarke characterized as "a 'left fielder,' for the prosecutor soon after left that field." The conviction of the defendant for assault with a deadly weapon was reversed since the question of excessive force should have been determined by the jury with consideration that Wallace was himself violating the law.

Ellis v. Newbrough, 6 N.M. 181, 27 P. 490 (1891). The plaintiff brought action in case and fraud against members of the Faithists, a religious group. Before he could join the community, established to create a utopia, he had agreed that all possessions be held communally. He was estopped from recovering wages for his work during his 18 months with the Faithists because he had been a member of the governing body. The strangest part of the case was the charge of fraudulent representation of the religion based on the exhibit of the Oahspe or Bible of the community. It was an account of a god named Looeamong who adopted the name Kriste and was chosen to be the only god in a manipulated election among some 37 gods.

Ellen Lloyd

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