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Amicus Curiae (Vol. 6, Issue 9)

AMICUS CURIAE

Marshall-Wythe School of Law *College of William & Mary*

Vol. VI, No. 9 Williamsburg, Virginia February 10, 1976

Spong Discusses Concerns And Plans As Dean-Designate

By Margaret Askew

Marshall-Wythe's Dean Designate, the former Senator William B. Spong Jr., will be spending a considerable amount of time at M-W this spring, even though his official post as dean will not begin until July 1 of this year.

Dean Designate Spong said he will be using the time before he takes over his duties as dean to familiarize himself with the Law School, its problems and its needs. He will also work toward wrapping up his law practice in Portsmouth.

"I intend to use this semester to talk with the faculty, students and alumni and to learn as much about Marshall-Wythe as I can," he said.

Spong said he felt the major concerns facing the Law School at this time are the funding of the proposed new law building and the accreditation problems. The two problems are "inseparable," he added.

Spong is spending some of his time this semester working on these two problems. "I have made myself available to members of the Virginia Assembly" to discuss the funding of the new building and to answer any questions representatives may have the situation at Marshall-Wythe, he said.

He is also talking with James White, the ABA Consultant following the progress of M-W in fulfilling the ABA recommendations to retain ABA accreditation. "I want to be sure I understand the specifics of their concerns about the Law School."

By conferring with White, Spong said he will be better able to understand the ABA's view concerning "the library needs and the physical spaces related to that."

When asked about any long-term plans or goals he might have in regard to Marshall-Wythe, Spong answered "I don't think I should speculate on those until I am the Dean.

"I want to be certain that I understand how the school operates before making any pronouncements."

Spong did say, however, that he thinks Marshall-Wythe "has always had an unrealized potential." He continued to say that he thinks that with completion of a new law building "Marshall-Wythe can fulfill the expectations that many have for it.

"I do not believe this can be accomplished overnight or by waving some magic wand," he added.

Despite the overcrowded condition at Marshall-Wythe, Spong said he thinks the faculty here "have done a remarkable job considering the resources," adding that the students too "have done a remarkable job."

Spong has taught a seminar on Foreign Policy and the Constitution during spring semester since 1975, the first teaching he has done at Marshall-Wythe since he taught here in 1948-49. "I have been very surprised the two (recent) years I have taught here by the high caliber of the students."

Spong also touched on the subject of Marshall-Wythe as compared to the law school at the University of Virginia. He warned that until recently, Marshall-Wythe has not been large enough to compare with U.Va.

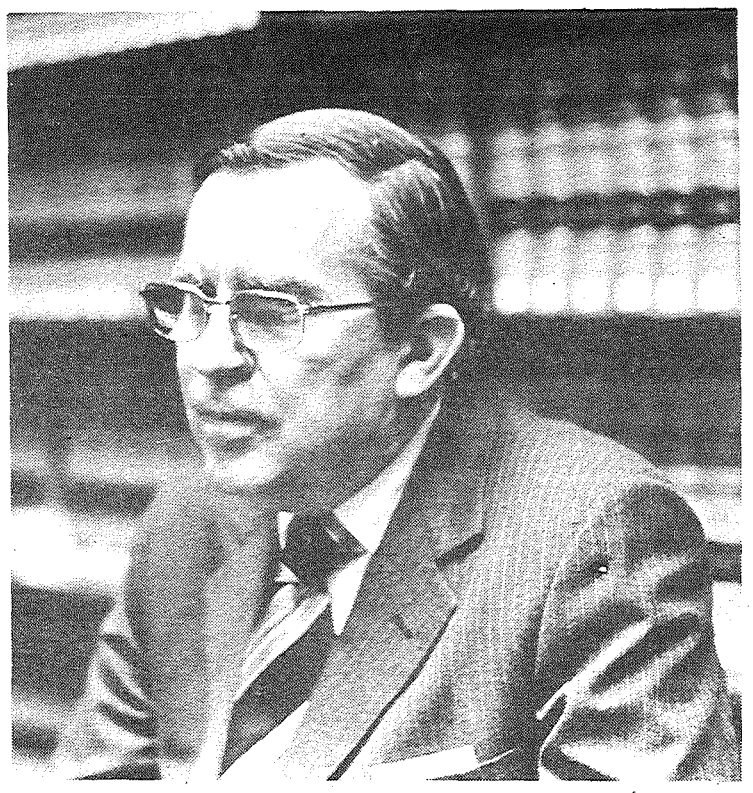
Prior to the mid-1960's, Marshall-Wythe was basically a small law school. "It's very difficult to judge the Law School by national standards prior to the late 1960's."

In comparison, the University of Virginia Law School has been "turning out hundreds of law graduates for years and years," while at the same time Marshall-Wythe had a small number of law graduates.

Much of the money University of Virginia receives comes from private sources, Spong said. Because that school has had a large number of law graduates over a longer period of time, it has more support from older alumni.

Spong also discussed what he thinks the relationship between faculty, students, alumni and the dean should be. "I think all should have some voice in the formulation of Law School policy. I have an open mind about things."

Besides his duties as Dean of the Law School, Spong will bring other prestigous duties with him to Marshall-Wythe. He served as United States Senator from Virginia from 1966-1972, has recently been elected president of the Virginia Bar Association, is a trustee of the Institute of Congress, chairman of the ABA Committee for Adequate Compensation for Judges and a member of the ABA Committee on Executive-Congressional Relations.



Dean-designate William B. Spong, Jr., will be spending this semester becoming acquainted with the Law School, and talking with members of the Virginia Assembly about a new building for M-W. He will take over duties as Dean during the summer.

SBA Discusses BSA, Grades, Raising Fees

By Sandy Spooner

The Student Bar Association meeting last Wednesday was enlivened by a discussion of what was described as a betrayal of the interests of law students before William and Mary's Board of Student Affairs. It was generally agreed that the Graduate Student Council (a standing committee of the BSA of which the law school is a member) and its Chairman Barrett Carson have been working at cross purposes with the Student Bar Association, its officials and the law school in general. Although the meeting involved a heated discussion of the problem, little action was taken.

Heather Dorian, who serves as the SBA representative to the Board of Student Affairs and who is a member of the Graduate Student Council along with Guy Strong, read a report which she had prepared regarding her experiences with the BSA, the SBA, and the Graduate Student Council. A text of her remarks appears in this issue's **Committee Forum**. The tone of her presentation indicated her general feeling that the SBA Board, and particularly Guy Strong, SBA President, had not worked with her or kept her informed of SBA policy with regard to the BSA and GSC, and that this lack of communication had resulted in possible conflicts of goals between Dorian as SBA rep and the SBA Board and President.

Dorian's report and her remarks at the SBA meeting following her presentation placed even greater emphasis on the fact that she thought Barrett Carson, President of the Student body of the Graduate School of Education and Chairman of the Graduate Student Council, had adversely affected the interests of law students in his official and unofficial conduct before the BSA.

In an interview immediately prior to the SBA meeting, Dorian indicated that her biggest problem had been one of communication. She had hesitated to "intrude" in what appeared to be a good working relationship between Strong and Carson. In fact, it now appears that in leaving Carson to speak for Dorian, Strong and the SBA, law student concerns have not been well represented to the college-wide community.

According to Dorian, Carson "has managed to foster unnecessary, mutual alienation between the undergraduates and law students." Apparently this has come about because, while Carson has appeared to be working with and representing law students, in his more candid moments he has been less than positive about law students and their concerns.

Lou Gonnella, third year

See "SBA," p. 5

Opinions Split On Revising Grading

By Rick Adams
and Mark Gregory

Consideration of possible changes in the system of anonymous grading used by the Marshall-Wythe school of Law was taken up by the Academic Status Committee last week.

The Committee, chaired by Associate Dean Timothy Sullivan, and composed of Professors "Bud" Furr, Irma Lang, Doug Rendleman, and Richard Williamson met last week to discuss the proposed changes in the grading system submitted by Professors Walt Williams and Harvey Frank. Also in attendance were SBA President Guy Strong and student representative Sandy Spooner.

Professor William's proposal would allow faculty members to give up to one-third of a semester's final grade to "grading other aspects of academic performance" besides the final exam. The proposal mentions class recitation and client counseling as possible areas to be graded non-anonymously. Such a change Williams feels would aide the development of "other vital skills for future professional performance."

In a later supplement to his submission, Williams has outlined how his proposals worked out last semester in a client-counseling exercise in his International Law class. He would continue anonymous grading of exams.

By way of contrast Professor Harvey Frank states in his plan "I would abolish the entire system of anonymous grading . . ." In the alternative he would propose that, "Each instructor in other courses (than required courses) have the option, to be announced in advance, to grade his class on anonymous or non-anonymous basis. As a final compromise Frank would submit a grading system similar to that of Professor Williams.

Professor Ron Brown has offered a counter-proposal which would close the "loophole" which has allowed anonymous grading in some non-seminar courses apart from the exam. Such a "technically correct" procedure Brown feels is contrary to the "spirit of the present law school policy that 100 percent of the grade shall be based on the 'exam'...."

Brown also offers a "legislative history" of the present grading policy which points out that a motion to allow "non-anonymous considerations" to enter into the grading was previously offered and defeated in 1972.

Also opposed to any change in the present system is Committee member Doug Rendleman. However, since in practice he feels some change will likely be necessary to accommodate the

See "Grading," p. 7

Fraternity Notes

Phi Delta Phi

All first-year, second-year, and third-year students not already members of a legal fraternity are invited to the Phi Delta Phi Initiation Friday, February 13, at 3 p.m. in the Wren Chapel. Initiation will be celebrated with Bloody Marys and Harvey Wallbangers in the Sittin' Bull Room of the Campus Center on February 14 at 8:30 p.m. Anyone who wishes to join PDP and is unable to attend the Initiation ceremony may join at the Initiation Party.

Phi Alpha Delta

The Initiation Party for Phi Alpha Delta will be held on February 13 at 9 p.m. in the Sit 'n' Bull Room of the Campus Center. Beer and music will be provided. The initiation ceremony will be held at 3 p.m. in the Wren Building on February 13 also.

EDITORIALS

Anonymous Grading Issue

After the publication of the last issue of the *Amicus* with its front page box on the matter of anonymous grading several comments were received from members of the Marshall-Wythe community. The gist of these comments was that the action of the *Amicus* was hasty and ill-advised. However, the box, containing all the information which was made available to us, was inserted as a last minute attempt to include at least some mention of what the staff felt was a most important issue. It was not intended to polarize the Marshall-Wythe community but rather as a call for more information. As such, it was honored. We can now place before the students, faculty, and administration the entire matter for everyones perusal and strongly suggest that they do so.

SBA Fee Increase

The SBA will be holding a student referendum soon concerning an increase in the student SBA fee, a change from the current $8.00 per year that the law students pay as a mandatory fee. The need for the addition funds is evident as inflation increases the cost of all Law School activities each year. President Guy Strong is strongly supporting the change. In his president's corner this week, he discusses the reasons for such a change.

The *Amicus* suggests that students read his column closely. Then, when you vote in the referendum on February 18, carefully consider whether you think your money is being wisely spent. If you do not want to see student funds spent for Law School activities, or you feel that the activities should be forced to cut back on their programs, then vote against the change.

However, do not forget the organizations that receive this money — organizations such as Environmental Law, International Law,, Mary and William Society, Moot Court, Jessup Moot Court, BALSA, Post Conviction and so forth. An increase in the student fee would probably mean an increase in the amount of money these groups receive.

Amicus Editor Needed

In the last issue of the *Amicus,* a front-page story stated that the deadlines for candidates for editor of the *Amicus* is February 18. Since that issue, no student has approached me about the position. As of now, I have no idea who will edit the *Amicus* next year. I do not intend to apply for the position next year, and if no other candidates come forward, the newspaper will be left without an editor in March, when my term expires.

Certainly, the Law School does not want to run the risk of losing the newspaper and its funds, such as what almost occurred with the *Colonial Lawyer.* Yet, if no one wants to run the newspaper, then maybe its loss will not be noticed. I certainly do not want to think that I have worked an entire year on a newspaper that the Law School really didn't want.

The job is at times a thankless one. Perhaps that is why no one is interested in running it. The only main benefit derived from editing the paper is the satisfaction received from knowing that it serves a vital function in the Law School community. Without this, my year has been wasted. I refuse to believe that my editorship has been a wasted effort, and I hope others are concerned enough about the paper to apply for the editorship.

—MEA

Letters Encouraged

Letter response to the Amicus Curiae this semester has been strangely lacking. Whether that indicates complete agreement with the views published by the Amicus or just indifference is uncertain. The Amicus staff finds it hard to believe that everyone agrees with everything we write. Letters to the editor are encouraged, and the few we receive are very welcome. Please feel free to comment on any issue, whether it is printed in the Amicus or not. Letters submitted should be typed on a 60-pace line, signed, and left at the Amicus office or in the Amicus box in the main office. Deadline for letters is the Tuesday before publication of each issue.

LETTERS TO EDITOR

Help Wanted For Local Legal Aid

To the Editor:

Putting aside the fear of "coming off" as a saintly do-gooder I'm writing this letter to inform the students at Marshall-Wythe that we are on the verge of a major breakthrough in our educational experience, but without the help and support of the student body our goal will not be realized.

General knowledge informs us that the majority of our students are continuing to complain about the boredom of classes and about the futility of case method teaching techniques in third-year classes. The organization that is being formed will give law students the opportunity to enhance their educational experience through clinical practice, and at the same time contribute to the social well-being of the underpriviledged of Williamsburg.

At the last meeting of The Williamsburg Area Legal Aid Project only thirteen members of the student body were present and more than two-thirds of the group were first-year students. Instead of labeling the rest of the student body as apathetic or noncommitted, we'll give them the benefit of the doubt, and take the responsibility for the low-turnout, because the meeting was not well-publicized. That will not happen again!

Third-year practice is a reality in many law schools around the country. The Williamsburg Legal Aid Project is being formed to work as a conduit for our students in order that we may add this sorely needed aspect to our curriculum. A majority of the faculty are behind our Project, but without student support, without students who are willing to work in researching grant possibilities, or helping draw up by-laws, or in just showing their support, Clinical Practice may never become a reality here.

Many thanks go out to all those who have participated so far in organizing this Project. Our collective voices now ring out for help at the most crucial period of our Project's development. We need a number of students to develop the project in order to show the faculty, the administration, the College community and Williamsburg that our students are ready to accept the responsibilities inherent in this organization.

Our next meeting will be at 3:45, Thursday, February 12, 1976, in the moot courtroom; our agenda will include the approval of the Articles of Incorporation, Election of Officers, and the selection of committees to investigate funding possibilities. All those who feel this is a needed part of our curriculum and are willing to expand some effort please be there. If attendance is impossible leave your name with Guy Strong in SBA office.

Ken Erickson

Registration Soon Due For P-CAP Seminar

Achieving Prisoners' Rights is the focus of a conference sponsored by the Post-Conviction Assistance Project scheduled for March 6, 1976 at the University of Virginia School of Law.

The conference is open to all persons interested in the future of the correctional system. Emphasis will be placed on the development of practical skills needed to represent prisoners and mold the future of the penal system. Practicing attorneys and faculty members are also encouraged to attend.

Workshops will be conducted by attorneys experienced in the area of prisoners' rights who have worked on major cases affecting the imprisoned. Also attorneys who have worked in the Virginia Attorney General's Office and the Department of Corrections will explain the legal framework of the corrections system in Virginia.

Topics covered in the workshops will include a look at 1983 suits and habeas corpus, the two primary alternatives in prison litigation and the procedural difficulties involved in each; the standards applicable to the granting, administration and revocation of parole; the litigation of effective assistance of counsel as grounds for habeas relief; a survey of recognized and emerging prisoners' rights in such areas as medical attention, mail, law libraries, and prison facilities as well as issues involved in medical experimentation with prisoners.

The Marshall-Wythe Post-Conviction will pay the registration fee for a limited number of participants from this school and will arrange transportation. For more information and registration forms, contact Jane Hickey or Barbara Kimble at the P-CAP Office, JB 304, ext. 542.

The staff of the Amicus Curiae *extends their sincere condolences to the Warwick Furr family in regard to their recent loss of their son. Your family is in the prayers of us all.*

Vote Against Raising SBA Student Dues

To the Editor:

The referendum concerning raising the mandatory SBA dues is an important one. As a second year representative, I feel that there is no need to raise the present amount of four dollars per semester as there is no real need for a greater revenue. The increase would be engulfed in our budget with little increase in services. The required cost of education is sufficiently high as it is.

Glenn Berger

AMICUS CURIAE

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Opinions expressed in by-lined articles and initialed editorials do not necessarily represent those of the Editorial Board. The Editorial Board reserves the right to edit all copy for space and policy considerations. Letters to the editor and other submissions are encouraged.

The Amicus Curiae, serving the students, faculty, and staff of the Marshall-Wythe School of Law, is published every other week during the academic year by the Publications Council of the College of William and Mary.

Commentary

Return Of States' Powers Subject Of Ford's Speech

Comments By
President Gerald R. Ford

Editor's Note: The following commentary was taken from the text of a speech delivered by President Ford in Williamsburg. Because of its length, parts of the speech have been deleted, without changing the over-all gist of the address.

Williamsburg made national news on Saturday, January 31, as President Gerald R. Ford attended the commemorative session of the Virginia Assembly, held every fourth year in the Capitol in Colonial Williamsburg, a reproduction of the original home of the Virginia Assembly prior to its move to Richmond.

President Ford's visit marked the first time a president in office at the time had attended one of the commemorative sessions. Ford labeled his address to the Assembly as his "first address of 1976 devoted to the National Bicentennial."

On hand to view the president's arrival at the Capitol was **Amicus** photographer Pete Goergen. Goergen was a member of the press corp stationed outside the Capitol and took the photographs of Ford published on this page.

During his speech to the Assembly, Ford stressed a need for state and local governments to regain some of the authority that has been eroded by the Federal government during the past 200 years.

"(I)n this Bicentennial year, we must do much more than maintain the treasured structures of our national legacy," Ford said. "We must revive the cherished values of the American Revolution with a resurgence of the spirit that rang forth in the streets of Williamsburg in Colonial times."

Ford said that the Federal government has usurped some of the power that should belong with the states, a fear expressed by the Founding Fathers.

"George Washington warned against the danger of the centralized power of government. Yet we find ourselves in a Bicentennial year when we look back, with something less than pleasure, at the erosion of State and local authority. Indeed, America has now reached the point where the Federal establishment employs over three million people. This is more than the combined population of all the thirteen original States when the Virginia Convention reserved to your people and your State government all power not bestowed upon the national government."

Ford blamed part of this usurption of State and local power on the people who look to Washington for the resolution of local problems, rather than to their own state and local governments.

"Freedom is now misinterpreted by too many to mean the instantaneous reform of all social and economic inequalities, at the public expense, through the instrumentality of the Federal government.

"In pursuit of that quest, the Federal bureaucracy was expanded, power was drained away from the towns, from the cities, and from the states to an increasingly centralized national government always bigger and more powerful — though not always more efficient."

This drain of power from the state and local governments is in direct conflict with the idea of self-government proposed by the Founding Fathers when the governmental system of the United States was originally established.

"Inherent in the Declaration of Independence was the message: People can govern themselves. They can live in freedom with equal rights. They can also act in accord with reason, and restaint, and respect for the rights of others and the total community," Ford said.

A "revival of civic virtue" would be an appropriate theme for the celebration of the nation's Bicentennial, Ford told the Assembly. "Our nation's founders believed that civic virtue was a willingness to suspend the pursuit of immediate personal interest and personal gains for the common goal."

He called upon Americans to revive civic virtue by fulfilling their duties as American citizens rather than calling upon the national government to do these duties for them.

"We must regain the same willingness to work as those who built a colonial capital on this site, the same open mind as those who envisioned our freedom, the same sense of responsibility as those who preserved it. We must enshrine our rights, but carry out our duties."

Part of this duty lies in regaining the state power that has been given to the Federal government, Ford stated. "The preservation of the 50 States as vigorous units of government is vital to individual freedom and to the growth of real national strength and character.

"An objective reassessment of State responsibilities can reduce central authority while strengthening State and local governments. The States can regain and reassert traditional rights and responsibilities if we remove Federal barriers to responsive government, restore responsible taxing and fiscal systems, and encourage local initiative. But if the States fail to act, Federal power will move even more deeply into a new vacuum created by political expediencies and pressures."

"We must, above all, see that government remains responsive to the real and legitimate needs of the American people. And we must make sure that, in meeting those needs, each level of government performs its proper function — no more and no less. This is essential to preserve our system and to draw new energy from the source of all governmental power — the people."

The Bicentennial celebration this year provides the opportunity for Americans to re-evaluate the roles of Federal, State and local governments, Ford said. "(T)he Bicentennial can remind us of those values we must preserve, and the mutual cooperation and confidence we must restore.

"If the Bicentennial is to be more than a colorful historical pageant, we must restore on a local and State level the opportunity for individuals to have more say in how their taxes are spent, in how they live, how they work, how they fight crime and how they go to school.

"Should the Bicentennial accomplish nothing else, this alone would be a resounding triumph — a fitting tribute to our heritage."

President Gerald R. Ford was the principal speaker at commemorative session of the Virginia Assembly, held January 31 at the Capitol Building in Colonial Williamsburg. President Ford talked about the usurpation of State and local power by the Federal government. A portion of his remarks is reprinted in this issue's Commentary. Photo is by Pete Georgen.

Acting Dean Emeric Fischer and his wife were among those present for President Ford's visit to the commemorative session of the Virginia Assembly. The commemorative sessions are held every four years at the Capitol Building in Colonial Williamsburg, home of the Assembly before its move to Richmond. Photo is by Pete Goergen.

'Lawyer' Elects New Editor; Plans Issue

The **Colonial Lawyer** is now accepting articles for its spring issue. The **Lawyer's** editorial board has decided to widen the publication's format this year. While scholarly articles will be accepted as in the past, articles of general interest dealing with the law, life at Marshall-Wythe or any subject of common interest to Marshall-Wythe students will be accepted, and are in fact solicited.

In addition, the **Colonial Lawyer** is sponsoring a photo contest on the subject: "The Marshall-Wythe Experience." Entries should attempt to express something about that experience and will be judged on artistry, effect, and originality. The top photographs will be printed in the **Lawyer.**

The **Lawyer's** editorial board, in deciding to expand the magazine's format, is nevertheless seeking, as before, analytical articles. Persons who have participated in recent legal writing courses and who have papers they consider publishable are invited to submit them for scrutiny.

As the **Lawyer** has limited space, papers as printed will of necessity be shorter than most full-fledged class papers. However, aspiring authors may either shorten their entries before submitting them or first submit the original papers with an eye to abbreviating them later if the work is deemed suitable for publication.

Moreover, if anyone within the school is a frustrated poet or creative writer, he now has a market in the **Lawyer,** again with the cavaet that the subject of such efforts should be within the common experience or common interest of the student body.

The deadline for all written material for the **Lawyer** has been set at February 20. No deadline has as yet been set for photo contest entries, but those submitting are asked to aim for March 1.

While the January 26 meeting of the **Colonial Lawyer** staff brought a gratifying attendance, the **Lawyer** still has a pressing need for a staff photographer. Also, if anyone has line-drawing skill and would like to do an illustration or two, the **Lawyer** is also needful of one with such a talent.

Anyone interested in submitting to or working for the **Colonial Lawyer** may contact its staff at the **Lawyer's** new office in old Rodger's 104 or by leaving a note in the appropriate box in the Law School office.

The names of the staff are as follows: Terry Grinnalds, editor-in-chief, Virginia Perry, Steve Ormand, Janet Rubin and Victor Newbaum, business-technical editors, William Batts, Rhetta Danial, Larry Carver, Judy Wall, and John Morehead, copy editors.

Generally speaking the business-technical people will be in charge of publication and management of the **Lawyer** while the copy editors will solicit and edit material prior to publication.

PRESIDENT'S CORNER

By Guy Strong,
SBA President

As most of you probably know by now, the SBA will conduct a student referendum on Wednesday, February 18, 1976 on the question of whether or not to raise the mandatory SBA dues by $2.00 per semester for each student at Marshall-Wythe.

Because I am a major proponent of such a change and because I feel it is vitally important that the increase be approved by the student body I will use the following paragraphs to outline the arguments in favor of the proposed increase.

This academic year is only the second year that the manditory SBA dues that we all pay as part of our tuition have been in existence. Up until September of 1974 the SBA, the **Colonial Lawyer**, and the **Amicus Curiae** all existed on a combination of voluntary SBA dues and Board of Student Affairs activity fee allocations.

The Board of Student Affairs is a college-wide legislative body that, among other things, administers the allocation of the mandatory Student Activities Fee, which all students of the College pay as part of their tuition. The SBA and other College organizations must present budgets and other justification for the request of the return of part or all of these funds before we are allowed to use that portion of the fund paid in by Law students.

In the two years since the SBA went to the present mandatory dues system our total expenditures have remained fairly constant, while the BSA activity fee allocation to all Law School organizations has risen to the point that we now receive nearly the full benefit of our individual $18.00 per year payment. One of the points I want to make here is that we cannot, in good conscience, expect or request increased BSA funding unless there is an increase in Law School enrollment or an increase in the amount of the manditory BSA activity fee itself. Since the **Colonial Lawyer** was revived by the All-College Publication Council late last Fall the total BSA allocation to the Law School for the current year has come into line with last year's allocation, much to the gratitude of myself and other SBA officers.

The adjacent graph outlines all Law School student funding for the past three academic years. These figures include the funding of the SBA, the **Colonial Echo**, and the **Amicus Curiae** and all other Law student groups except the Law Review and the legal fraternities.

As is readily evident the BSA assisted the Law student groups with increased allocations to offset the decrease in SBA dues caused by the switch from a voluntary $15.00 per year system to one of a mandatory $8.00 per year charge. Although the BSA allocation decreased slightly this year I do not expect that to become a trend in the future.

As was pointed out above, the BSA has gone as far as it can or should go in our behalf. If we want to continue receiving the type of high-quality social and professional events and services that the SBA has offered and continues to offer the Marshall-Wythe community we must find additional revenues.

The fact that is not reflected in the graph is that for the last three years inflation has averaged over 10 percent annually. This national economic problem has meant sharp increases in the cost of everything the SBA and other Law School organizations use in their daily operations including paper, food stuffs, thumbtacks, typewriter ribbons, and even beer.

It has especially been in the area of social events that inflation has hit the SBA hard. The prices of room and film rentals, liquor, and food have all skyrocketed, making a nominal attendance charge at most events absolutely necessary. The SBA sponsors or co-sponsors a wide variety of social activities ranging from first-year orientation parties and Libel Night to picnics and film showings. I feel these events are an important part of the service we offer the students and that they should not be jeopardized by a lack of adequate funding.

By 1980, on the basis of a continued 10 percent annual inflation rate alone, the real combined Law student budgets will be over $16,000!

In addition to inflation, between 1973 and 1976 the budget requests from the Law School groups financed by the SBA and the resulting SBA allocations have both increased dramatically. In 1973-74 Jessup Moot Court, for example, received only $50.00 from the SBA for its activities. In this year's budget its allocation has grown to $275.00! Across the board the budget requests presented to the SBA for this academic year totalled nearly double the funds we had available. As these groups continue to grow larger and more ambitious their financial needs and requests will grow as well.

Just as important is the fact that the number of organizations seeking funds has also grown. Since 1973 four groups: the Environmental Law Group, the Williamsburg Area Legal Aid Project, the Mary and William Society, and the Layman's Guide to Virginia Law have been added to the list of Marshall-Wythe student organizations seeking SBA funding. In addition to the groups just mentioned the SBA wholly or partially funds the following groups: Post Conviction Assistance Project, Legislative Research Council, Law Student Division of the American Bar Association, Black American Law Students Association, International Law Society, Moot Court, Jessup Moot Court, and the Marshall-Wythe Lobbying Group.

By now I hope that it is clear to you that we must have more funds. And the safest and surest method of gaining more cash resources is through the raising of our own mandatory dues. The SBA has exclusive control of these funds and they are thus protected from any possible future arbitrary action by the BSA.

If each law student's SBA fee were raised by 50 percent, from $8.00 per year to $12.00 annually the SBA would have an additional $1,800 at its disposal. This money woulld be used to offset the adverse effects of inflation and to meet the growing needs of all of the Law School organizations we fund. If, in the future, other sources of revenue are made available to us it would be possible to lower the level of the SBA dues back to its present position.

In my opinion a $4.00 increase per student annually is a small price to pay for the maintenance of a strong SBA and the high quality activities it sponsors. If you agree with me please vote in favor of the SBA dues increase on February 18.

	1973-74	1974-75	1975-76
NUMBER OF FULL TIME STUDENTS	477	450	450
TYPE OF SBA DUES SYSTEM	Voluntary	Mandatory	Mandatory
TOTAL SBA DUES	$4,155	$3,500	$3,500
TOTAL BSA ALLOCATION	6,680	8,000	7,790
TOTAL LAW STUDENT BUDGET	$10,825	$11,500	$11,290
BSA ALLOCATION PER LAW STUDENT	$14.00	$17.50	$17.30

Low Grading Scale Creates Dissatisfaction With Students

By Pat McDermott

The editorial page of the last issue of the **Amicus Curiae** discussed the unfortunate grades posted in Professor Powell's Evidence class. Since then, a similar result has been posted, listing the grades of Professor Swindler's Constitutional Law class, where only about a third of the grades were above a "C".

The students in Powell's class have begun the appeal procedure by drafting a Notice of Dissatisfaction to be filed with the Academic Status Committee. Students who were not dissatisfied with their own grades have also signed the Notice which would tend to lend strength to the appeal. Powell has indicated that he would not be adverse to any remedial measure approved by the committee.

The appealing students have not expressed dissatisfaction with the particular ranking of their respective papers, as much as the "general grading scale utilized by the faculty member in evaluating a particular set of examination . . . papers." This area is one of the three specific subject areas into which students may properly inquire.

In an interview, Powell expressed his dismay over the grades and offered several explanations. First, he expressed his dislike of the presently employed anonymous grading system, whereby the entire semester grade must be based on the exam paper. He stated that many students who understand the material "and know what is going on," are unable, on the particular exam day, to convey this knowledge to the professor on the particular issues which are dealt with on the exam. "An exam is mostly luck anyway," said Professor Powell in reaction to the grading system.

Secondly, Powell said he had feared, even during the semester, that the grades would be low. He noted that attendance was occasionally less than fifty per cent and that many of the students who had not been assigned the particular problem dealt with on a particular day, had not prepared at all. This was in spite of his warnings that all the students would be responsible for all the material, not only their particular problem, he added.

Powell indicated, during the interview, that because the grades were so low, he gave each student a ten point bonus, but that in the interest of academic integrity, and in all fairness to the students who did perform well, he could not raise the lower grades without some additional work project which will have to be approved by the administration or the appropriate faculty committee.

Professor Swindler's students have not opted for a concerted effort to appeal the inordinate number of "C's" received. (Seventy-one out of one hundred-nine grades). In a note, Swindler has explained the cause of the grades in this way, "The basic characteristic of the exams was sameness; everyone's answer was more or less 'right' but few were clearly reflective of a grasp of the basic principle involved in the answer."

Swindler has also expressed concern over the results. In the same note he stated, "Rest assured, I share your concern. If there is any equitable resolution of the problem, rest assured it will be undertaken," It is reported by first-year students that Swindler has himself approached the administration in seeking an "equitable solution." It is perhaps this effort on Swindler's part that has caused the first year students to hesitate before drafting a group appeal.

See "Scale," p. 5

Moot Court Invitational Planned For February 28

William and Mary's moot court team will pit its legal writing and oral argumentation skills against those of students from five other area law schools when the Fifth Annual Marshall-Wythe Moot Court Invitational Tournament is convened here February 28.

Second year students Judy Humphreys, Sally Larrabee, and Michael Mares will represent William and Mary in the competition. They were chosen from participants in the fall moot court intramural program.

The six teams will argue the controversial capital punishment issue in a case parallel to **Fowler v. North Carolina**, the death penalty case which is slated for oral argument before the United States Supreme Court this term. The case, argued before the High Court last session, will be re-argued this term, since the apointment of Justice John Paul Stevens gives the Court a full panel for the first time since Justice William O. Douglas's stroke.

The Invitational consists of three rounds, two in the morning and one in the afternoon, beginning at 9 a.m. Sessions will be held in the moot courtroom of the law building and in the Great Hall of the Wren Building. An awards banquet will be held that evening for participants.

Tom Clark, a former Supreme court justice and presently Tazwell-Taylor Professor of Law at Marshall-Wythe, will head the panel of six jurists who will judge the teams. Justice Clark has served as presiding judge since the Invitational program began in 1971.

Other members of the judging panel will be retired United States District Court Judge Walter Hoffman, Judges Merhige, Kellan, and McKenzie, all judges for the United States District Court for the Eastern District of Virginia, and Judge D. Dortch Warriner of the Western District of Virginia.

Competing teams, in addition to William and Mary, are University of Maryland, Wake Forest, University of Virginia, Duke University, and University of Richmond.

The competition is administered by the Moot Court Board, composed this year of Larry Glanzer, Ellen Pirog, Robert Galunbeck, Ed Passarelli, and Page Williams.

Each team will compete in two sessions, once arguing the side for which it wrote its brief and once on the opposite side. Teams are judged both on the written brief and oral argument. Awards are presented for best brief, best oral argument, and for best total score. Last year's Marshall-Wythe team won the best brief award.

All three rounds of the Invitational are open to students.

BSA; Grades; Scheduling Discussed By SBA Board

Continued from p. 1

representative, reacted strongly to Dorian remarks, indicating his anger at both the communication problem and Carson. Gonnella said that he believed that the whole SBA Board must share in the blame for past problems and in the responsibility for correcting them in the future.

Strong, citing the many, time-consuming duties of his office, apologized to Dorian for not working more closely with her on BSA matters. He indicated extreme confidence in Dorian's abilities and that he had "high hopes" for a good working relationship with her and with the BSA.

Virtually every member of the Board indicated that they agreed in Gonnella's assessment that the Board itself was culpable in its lack of commitment to SBA-BSA relations. Jim Ronca, first year rep, said, "The Board should be more involved in the whole thing."

Ronca and Ellen Pirog both indicated that they had not been prepared for their meeting with the BSA in September on financial matters. All hoped for better preparation in the future. The Board voted to make the SBA rep to the BSA an ex officio member of the SBA Board and urged Dorian to establish a committee under her leadership to prevent further failures in communications.

After 45 minutes of discussion, which resulted in a general consensus that the problem was a serious one, no further action was taken. Dorian was encouraged to reassess the affiliation between the GSC and the SBA, but a motion to inform the BSA of the Law Schoo's intention to speak for itself, apart from the GSC and its chairman, was withdrawn. The withdrawal was in some measure influenced by Dorian's view that membership in the GSC itself, rather than the necessity of the Law School's speaking in its own behalf, should be the area of concern.

In an interview immediately following the meeting, Strong stated that Dorian's report was an accurate record of the facts and that it was good that they were brought to the attention of the Board as a whole. "The BSA," he said, "has the potential to be in invaluable ally of the Law School and the SBA, but that potential has simply not been realized to date."

Strong indicated that he was not optimistic about any changes in the near future considering the long-time undergraduate orientation of the College.

"Like Heather," he said, "I, too, had high hopes at the beginning of the year for a constructive working relationship with the BSA. If my actions have prevented the realization of that goal, I am profoundly sorry."

He stated further, however, that he did not feel that any different position on his part or any greater amount of diplomacy would have bettered the Law School's position with the BSA.

Strong said he appreciated Dorian's candor and would appreciate any further suggestions or criticisms on the issue.

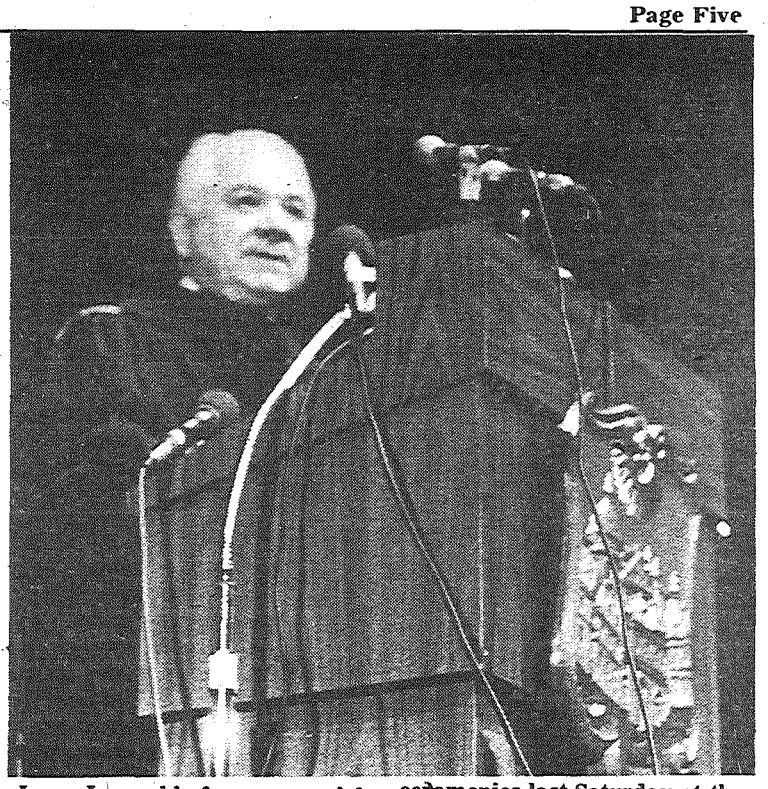
When asked about Carson's characterization of him as "radical," Strong said that he found it somewhat humorous. "I've been called a lot of things," he said, "but never a radical."

In other business, Strong reported on the meeting he and Fred Gore had had with Professor Bolling Powell regarding student dissatisfaction with the latter's grading policies last semester. It was stated that Professor Powell had cited poor attendance, lack of student preparation and poor exam performance as the causes of the admittedly low grades given in his evidence course. Apparently, Powell will discuss with the Academic Status Committee possible means of students bettering their grades by a written demonstration of their knowledge of evidence.

The SBA unanimously passed a resolution calling on the faculty to (1) "prevent the changing of scheduled class meeting times without the unanimous consent of the members of the class," (2) "prohibit the exchanging of courses by professors after registration," and (3) "require professors to observe the scheduled time limits of their classes."

The resolution was in response to what was generally considered to be abuses of students in order to meet personal preferences of faculty members.

Mike Mares reported on the plans and progress of Libel Nite, to be held this year on March 17. The Law School has, with some difficulty, managed to obtain permission to use PBK hall. Due to abuses of the rules against eating and drinking in the auditorium last year, the hall had earlier been denied to the Law School.



Leon Jaworski, former special Watergate prosecutor for the United States in 1973-74, was presented the Marshall-Wythe Medallion during Charter Day ceremonies last Saturday at the College. The award was established in 1967 to honor outstanding members of the legal profession.

More Positions Listed From Placement Office

By Louise Murtagh
Placement Officer

A letter saying that some of our students are interested in becoming Assistant Commonwealth's Attorneys has been sent out to 119 Commonwealth's Attorneys across the state. The mailing took place between January 22 and 29. To date eleven Commonwealth's Attorneys have responded, and three have a need for an Assistant and for summer clerks. Another will if he is successful in getting funds. As these responses come in, they will be posted.

With the assistance of Mr. Joy, the Acquisitions Librarian, approximately 25 publications relating to placement have been ordered. The housing of these is not yet known. Some may be shelved in the Placement Office, others in the library. Among the publications are the **Corporate Counsel Roster, Directory of Legal Aid and Defender Services** and a listing of prosecutors put out by the National District Attorneys Association.

The University of Denver has sent us notice that they are offering a program leading to the degree of Master of Science in Law and Society beginning fall 1976. Additional details are posted. The University of Denver also has announced its Annual Summer Institute in Clinical Legal Education beginning June 14, 1976. The deadline for applications is April 30, 1976. Details are posted.

The Office of the Deputy Attorney General has announced the 1976 Department of Justice Summer Intern Program. The application deadline is April 12, 1976. Application forms are in the Placement Office.

The two Commonwealth's Attorneys who would like to employ a second year student summer of 1976 are: Daniel M. Chichester, Commonwealth's Attorney, P.O. Box 66, Stafford, Virginia 22554 and Henry Lee Carter, Commonwealth's Attorney, 153 West Main St., Orange, Virginia 22960. The third Commonwealth's Attorney is interested in employing a recent graduate.

The law firm of Fulbright and Jaworski is searching for a tax lawyer and has invited third year students to send resumes. Steven E. Segal is the person to contact. The address is Bank of the Southwest Building, Houston, Texas 77002.

The position with the National Center for State Courts, which originally was to last thirty weeks, has now been made a permanent position.

Grading Scale Creates Student Dissatisfaction

Continued from p. 4

A low grading scale constitutes a problem which has plagued Marshall-Wythe students for the past several years. Graduates of Marshall-Wythe are competing in a decreasing job market with graduates of many of the more prestigious law schools, where the grading is not so harsh. The loss of the prestige due to Marshall-Wythe's accreditation problems and inadequate facilities, coupled with these low grades puts graduates in a most disadvantageous bargaining position in applying for the better paying jobs.

While inflated grades are harmful to the entire educational system, hence undesirable, there is a serious question as to the benefits, if any, to be extracted from a generally low grading scale. This is not to say that there exists any policy formulated be the faculty or administration to the grade scale, but that it is, perhaps, a function of the anonymous grading system. This system was adopted persuant to a student vote several years ago when the school population was doubled and there was fear of a mandatory number of "flunk-outs."

The system may have advantages, but there is need to consider its possible adverse affects. It seems incredible that law students should not trust their professors which, if the truth be faced, is the sole reason for the continued existence of the system. Under the system, the professor has no opportunity to balance a student's grade which may be low for many reasons, with the student's class performance, which may be excellent. Of course, the converse may be true.

The low grades in the two classes discussed are unfortunate and painful to the entire Marshall-Wythe community. Whether the blame should lie with the professors, the students, the anonymous grading system, or a combination of the three is a question which should be considered by the Academic Status Committee.

Committee Forum

Dorian Presents Her Views As SBA Rep. To BSA

Editorial Note: Sandy Spooner, who normally edits this column did not participate in the preparation of this article which represents only the views of Heather Dorion.

BSA Report
By Heather Dorion

For the first two years of my existence at Marshall-Wythe I was an uninvolved member of our local democracy known as the SBA. Last year I decided to become the active citizen that my liberal arts education taught me a democracy requires. As a result of prompting from fellow law students I volunteered to be the SBA rep to the Board of Student Affairs. I was duly appointed by Guy Strong and approved by the SBA Board. I left school last May with great expectations that in 1975-76 I would be working closely with the SBA to further the interests and concerns of the Law School in the BSA arena.

Shortly after returning to school in the autumn, I asked Guy whether I should attend the SBA Board meetings. He said I did not need to attend the meetings regularly. Rather, he would let me know when the Board would be discussing matters relevant to the BSA. Having enough regular BSA meetings and BSA committee meetings to attend, I was relieved not to add another set of meetings to my list.

My goal for the year was to improve communications between the Law School and the College. I hoped to help clear the way to the calm and rational discussion of the conflict of needs between the graduate schools (especially the Law School) and the undergraduate school in the BSA.

Having been an undergraduate at W&M myself, I hoped that this affiliation would help me to effectively communicate with the other BSA members. Being a member of the SBA and its chosen representative, I assumed there would be no communication problems in that direction. However, as the semester progressed, I began to feel alienated from certain factions on both sides.

The Graduate Council is a new standing committee of the BSA which was formed this last autumn. The members of it are the presidents of the four graduate student organizations and the graduate student members of the BSA. Barrett Carson, Chairman of the Council, is both the President of and student BSA rep from the graduate school of education. He and Guy Strong were instrumental in the formation of the Council. I only attended one of the Council's meetings last semester. But Guy, from time to time, told me that they had something cooking. The impression given me by Guy was that he and Barrett in their capacities as two presidents of graduate student organizations, were working on some projects for the graduate schools. Although I asked a few questions, I was not told about their "Plans." Since I did not know what Guy was working on, I was hesitant to begin any substantial initiative of my own in the BSA for fear that such action might be counter-productive to any of Guy's policies.

Sometime in October I was walking past the Law School with the Chairman of the BSA Finance Committee, Dave Nass, when we stopped to talk with Guy. Guy and Dave got into a semi-heated discussion about Dave's committee's procedures for conducting hearings on how to allocate some money the committee did not know last spring they would have. Evidently, Guy had spent a great deal of time preparing for the hearing because he did not realize how little money was available. Guy was justifiably angry. In his anger he told us he was going to President Graves to discuss the possibility of a Graduate BSA and some other matters. Until then I was unaware of a movement in the Law School for a GBSA.

Then in late October to mid-November we were inundated with **Amicus** editorials and articles discussing the idea of a GBSA. The **Amicus** articles were the first indication I had that there was much sentiment for a GBSA. Guy had never told me that it was going to be discussed at a SBA meeting. No one from the SBA Board ever discussed the idea with me until after the first articles were published. In fact, the Chairman and some other undergraduates on the BSA knew of the **Amicus** articles before I did. Naturally, I felt I had been deliberately left in the dark. I began to wonder why I was the SBA rep when it was obvious that the SBA did not want me to do anything but attend BSA meetings. Guy seemed uninterested in discussing with me proposals which I could bring before the BSA. All I knew was that Guy was working on something. I had no idea what it was. I resigned myself to asking pertinent questions and making general assertions at BSA meetings because I was not receiving any direction or assistance from the SBA. I felt uneasy about my role.

Then at the October 30 BSA meeting, Barrett Carson read from the College's self-study that the College has a responsibility to maintain a high quality of education both on the undergraduate and graduate levels. Barrett stated that he feels the College is not fulfilling this responsibility as to graduate studies. The Chairman and the rest of the BSA requested and Barrett agreed to prepare a report documenting these accusations. The following week the Grad. Council had a meeting which I was unable to attend. Guy told me that it was a shame I missed the meeting because he and Barrett worked on a very interesting resolution.

As an expression of interest and concern the BSA invited the SBA Board to attend the next meeting to discuss the Law School's problems. Because I believed the next meeting would be an open discussion I encouraged a number of SBA Board members to attend.

As the meeting started on Nov. 13, all seemed well until the Grad Committee report. The usual procedure for resolutions is that a copy is given to each person present at the meeting. However, Guy said something about there not being enough money for sufficient copies. So, Barrett read the resolution which stated in very broad terms that the College is not adequately supporting the graduate programs. Further, the resolution's tone was insulting and obnoxious in its bald accusations of the College and BSA's disinterest in the graduate programs. Unfortunately, I cannot reproduce the resolution here because I never saw it. Two topics were then discussed: the dearth of grad housing and the lack of funding for Moot Court, Jessup Moot Court and Legal Aide out of the Student Activities Fees. Most of the discussion centered around the funding of the three Law School activities. For an accounting of that discussion see the BSA report in the "Committee Forum" column of the **Amicus**, Vol. VI, No. 7, Dec. 2, 1975, page 8. Unfortunately the entire discussion was colored by the tone and temper of the resolution. Quite frankly I was embarrassed by the entire proceeding. The meeting closed with the BSA again requesting the grad schools to come forward with concrete proposals for action which supported by facts and not mere disgruntlements.

The next event of note was Friday, Nov. 21. As four undergraduate student leaders, Barett Carson and I were standing outside the room in which the Board of Visitors' Committee for Student Affairs was meeting, Barrett apologized for the resolution he had read to the BSA at the last meeting. He said that Guy wrote the resolution and gave it to him only five minutes before the meeting. Thus, he did not have a chance to do anything to it before reading it. Barrett not only said that he was embarrassed to read it to the BSA, he also stated "off the record" that Guy Strong is another radical like Abby Hoffman with whom one cannot deal rationally. The undergraduates looked at each other laughingly in agreement with Barrett's assessment. Since Guy is our elected leader, the acceptance of this assessment of him and his behavior have caused some people in the College to look at all of us in the Law School with even more suspicion. This in turn makes it more difficult to communicate with them.

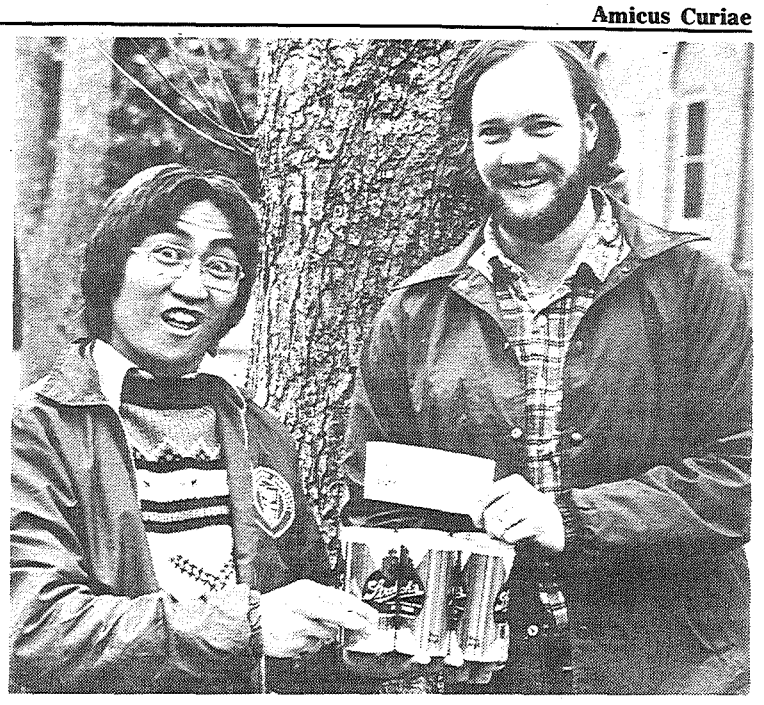
The purpose of this article is solely to expose a problem that we have in dealing with the undergraduates. I am not questioning Guy's motives. I believe he has always worked for the best interests of the Law School. He laughs at me when I say I believe we can work with the undergraduates. He seems to feel "they" are out to get "us." I disagree.

As graduate students we are a minority group on campus. However, we are a minority that a lot of undergraduates at the College would like to join. The graduate schools are growing faster than the College had predicted. Growing pains are inevitable. Squabbles between the status quo-protected undergraduate programs and the ambitious graduate programs are inevitable. I am optimistic. I believe that if we demonstrate our needs in the clear light of reason and keep the lines of communication open, we will make much faster progress than we would by unnecessarily antagonizing the vested interests. In addition, we must keep the lines of communication open within our own school. I am as guilty as anyone else in the Law School of not openly voicing my opinions and keeping others informed of the events in our relationship with the rest of the College. Thanks go to Sandy Spooner and the **Amicus** for giving us this column as a channel of communication within the school.

At the end of last semester and at the beginning of this one, I was so frustrated with my position that I was seriously considering resigning. Then someone asked me how things were going and I told of my frustrations. I was encouraged not to resign but rather to do my duty and make the events I have just described public knowledge. Having done that, I accept the responsibility for my actions and inactions.

I hope that in the future the SBA will be able to work more like a participatory democracy than at present. If we would only communicate with each other, thrash out our differences and support each other as we work for progress at Marshall-Wythe, we might be able to make that progress through the appropriate channels such as the BSA. Until we work with that body reasonably, rationally, and openly, in the best manner of our profession, to eradicate any inequities, we have no justification for unilaterally proclaiming that we are not treated as first class citizens of the College community.

For the short duration of my term, I will try to meet the above challenge to all of us. I welcome all suggestions, criticisms and assistance. Thank you for your concern.



Gary Thompson, a first-year student, is presented the prize for winning the "Grade Pool." First-year students started a pool, the winner to be the one who chose the closest time for Professor Swindler to post his grades for the first-year large section Constitutional Law class. The winning date was Jan. 23 at 10:30 a.m. The prize was a six-pack.

Editorial Comment

The report given by the SBA'S Board of Student Affairs' representative Heather Dorian Raises a serious problem — lack of communication. Obviously, Barrett Carson has played the law school for a fool. As Jim Ronca pointed out at the SBA meeting mutual recrimination is useless. Hopefully, the SBA has learned a lesson in all this and will undertake continuous affirmative action to correct it. It is a shame however, that the "education" had to be at our own expense.

CORRECTION

The **Amicus Curiae** incorrectly stated in the January 27 issue that the Tazewell Taylor Professorships will be occupied by "recently retired state or federal judges, or by professional specialists in judicial administration." According to Acting Dean Emeric Fischer, the professorships "will be available as the occassion arises for full-time visiting professors of national eminence" and could also be conferred upon a member of the faculty if one reached national prominence.

AMICUS EDITOR

Applications Due February 18

Contact Margaret Askew For More Information

Faculty Discuss Grade Changes In Memos

Editor's Note: Following are memos from three professors concerning change in the anonymous grading system. Prof. Brown's memo was dated Jan. 28; Prof. Frank's, Jan. 21; and Prof. Williams', Jan. 20. (addition dated Jan. 29). The memos are printed alphabetically.

MEMO From Ron Brown

I strongly urge this Committee to retain the present system of anonymous grading as I feel it has worked well in practice and the policy justifications for it continue to outweigh any contrary rationales which would undo our present system. I would like to briefly state its history and then more specifically mention some of the justifications for its continuation.

In November, 1975, the Curriculum Committee solicited faculty input on the question of retaining anonymous grading and had little or no response. The Committee after deliberating on the merits of the issue concluded that on balance the anonymous grading system should not be undone. My reason for mentioning this discussion is that in the course of looking into this and related issues, it was necessary to inspect the faculty minutes which contained the original policy. For your benefit, I reproduce it below:

Faculty meeting 10-29-70. RESOLVED: That a system of mandatory anonymous grading as herein explained, be adopted. Under this system certain courses, with the approval of the Curriculum Committee, would be designated as "Seminars" for which a written paper of other presentation could be required and graded non-anonymously. In the remainder of the courses it would be required that the students be given a written examination which would constitute 100 percent of the grade. This examination would be taken and graded anonymously through a system of assigned numbers distributed by the Law School Office. The professor would write a system of assigned numbers distributed by the Law School Office. The professor would write the grade designation next to the assigned number and return the list to the office where the numbers would be translated into individual student names.

Faculty meeting 11-12-1970. That, except for seminars, examinations constitute 100 percent of a grade and will be graded anonymously by number. Numbers to be assigned and distributed by the Law School Office and used in place of names on exam books and papers. Office to transfer grades from number to name.

Faculty meeting 6-1-72. With reference to the operation of the anonymous grading the question was raised whether, after grading anonymously, a professor could increase a grade based on non-anonymous considerations. A motion was made and seconded that each professor be given the permission to increase a grade by one-third. **The motion was defeated.**

At this point I would like to raise some of the justifications for continuing the anonymous grading system. With the exception of seminars, (which by most definitions include a close working relationship between the faculty member and the student on topical subjects and a writing project so that anonymity is not possible nor necessarily desirable), I believe that a grade should reflect the student's mastery of the substantive material covered by the course.

The question I raise to arrve at that conclusion is, what is the finction of the grade, i.e. what should it measure? There are presently no valid tests of which I am aware that can predict a good lawyer, therefore of what validity is a law school test except for a measurement of the content of a course and how well it was mastered.

I believe that other functions it **could** serve such as encouraging and developing oral advocacy skills, teaching drafting techniques, and acting as a lever to "encourage" class discipline, preparation, and attendance are more appropriately left to different devices.

While it is true lawyers are expected to have adequate preparation in oral advocacy, and drafting techniques, an adequate durriculum presents the opportunity to learn such skills in a manner which ensures sufficient attention to all of the significant aspects of such skills. For example, presently law students will have a course teaching techniques of writing office and-or legal memoranda, case comments, trial

See "Memos," p. 8

Undergrad Circulates Law School Petition

Students of Marshall-Wythe will be heartened to know that they are not alone in their battle to obtain legislative financing for the new Law Building.

Bill Mims, freshman undergraduate who lives in the Botetort complex, gathered "well over fifteen hundred signatures" on a petition for funding for the new building from among William and Mary students outside the Law School. He forwarded the document to Representative Edward Lane, chairman of the Appropriations Committee of the House of Delegates. Lane responsded to the petition by sending his legislative assistant and a photographer down to Marshall-Wythe where they toured the present law facility and took pictures in the main library and the Camm Hall annex. Lane introduced the petition to the full House and Senate.

Mims started his petition in response by Law School Professor Doug Rendleman's inquiry, as to what was being done by the undergrads for the funding effort. Rendleman spoke at Boutetort at the end of October. Mims circulated his petition throughout the undergraduate schools, Swemm Library, and the cafeteria during the months of November and December.

Mims said he was "pleased because it showed to me that one person can make a difference . . . Attention was paid to it. The effort did have some effect."

Opinions Split On Revising Grading

Continued from p. 1

needs of some sources, he maintains that as an absolute minimum that all required sources continue to be anonymously graded on any other basis should be so designated in the catalog once voted on by the appropriate committee.

Such changes as Rendleman would allow for, parallel a proposal put forward by Guy Strong which would establish a third **clinical** category of courses in the catalog beyond the present regular lecture and seminar offerings. These courses could then be graded on a combination of anonymous and non-anonymous considerations to be worked out at some time in the future.

Besides the academic considerations involved Strong is also concerned about the administrative feasibility of introducing some non-anonymous factors into a grading system which would remain basically anonymous. Also, in the last analysis, Strong feels that, "Even given the basic honesty and integrity of the faculty in grading some subjective bias would creep in," if non-anonymous factors were introduced into the system.

However, he emphasized that there was a "good exchange of ideas" with all arguments pro and con presented at last week's Status Committee meeting.

Among the suggestions made was that another poll of student opinion on the matter be taken now that more information is available for review. The first poll showed 87 percent of those polled favored the retention of anonymous grading with 75 percent of the student body being questioned. Strong indicated he hopes another more detailed poll could be taken "in a timely manner."

In any case Strong feels that there will be no problem in the future in getting a hearing before a full faculty meeting if the need should arise. At any rate the earliest moment when faculty action on the matter might be undertaken would be at the monthly faculty meeting in March.

In closing, students are urged to familiarize themselves fully with proposals set out in full below as it is entirely possible that the questions on any later poll would be framed in terms of the ideas below.

Faculty Memos

Alternative Grade Systems Proposed

Continued from p. 7

and-or appellate briefs and courses are available such as moot court, trial and appeals, trial advocacy, seminars requiring **inter alia**, written research papers, written and oral presentations, drafting of complaints, memoranda, opinion letters, motions, etc.. If more or different courses are needed to teach such skills in and of themselves instead of as a vehicle to get at a better understanding of the course content, such addition to the curriculum would be welcome.

As to the function non-anonymously graded classes could play in class discipline, preparation, and attendance, it is sufficient to point out that ABA and AALS and Law School policies require attendance; and, a process exists to disenroll a non-attending student. Perhaps class preparation could be enhanced by retaining a tool by which a non-prepared student could be punished for a poor showing. Yet is it not preferable (if not also more enlightened?) to command better class preparation through interesting treatment of the subject matter? I sometimes think students are much like their faculty counterparts in their lack of tolerance for unstimulating consideration of legal subjects. I believe it is preferable to indirectly force a professor to stimulate law students, who after all for the most part are aspiring professionals, to higher performance levels rather than creating an artificial stimulus through fear of retribution which class grading comes about. Put simply, I prefer the carrot over the stick which I recognize indulges in the presumption that law students when left on their own will use their best efforts to obtain knowledge which will make them good lawyers. Again, I think the function of an exam is to measure the students mastery of the course content.

Total non-class performance by a student could be handled by disenrollment; and a partial but unacceptable class performance should (perhaps too idealistically) be reflected in the students' lack of full understanding of the subject matter which hopefully is taken care of by the exam. If that student does not do poorly on the exam, one might of course question the validity or significance (though not its necessity) of the class discussions in the first place. My point is simple, I believe a student should be tested on the course subject matter and, if class discussion and-or participation does not enhance his learning of the subject he ought not through lack of a grade reward for class participation. There are more valid and appropriate means to distinguish between students in measuring their performance and competency in mastering the substantive law.

Lastly, I would like to comment that requiring anonymous grading in non-seminar courses does not need to interfere with a professor's class approach. Certainly a professor may require class performance in the form of class presentations, written memos or briefs, or drafting exercises, and may treat it as a condition precedent to taking the exam which will among other things test whether those learning vehicles helped enhance the students' understanding of the subject matter. If the professor wishes to primarily teach the techniques or the "practical aspects" of the law and then test students on their mastery of that skill, I personally would feel that that is better left to a seminar or a separate course.

Under our present policy, a "loophole" appears to exist that would permif non-seminar courses to be graded on the basis of an "exam" and other written projects which are graded **anonymously** (i.e. cannot be traced indirectly by subject matter to the author) and designated as part of the "exam." I feel that this is an undesirable loophole, at least in the first year curriculum, and should be eliminated. The Curriculum Committee has interpreted this provision as at least not keeping in the spirit of the present law school policy that 100 percent of the grade shall be based on the "**exam**" and has asked the Dean to notify faculty members to notify their classes if they plan to use this technically correct interpretation.

In sum, I should mention that a strong unspoken (at least by the faculty) justification of anonymous grading is to preserve the appearance as well as the practice of fairness in the grading process. Ithough over the years few true enemies have been formed between students and faculty so that either needed fear retribution by the other, it is true, I feel, that both student and faculty members are exposed to it to a larger degree by a non-anonymous grading system. For example, a student can claim improper bias in his grade and the faculty member is susceptible to the airing of such charge under our present grade appeal process. An anonymous grading system then to a greater degree isolates and immunizes a professor against biased charges. However, in conclusion, I feel the positive justifications rather than these negative ones provide the more legitimate rationale for continuing our anonymous grading system.

MEMO From Harvey Frank

The present scope of the anonymous grading procedure is a confining restriction on an instructor and inhibits him in the creative use of the classroom, it restricts any attempt by an instructor to move from the strict case method to new and perhaps even experimental pedagogical techniques, particularly clinical instruction and to a lesser extend problem oriented courses.

I do not believe that a written examination is a full and complete test of a student's ability. There are frequently times when the instructor is surprised at how well or poorly a student has done in an examination. Since a professor is presumably as discerning in class as in reading an examination it may mean the student had a good or bad day at the exam, or the examination or the instructor's grading was not as discriminating as it might have been. Certainly, in classes of less than 50 an evaluation of class performance is possible.

Moreover, those courses in which students are expected to prepare solutions to problems for class require more of students than the usual stating of cases and the techniques and legal ability involved is similar to examination situations. Not only is this a fair and reasonable basis on which to base a classroom grade for a student, but perhaps a needed incentive as well, particularly in 2nd and 3rd year classes since it involves additional work.

Anonymous grading is most inhibiting in those courses in which instructors attempt clinical programs. In such situations anonymous grading is impossible. William and Mary is just beginning to expand its clinical education program, and I would regret seeing those attempts at it hamstrung by a rule of anonymity which should at most be limited to final examinations.

I would abolish the entire system of anonymous grading but if that is not the sense of the committee let me propose the following:

1. Anonymous grading be continued in all required courses.

2. Each instructor in other courses have the option, to be announced in advance, to grade his class on an anonymous or non-anonymous basis.

If that is not acceptable then the following might be a workable compromise:

1. Faculty members may assign up to 10 points of a grade for class participation (at least in classes of 50 or less).

2. Faculty members are in addition free to assign written or oral projects (including problems) in connection with their course on a non-anonymous basis and for such credit as they deem appropriate if in their opinion anonymous grading is not feasible, provided that is set forth in the catalogue or otherwise.

I would further suggest that in any event the final examination count at least two-thirds of the final grade and the grading of oral performances (recitations, problem solving, client counselling, etc.) be based on contemporaneously recorded grades.

MEMO From Walt Williams

1. Thank you for your memo of January 19th, soliciting views of individual faculty members regarding changes in the present anonymous grading system. My comments, subject the above, are offered from a perspective of great interest and deep conviction concerning the academic purposes sought to be attained in the classroom. I ask also to be advised of the Committee meeting on this matter, so that I might be present during discussion.

2. I have read recently the faculty minutes concerning our anonymous grading system. These minutes date from 1970, with others in June, 1972. The policy expressed in those minutes not only adopts the requirement of anonymous grading of final examinations, but also appears to prohibit any member of our faculty, regardless of individual views of effective educational techniques, course subject matter, and other factors, from grading any aspect of student performance in the course other than ability expressed in the examination. Grading in the course must be based exclusively on the examination. (**Possibly**, one small exception to this rule is the situation where the receipt of a grade on other aspects of performance is left ultimately to the individual student's acceptance; ie, the professor informs the student of such grade and the student chooses to accept it, or accept whatever will be the grade on the examination as the total grade.)

3. In appraisal of this policy, I begin by saying that I am thoroughly in favor of the requirement of anonymous grading of final examinations, if for no other reasons that the system protects against unconscious bias that **may** enter into the grading process and makes manifest the impartiality of the grading of examinations. Philosophically, I would be more comfortable if this policy existed as a strong recommendation, urging individual compliance, but I do not take issue with the existence of that policy as a binding requirement on faculty members.

4. However, I submit that the second aspect of the policy, exclusive reliance required on the examination grade, is unnecessary inflexible and damaging to academic purposes of instruction in our law school. It virtually eliminates the ability to promote and to grade other aspects of academic performance. Some examples are: oral recitation on cases and presentations on topics of course concern, written briefs or memos, client-counseling exercises, etc. This element of our present policy rejects the use of part of a course grade both to promote development of, and to measure, other vital skills for future professional performance additional to exam-taking technqies; rejects the use of grading to encourage sustained, substantial and varied academic performance throughouthtt he course; rejects the use of grading to promote an atmosphere of energetic inquiry that a variety of academic performances enhances, with a **perceived** benefit to be gained by the student for able performance. What is needed, I submit, is modification of the present policy to allow the individual professor, at his discretion, based on the particular features of his courses, to allocate some portion of the course grade to other aspects of academic performance, while continuing to grade the examination under the anonymous grading system.

5. On the basis of the foregoing, I recommend to the Academic Status Committee, for consideration and recommendation to the Faculty for approval, the following policy:

a. That the anonymous grading system for final examinations be continued.

b. That the individual professor be allowed to allocate a maximum of one-third of the final grade to the grading of other aspects of academic performance in the course (there is nothing imperative about the particular percentage chosen. I suggest it should not be so great as to overshadow the emphasis on the anonymously-graded examination, while it should not be restricted to such a small percentage as to be meaningless. Example: my calculations indicate that anything under 20 percent would have virtually no effect on the total final grade).

c. That to the extent possible, a professor allocating some part of the course grade in this manner publicize the fact prior to course registration, in the bulletin or otherwise, and that in any event, notify the students at the beginning of the couse and explain what will be graded and the procedure.

d. That in the case of grading of oral performances (class recitation, client-counseling exercises, etc.), the grading be done concurrently with observation of performance. (This will more manifestly provide an empirical basis for the grading and will facilitate explanation to the student wishing to discuss his grade on such performance.)

e. That the individual student be informed of his grade on aspects of academic performance other than the examination no later than the last day of classes. (This will insure that the student is informed of how he stands otherwise, prior to taking the examination.)

6. I submit that the foregoing recommendation is at least one formula that reasonably comprehends various considerations that ultimately have one common goal — a goal we all share — the promotion and measurement, as fairly and comprehensively as reasonably possible, of academic performance in our law school.

ADDITION: Prof. Williams

1. Reference my memo to you of 20 Jan. 76, subject: Proposal for Modification of Present Requirement of Exclusive Reliance on Anonymous-Graded Examinations for Final Grades in Non-Seminar Courses.

2. In that memo, I mentioned, paranthetically, that **possibly** a situation not presently covered by the rule requiring exclusive reliance on the anonymously graded examination, is the situation where the receipt of a grade on other aspects of performance is based on the voluntary acceptance by the individual of the grade, i.e., the professor informs the student of such grade prior to the end of the course and the student chooses to accept it ias part of the final grade, or decides to let the entirety of the final grade rest on whatever will be the grade on the examination.

3. Let me give a real life example. Last semester, unaware at the time of the full extent of the restrictiveness of our present policy, i did want to grade student performance on a quite extensive client-counseling exercise concerning international law as to expropriation of alien-owned property. In this exercise, students in teams of 2 and 3 work as a law firm team on the client's problem and then spend 2-3 hours in a client-counseling session, with me as the client. In order to do this without unduly overburdening the students, in light of all other courses, this work on the exercise takes the place of 5 formal class hours.

4. In past years, the exercise was most popular with the students, but invariably one cause for some dissatisfaction was that they did not receive a grade for such diligent effort and performance. This year, I announced that a grade equal to 20 percent of the course grade would be based on grading of the team performance on the client-counseling exercise. However, to be **manifestly** outside the reach of our rule as to anonymous grading, as I **then thought**, I stated that after grading each team, I would, prior to the end of the course, notify each student of his grade and he could reply whether he wished to accept that grade as 20 percent of final grade, or whether he wishes to have his grade rest solely on the final examination.

5. The Committee can see that under this approach, the grade on the client counseling exercise was used solely as the "carrot" and not the "stick." I can say that while performance on the exercise had been commendable in past years, performance overall was definitely better this year. I believe it is fair to say it was due to the opportunity to better one's grade in the course. Of 25 students, 2 chose not to accept the grade on the exercise. All students stated satisfaction with the procedure. Only favorable comments were made on course critique as to the exercise.

6. Seeking to be as impartial and objective as I can, in light of my obvious interest in the matter, I suggest that our present policy does not reach this situation. In my discussions with faculty members present in 1970 when the basic policy was adopted, and in later faculty decisions in the spring of 1972, the situation upon which the present policy appears premised is the situation in which a faculty member determines that other aspects of academic performance will be graded and announces that decision, and gives grades to the students regardless of their wish to accept them, or not. Although in my referenced memo of 20 Jan. 76, I propose, with proper guidelines, that faculty members should have that discretion, I here am asking for an opinion of the Status committee, to be passed on to the faculty for faculty approval, that the approach of offering a grade on the basis of voluntary acceptance of the student does not fall within the purview of our present rule.

7. I request, therefore, that the Status Committee render a recommendatory opinion clarifying our present rule, to the effect that the present rule does not forbid a professor from grading other aspects of academic performance in the situation where each student may voluntarily choose to accept that grade as a minority part of his final grade, or else, choose to let his grade rest entirely on the anonymously graded final examination.

HANES BRIEFS

Each year the Women's Auxiliary to the Norfolk-Partsmouth Bar Association awards a scholarship to a student attending one of the Virginia law schools. This student must be from the Tidewater area (Norfolk, Portsmouth, Virginia Beach, Chesapeake). The emphasis in selecting a student is on financial need. The scholarship award this year will be in the amount of $600. Application forms are available in the office.

On Wednesday, February 18, 1976, the S.B.A. will conduct an official referendum on the question of whether the students feel it is necessary and proper to raise the mandatory S.B.A. dues from $4.00 per semester for each student to $6.00. Students are urged to participate in this important balloting. The polls will be on the Second Floor. The hours that the polls will be open for voting will be announced later.

The SBA wishes to announced the existence of a Law School Social Activities Calendar in the SBA Office. It is intended to facilitate the planning of social activities by all Law School groups and individuals. If anyone is planning an event you are urged to drop by the office and check the calendar for possible conflicts. If you have a firm date, time, and place for an event please come in and list such information on the calendar. If everyone utilizes it the calendar should assist in assuring a series of good social events evenly spread during the semester for the enjoyment and benefit of the entire Law School Community.