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The Advocate

Marshall-Wythe School of Law

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Crisis? What Crisis?

The Tort Reform Issue

BY STEVE MULROY

The media are full of discussion on the current "insurance crisis." Insurance rates have skyrocketed, as much as 1000% in some areas. Some municipalities have eliminated recreational facilities or canceled construction projects, citing the unavailability or prohibitive cost of liability insurance. Doctors claim that malpractice insurance rates are driving them from business, reducing competition, and increasing health costs. Federal and state governments are casting about for corrective measures, and the likely result will be some sort of "tort reform." Tort reform at the federal level has been endorsed by President Reagan.

Litigation-Happy America

Insurance industry representatives blame the crisis on a legal system gone litigation-happy. They claim that frivolous lawsuits, exorbitant and unpredictable jury awards, and a general nationwide tendency to sue at the drop of a hat have forced insurance companies to pay out more in liability claims, and consequently raise rates. An Insurance Information Institute pamphlet asserts that one civil suit for every fifteen Americans was filed last year, and losses paid for liability increased 167% in the last five years. In an ambitious advertising and lobbying effort, many insurance companies advocate a number of specific legal reforms aimed at limiting recovery available to plaintiffs. Other corporations, claiming to be victims of over-generous juries, echo these sentiments.

Specific proposals include:

1) Placing fixed dollar limits on jury awards, especially for "intangibles" (pain and suffering, etc.);

2)Lowering the percentage of damages lawyers get in "contingency" suits (currently 33%);

3) Changing the "joint and several liability" rule so that each defendant in a multiple-defendant lawsuit is responsible **only** for his or her **proportion** of fault (currently, if several defendants are found liable, the plaintiff can collect from whoever has the money);

4) Using informal pre-trial "screening panels" to weed out frivolous lawsuits;

5) Deducting "collateral sources" of compensation (e.g., insurance payments already received by the plaintiff for an accident) from jury awards;

6) Shortening procedural time limits (e.g., for discovery) to achieve speedier trials;

7) Instituting national standards to promote uniformity on liability and jury instructions.

No Evidence to Support Litigation Explosion

Opponents of tort reform are vocal and insistent, denying the existence of any "tort crisis." They argue that insurance rate increases are due to economic factors entirely independent of litigation, that the evidence shows there has been no "explosion" of litigation or whopping jury awards, and that the proposed reform measures would not change the insurance rate situation at all.

A recent study by the National Center for State Courts here in Williamsburg supports that view. According to the study, tort suits rose only 10% between 1978 and 1984, only two percent higher than the growth in population. Further, the "explosion" of litigation claimed by reformers comes from their focus on federal suits, which make up a tiny percentage of suits filed in the U.S. In state courts, the number of lawsuits filed **dropped** three percent in the last year. The NCSC attributed the recent rise in federal suits to the asbestos phenomenon. The study's director, Dr. Robert Roper, concluded that there was "no evidence to support the existence of a national 'litigation explosion' in state trial courts."

"Rumors, gossip and anecdotes"

"I don't think there's a crisis" in tort law, said Torts Professor Trotter Hardy. According to Hardy, a similar controversy occurred in the late 70's. It inspired a rash of legislation, blew over, and is now apparently back. Interest rates were high then, explained Hardy, and insurance agencies competed fiercely to rake in premiums so they could be invested into high-yield accounts. Insurance companies kept rates artificially low—lower than inflation and expected claims demanded—for the next several years. They relied on the high-yield income to make up the difference and produce large profits to boot. When interest rates dropped in the early 80's, insurance rates jumped to the necessary levels in a flash, leading to the 1000% rate increases widely reported in the media. In fact, a 1984 Pennsylvania study concluded that if insurance rates in the 1970's had kept pace with health costs—i.e., a 10% increase annually—they would be the same as they are today.

Hardy blames the perception of liability suit abuse on "rumors, gossip and anecdotes----horror stories about greedy plaintiffs who receive extravagant compensation for minor injuries.

Is Insurance Regulation the Answer?

Torts Professor Paul LeBel agrees. LeBel thinks the answer to the "insurance crisis" ("**not** the "tort crisis") lies in insurance industry regulation: "By and large, the tort system works pretty well. The insurance system doesn't work very well at all." Insurance companies often fail to set aside sufficient funds to pay out claims when they plan their investment of income from insurance premiums. Also, LeBel added, they often paint too bleak a picture of their financial health for the state insurance board when they apply for rate increases: they disclose income

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Lawyer For Texaco, CBS

Litigator Recounts Experiences

BY CHERI LEWIS AND KIMBERLIE YOUNG

Litigator David Boies, partner with the Wall Street firm of Cravath, Swaine & Moore and well-known as the attorney who successfully defended CBS against General Westmoreland's libel suit, addressed a large law school audience last Friday.

Introduced by Dean Timothy Sullivan and in turn by College President Paul Verkuil, a longtime friend who worked with the speaker at Cravath, Swaine & Moore, Boies spoke at length about his recent involvement in the Texaco/Pennzoil suit. Boies was principally responsible for crafting Texaco's argument, based on a Fifth Circuit civil rights case where the NAACP was sued under a Mississippi state statute which prohibited picketing. Explaining his somewhat unorthodox use of the Fifth Circuit case, Boies stated that, in the practice of law, "you can find analogies almost anyplace."

Boies, who became involved in representing Texaco only after the Texas court had awarded a sum of $10 billion to plaintiff Pennzoil, used the Fifth Circuit case to argue that the required $12 million bond which Texaco was required to post was not actually needed to protect a security interest.

After speaking briefly about his involvement in the Westmoreland case, Boies took questions from the crowd. Although Boies strongly disliked being asked questions by professors in law school, he conceded that he has become used to being questioned by judges. As a litigator, he often turns the tables to ask the judges questions. In response to a question from Dean Sullivan regarding the personal qualities he saw necessary for a litigator to possess, Boies stated that it is most important to be comfortable with oneself and with others generally, adding, "if you're not, it will come out in a naked way." He also cited the importance of possessing a certainty in one's work and personal life as well as a willingness to work very intensely when necessary. Boies also commented that a litigator must commit himself wholly during the trial period itself, as "there is no way you can substitute more people for more of your time."

In concluding the program, Verkuil summarized what he was as "Boies Law." "There are a handful of important moments in life and a person must do his or her best during them. The corollary law," Verkuil added, "is that the rest of the time you can do as you damn well please."

Mark Raby

David Boies, of the New York firm of Cravath, Swaine & Moore, spoke about his experiences as a litigator during his recent visit to M-W.

The Advocate
Marshall-Wythe School of Law

A student-edited newspaper, founded in 1969 as successor to the **Amicus Curiae**, serving the students, faculty and staff of the Marshall-Wythe School of Law.

Drugs

The College has recently announced a program for testing the drug use of its intercollegiate athletes. This decision only directly affects two first-years who participate in varsity sports. Nevertheless, the College's decision and the thinking which precipitated it should cause us all to pause and think.

The first problem with the decision is that President Verkuil and his staff were not exercising independent judgment. Prior to the announcement of the testing program, there had been no drug problem in the ranks of W&M's athletes. Of course, good administrators should not have to wait for problems to start before taking action. Anticipatory actions are invariably superior to reactive ones (an ounce of prevention, etc.). The College's decision, though, is essentially a reaction: not a well-reasoned decision based on the realities and expectations of W&M, but based on nationwide hysteria in the wake of Len Bias' death and Nancy Reagan's drug crusade.

The second problem with the College's decision is that *it only concerns athletes. If drugs are truly a serious* social problem affecting the fabric of America, then the entire student population should be tested, as should potential lawyers prior to taking the bar exam. The argument might be made that athletes occupy a special role as ambassadors of the school. As such, it is essential that these ambassadors convey a clean image of the College and its student population. If this is the rationale for the drug-testing decision, then the entire program (and possibly the entire anti-drug crusade) is one of perception and not substance.

As far as perception is concerned, the reader should bear in mind that the most abused drug in the U.S.A. is not marijuana or cocaine or crack, but valium, that handy keystone for coping in middle America.

The College's drug-testing program is selective and unnecessary. It is a symptom of the nationwide hysteria, rather than a specific response aimed at a real problem in the college community. If we as law students do not oppose this program, we may be next. Pass the cups.

Letter To The Editors

Handicapped Parking

Editor:
This is fair warning to all the flabby slobs who are too lazy to walk the extra steps it might take to avoid parking in the handicapped spaces: I'm going to slash your tires. If you want to park there, let me know, I'll jump on your Knee caps.

Damian Horne

Guest Columnist:

Don't Let Corr Rest

By Drew Jiranek

In January of the last school year, I encountered Professor John "Bernie" Corr walking with an obviously troubled law student in the law school parking lot. They were engaged in a deep conversation and I could tell that Professor Corr's words of encouragement were comforting that student in her obvious distress. Suddenly, I watched that law student muster the kind of smile that signifies that all too elusive attainment of "perspective" and I watched Professor Corr put his arm around her. That scene made me feel good about the faculty at Marshall-Wythe and about the law school in general.

Less than a week later, I received the incredible news that a tentative decision had been reached to deny tenure to Professor Corr. Like most other students, alumni, and faculty, the news came as a shock. In the spirit of the time, I rushed to see what could be done to prevent such a miscarriage of justice. I signed one of the circulating student petitions supporting Professor Corr; I think my name was 80th on a rapidly growing student list. I wrote a letter to the administration detailing why I thought a negative decision was a huge mistake. When I submitted the letter, I was informed that more than a hundred such letters had been submitted already by students and alumni. I was assured that the administration was well aware of student support and that the support would be considered in any "final" decision.

After submitting my letter, I encountered an alum from the class of '85 who, among other things, had taken time off from his practice in Chicago to personally express his support for Professor Corr. He informed me that alumni support for Professor Corr was "overwhelming." Several law school organizations had gotten into the act, supporting acticles were published, and decrees of support were announced. The Student Bar Association unanimously awarded Professor Corr the award for the most outstanding faculty member.

The sad result of all this frenzied support is that "tentatively" tenure has been denied to Professor Corr, and he is presently teaching at American University Law School. I thoroughly enjoy taking Conflicts from Professor Rendleman, but he would rather concentrate his efforts on other subjects, and I would rather take the course from Professor Corr. Unfortunately, the first year law students don't realize how good a Civil Procedure teacher they are missing. Who is the bigger loser from this situation: Professor Corr, an undeniably bright and promising professor who enjoyed this school and who would desire to remain here, or the law school which so clearly loved him?

In the last issue of **The Advocate**, Steve Frazier wrote an article belittling the lingering concern for Professor Corr and advising the students "to let Corr rest." Feeling very disturbed about this advice, I decided to determine whether it was sound. Recognizing that other popular professors would be reviewed soon, I realized that the Professor Corr "hatchet job" could be indicative of a problem much greater that the confines of this individual case.

Realizing that my fellow students usually know a lot about everybody and everything, I decided to tap into "the grapevine." I was impressed with the student feelings of discontent and frustration over the Corr situation. Feeling a need to get some concrete answers, I decided to seek an explanation from the administration. After two days of unanswered phone calls to Provost Schavelli, I received a note in my hanging file informing me that the Provost would not talk to any students about Professor Corr. I made an appointment with Dean Sullivan and was informed by the Dean that he could not explain why Professor Corr was denied tenure. In the interests of confidentiality and preserving the faculty selection system, the explanation for Professor Corr's denial had to be kept secret. The Dean was claiming executive privilege.

Well, I believe in any system when it works. After all, that is why I am here. Tenure procedures do not include disclosure of the school's reasoning for deciding whether to grant or deny tenure. If confidentiality were not part of these procedures, interested and necessary persons would be reluctant to express their views regarding a tenure application and tenure applicants would not receive a complete and adequate evaluation of their performance. Furthermore, personal information which the applicant may wish to be kept confidential could be released.

In this case, however, the reasons for confidentiality could be promoted without resorting to total nondisclosure of the explanation for the tentative decision to deny tenure. Professor Corr's outstanding record is no big secret. Review of his teaching record should logically lead to only one conclusion: Professor Corr should be granted tenure. Confidentiality should not be used as a shield to mask an unacceptable reason for denying tenure.

Throughout the College, the criteria for the award of tenure include: possession of the professional education, experience, and degrees necessary for his or her duties; conscientious and effective teaching; proper command of the material of his or her field; helpfulness to students; significant contributions to his or her field through research; and responsible participation in departmental, faculty, and College governance.

Professor Corr had an outstanding record before coming to Marshall-Wythe. He obtained a Ph.D. from Kent State, compiled an excellent record at Georgetown Law Center, and spent several years practicing in New York and Washington, D.C. Professor Corr's litigation experience made his courses more practical and interesting than many other courses. Over the five years that Professor Corr taught at Marshall-Wythe, every student, except one, evaluated him as an excellent or above average teacher. Students at Marshall-Wythe had the highest record for Professor Corr's teaching ability.

During his five year "probationary" period, Professor Corr published five articles about Conflicts of the Law. This publishing rate was higher than the great majority of professors who have received tenure at Marshall-Wythe. One of the greatest nationally known authorities on Conflicts, Professor Sedler, has vocally recognized Professor Corr as one of the most outstanding, up-and-coming Conflicts scholars. Professor Weintraub and Professors Scoles and Hay, authors of the two leading treatises on Conflicts, repeatedly cite to Professor *Corr's articles in their treatises.* Our present Conflicts teacher has high regard for Professor Corr's scholarship ability and has put a number of his articles on reserve for our reading. Arguments that Professor Corr's scholarship ability is not outstanding are ludicrous. Just ask American University Law School.

Professor Corr was widely seen by the law school community as one of the most friendly and considerate professors. He unselfishly volunteered his time to give instruction on adjusting to law school and taking exams, to write letters of recommendation, to give advice on placement, to give extra course instruction, or to talk about life in general. Everything Professor Corr said seemed to make sense, and we all looked up to him.

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Taylor Supports Laws Of War

BY PAUL W. BOYER

Despite their shortcomings, the Laws of War should be embodied by all nations and continuous efforts should be made to improve upon them. Such is the conclusion of Telford Taylor, whose lecture, sponsored by the International Law Society on October 30, drew a standing-room-only crowd at the National Center for State Courts. Telford Taylor, a retired Army Brigadier General, is best known as the United States' Chief Prosecutor at the 1946 Nuremburg Nazi War Trials.

General Taylor began his talk by giving a brief historical background on the Laws of War. Contrary to what may be popular belief, the Laws of War did not originate because of humanitarian concerns. The Laws of War arose primarily as a result of the military need to conduct more efficient wars and the mercantile interest of avoiding damage to commerce and the civilian economy.

Since their first codification during the Civil War, the Laws of War have been internationalized and generally adopted via various agreements beginning with the Hague Conferences of 1899 and 1907. Virtually all of the convictions at Nuremburg were based on violations of the Laws of War. The Genocide Convention and the Protocols adopted at the 1977 Geneva Conference also illustrate that the Laws of War continue to be of important international concern.

Although the Laws of War have significant merits, General Taylor acknowledged that serious deficiencies exist. For one, the relevant treaties contain no enforcement provisions. The distinction between combatants and noncombatants and who is entitled to prisoner status remain tricky questions of interpretation. The claim of superior orders as a defense to violations is also a controversial issue. Additionally, the requirement of balancing the objective of military gain with the need to minimize civilian loss is a difficult problem warring nations confront. As an example of this latter concern, General Taylor discussed the 1972 Hanoi Christmas bombings and the mining of Haiphong harbor in questioning whether the destruction the United States caused was in proportion to the military advantage gained.

Despite the lack of enforcement, problems of interpretation and numerous violations, General Taylor is a strong supporter of the Laws of War. Because "they work more often than not", General Taylor argued that the most rational path is for nations to endeavor to improve upon the Laws of War rather than denounce them as futile. He emphasized that training in the Laws of War is crucial. In particular General Taylor recommended that the military values of warfare limits be stressed and that adoption of nontactical concerns, such as body counts, be avoided.

Boaz Explains Libertarian Philosophy

BY CHERI LEWIS

Vice President of the Cato Institute David Boaz addressed an audience in a discussion sponsored by the Federalist Society last Thursday evening, November 6. Boaz, who served as Research Director for the campaign of Ed Clark, the Libertarian Party candidate in 1980, and who recently edited **Left, Right and Baby-Boom: America's New Politics**, spoke primarily about the history of the libertarian movement and the goals of contemporary libertarianism.

Boaz stated that libertarians, like their ancestors, the classical liberals, seek to challenge the big-government establishment. Libertarianism, which views the will of the individual as superior to that of the state, "seeks to extend natural rights, by recognizing both economic and civil liberties and protecting them from the depredations of governments." According to Boaz, classical libertarians recognize that "the market is a dynamic, creative, voluntary process and that the government is virtually always static, coercive, disruptive, and backward-looking."

Boaz also discussed several important issues which concern libertarians today. Free trade, Boaz said, is "one issue where libertarians have won the intellectual battle very clearly." Boaz also discussed the goals of privitization of the social security system, the implementation of a non-interventionist foreign policy, and educational choice options. The latter issue involves education tax credits or vouchers which would allow parents to choose between public and private schools. Finally, Boaz stated, libertarians "support a deregulation of lifestyles" which would allow us "all to stop regulating each others' lives."

Quoting Thomas Jefferson, Boaz said that the state should be "a wise and frugal government which shall restrain men from injuring one another, which shall leave them free to regulate their own pursuits, industry, and improvement, and which shall not take from the mouth of labor the bread it has earned. This is the sum of good government."

"The point of the libertarian movement today," Boaz concluded, is "to make government conform to the rules Thomas Jefferson laid down for us almost two hundred years ago."

Cojones

By Damian Horne

I didn't like last week's **Advocate**. Yet another exceedingly banal picture of Cabral, the second published stupidity of Steve Frazier, and an expose of a 1st year's connubial fraternization with the Evil Empire initiated the journalistic assault. This treat was followed by five full paragraphs touting the impersonations of Baby Bear by some professor's progeny, a letter announcing the formation of **Law Students Involved in the Community** (excuse me?), and finally, a rather homosexual photograph of five tedious 3rd years fondling six-for-a-quarter cigars in the hopes of impressing their Fall From Grace dates.

Great Stuff.

Marshall-Wythe has more important concerns...Like why doesn't the women's bathroom have any graffiti? Yeah, I've been in the women's restroom. Last spring, before my UCC final. Any distraction will suffice when it is 2:30 in the morning and you've been agonizing over a subject as complex as molecular genetics and as exciting as a Great Dane's teats. Can you imagine my disappointment when I discovered bare walls throughout? Nothing but a reference to a guy's butt, and that was probably written by an undergraduate male. This is all in grave contrast to the veritable novels written in the male restrooms. The walls are a political forum that occasion great verbal violence, as well as provide an appropriate referendum for some bizarre opinions on one's peers, Dean Sullivan, the faculty, Chuck Colburn's headgear, people who pick their nose in class, the female population as a whole, undergraduates, ducks, select parts of the human anatomy, and a wide assortment of personalities and creatures usually noted for their activities while in a state of more or less frenzied rut.

Nothing of this nature is to be found in the women's restroom. With all the spouting-off they do in class, not one of them has ever written the "F"" word in a bathroom stall, or speculated upon the sexual preferences of their least favorite professor. Not once has one of them mustered enough social conscience, enough I've-got-the-vote spleen to manifest a sentiment, any sentiment, preferably in obscene invective, above the toilet paper dispenser. Not once.

This fact has led me to two inescapable conclusions: 1) It is definitely caveMEN who drew all those pictures in early Neolithic caverns. 2) Women come to law school to get married; after all, if they're not writing on the walls, then they must be primping. And why would they be primping? So they can leave law school with some poor slob who will insure she never has to spend her days in the Norfolk Bar Association Library.

It is all very obvious. The handwriting, as it were, is on the wall.

Your friendly neighborhood brief receivers, Shari Hughes and Latane Ware, pause a moment before the annual four o'clock rush. This year's App Ad deadline was celebrated in the traditional fashion, in which second years arriving close to the deadline were forced to run a gauntlet of cheering students to hand in their briefs.

Lee Bender

Homecoming Party

HOMECOMING PARTY (FREE): The Alumni Association and the SBA are sponsoring a party for students and faculty to meet and renew acquaintences with recent Marshall-Wythe alumni. Come and enjoy on Saturday evening at 8:30 in the Little Theater in the basement of the Campus Center.

Corr

Continued from Page Two

These feelings seem to be shared by the faculty as well, who overwhelmingly approved his tenure.

With this in mind, I can understand the law school's frustration and discontent over the tentative decision to deny Professor Corr's tenure. We should not be content to simply "let Corr rest." The Procedural Review Committee of the Faculties, composed of interdisciplinary faculty of the College, has disapproved three times the procedures followed in the review of Professor Corr's tenure application and recommended that the law school reevaluate Professor Corr's application. Perhaps the next time through, the system will yield a just result or at least a result which can be adequately explained. Bearing in mind that outstanding professors will continue to be evaluated for tenure, this is not a matter which should be laid to rest. Unjustifiable tenure decisions and apparent disregard for the opinions of the students, faculty, and other interested persons are very detrimental to the institution which is very much a part of all of us.

Wayneburg

By Wayne Melnick

Lounge League Stands At All-Star Break

BY LAME ROBBY

You've undoubtedly seen them, either in the SBA office or the student lounge. Grown men playing a board game known as Lounge Baseball, the perfect winter sport for armchair coaches. Basically, each of the eight teams is composed of two of the all-time greatest teams ever, with accurate statistics covering everything from batting averages to injuries, to bunting ability.

Presently at the All-Star Break, Marshall-Wythe's fall season is in full swing and no clear favorite has yet emerged. Wayne Melnick's Brooklyn Red Sox and Ed Edmonds' Philadelphia Braves are the current front runners with identical 9-5 records. Sentiment around the league is that the pennant is Edmonds' to lose, in light of the fact that he has taken over the same squad that Tom Cook guided to two consecutive pennants. Cook is presently one game back of the leaders at 8-6 with the Pittsburgh Cubs.

The tandem coaching of Pete Condron and Neal Cabral has led the New York Browns to their present fourth place position at an even 7-7. Coaching what is commonly believed to be the best overall team in the league, Condron and Cabral were once considered good bets to take the pennant until they began to coach.

Among the also-rans is the Doug Klein/Dale Barney squad, the Philadelphia White Sox. According to Klein, he deserves most of the credit for turning a 1-3 outfil into a monument of mediocrity (7-7). According to Tom Cook, the Sox wouldn't be where they are if it weren't for the intervention of Yahweh. Barney would not be reached for comment.

Meanwhile, Melnick and Edmonds can relax, at least for the duration of the break, and try to plot a second half strategy that will bring them the pennant. Each team has 14 games remaining, two games with each league member. No teams are yet out of the picture, as evidenced by the standings:

TEAM	W	L	GB
Brooklyn Red Sox (Melnick)	9	5	-
Philadelphia Braves (Edmonds)	9	5	-
Pittsburgh Cubs (Cook)	8	6	1
N.Y. Browns (Condron/Cabral)	7	7	2
Phila. White Sox (Barney/Klein)	7	7	2
St. Louis Senators (Richardson)	6	8	3
N.Y. Reds (Scott)	6	8	3
Cleveland Tigers (Fowler)	4	10	5

Mark Raby

This week's picture of Neal Cabral.

Lee Bender

M-W's Dirty Dozen: military members of the law school community commemorate Veterans' Day by dusting off and squeezing into their uniforms to attend classes. Included in this photo is an unidentified civilian who got carried away by the sheer spectacle of the celebration.

Gridders Take the Field

BY BILL POWER

The William and Mary intramural football season got underway last week with six teams representing Marshall-Wythe. Although some fine athletic ability exists, it is unlikely that the law school will repeat its softball coup and bring home another college championship.

Already one of these teams has been dropped from the league. The Crippled Susies, once the "dream team" of the pre-season, is no more. Jeff Brooks, Mark Broadwell and other "Susies" started off poorly by losing their opener 37-0. Things got worse the next week as they forfeited their way out of the league. The Crippled Susies lived up to their name but not their dream.

The first years field the Paul Varelas, who are currently 1-1 despite their namesake's performance. In their first game, the Varelas blew a 7-0 lead after Paul, who sports a 44-inch chest, was ejected from the game for assaulting one of the opponents. The team rebounded with a forfeit victory in their second game. Other members include Marc Taylor, speedster Glenn Moore, and Louie Lazaron, who predicts a victory in the showdown next week with the Prurient Interests.

The Prurient Interests are back on the field and have a more competitive squad then their 1-2 record suggests. Tom Kohler, John Short, Dave Cozad, and Bill Power are among the returning veterans who have wreaked havoc on defensive secondaries with help from rookie sensation Gene Nichol. Nichol passed for 348 yards in the Interests' second losing effort but was forced to miss two games due to disciplinary action. Lineman Mark Kallenback was ejected from game two when he adamantly protested a questionable call by a suspect official. This outburst cost the Interests precious field position and the team's future success may well depend on the maturing of these two players.

Both the Rippers and Air Connally are back in action with their patented squads, but they are divulging nothing regarding their talent. Both teams have held closed practice sessions and refuse to talk about changes occurring in their camps. Could they have developed something as innovative to football as Australia's winged keel was to sailing? Perhaps they winged receiver? One can only wait and see.

Things turned from good to bad for the Neglected Prunes as they won, tied, and then lost in three games last week. In the first game, a 16-6 win over YERBGUN, the Prunes unveiled their vaunted passing attack with quarterback Parker Brugge hurling scoring strikes to Jeff Costakos and Jon Hill and throwing a game-saving knuckleball to Damian Horne. Player-of-the-game honors went to defensive standout Jack Dougherty who made a spectacular interception in the closing seconds to stop a YERBGUN scoring threat.

In their second game, the Prunes, though outnumbered seven to six, still forced a 12-12 tie, with the fleet-footed Brugge running for one touchdown and throwing to Costakos for another. By the third game, however, the Prunes began to stew as they stunk up the field in a 30-0 laugher. MVP honors for the game went to Steve Buck who won the coin toss with a surprise "tails" call.

The law school's greatest chance at bringing home a championship rests with the womens' team. Last year's Learned Hands (second place) and Class Action (third place) have merged into one team. Boasting the talents of Pat Miller, Marie Duesing, Donna Larsen, Leigh Ann Holt, and many more, Learned Class is 2-1 and should be tough to beat.

Tort Reform

Continued from Page One

from premiums, but not from investments. Thus, even taking into account the economic analysis outlined above, the industry has in some cases raised rates even beyond what was required, without the knowledge of state regulators.

Despite their protests, LeBel claims, "the insurance companies are doing O.K." To confirm this, "just look at the stock market," where insurance companies are by no means in trouble.

Tort Reform in Virginia

A Virginia task force should present specific legislative tort reform proposals this January, according to LeBel. The Virginia Attorney General's office is seriously considering recommending a "state-based rate making plan" under which Virginia malpractice insurance rates would be required to reflect annual Virginia malpractice losses rather than the higher national loss rates. In addition, LeBel thinks it likely that the legislature will place a cap on jury verdicts for "intangible losses"—pain and suffering, and the like. A recent federal court ruling, however, places such a law in a questionable position. A Virginia statute "capping" malpractice awards was recently held to be unconstitutional on equal protection and right-to-jury-trial grounds. The first ground, that singling out malpractice plaintiffs constitutes unreasonable discrimination, is the stronger ruling and would probably have no effect on the "intangible loss" cap, in LeBel's opinion. If a future court relies on the second ground, that arbitrarily capping jury awards denies plaintiffs their right to a trial by jury, such a cap could be in trouble. LeBel opposes such a cap, and any other "piece by piece" reform of the tort system.