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Editors of Colonial Lawyer

The Colonial Lawyer

MARSHALL-WYTHE SCHOOL OF LAW
COLLEGE OF WILLIAM AND MARY

Volume I No. 3 | Williamsburg, Virginia | December, 1967

Legal Profession Honors Retiring Tax Professor

SECOND LAW REVIEW ISSUE FEATURES NINE ARTICLES

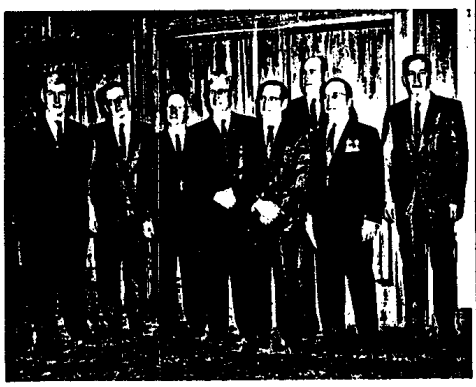
The Winter issue of the *William and Mary Law Review*, volume 9:2, is scheduled for publication by the middle of December. The issue features lead articles by Walter Gellhorn, Betts Profesor of Law at Columbia University, Erwin A. Elias, Professor of Law at Baylor University and Paul E. Wilson, Professor of Law at the University of Kansas, in addition to contributions by six other scholars and practitioners. Professor Gellhorn's article entitled "Poverty and Legality: The Law's Slow Awakening" was adapted from an address delivered by the author at the inaugural G. B. Sherwell Lecture in Law at William and Mary in November. Mr. Gellhorn traces the development of the concepts of social welfare administration as a right requiring due process guarantees. He points out that the older "alms-giving" view must be replaced if we are to expect the poor in our society to make a positive contribution toward the improvement of their economic standards. In addition to the leading articles, the issue features the usual complement of student notes and current decisions as well as Book Reviews and Books Noted.

Review Editor-in-Chief Robert Scott announced the appointment of two new candidates, Thomas G. Horne and John D. Sours, to the staff of the *Review* following successful completion of the Fall candidate program. Elevation to candidacy is made after completion of a rigorous six-week competitive program in which the competitors must submit a publishable piece of legal writing, demonstrate proficiency in editing skills, and exhibit an outstanding capacity for legal research. The next competitive program will be run during the second semester with selection of qualified candidates being made from among the top fifteen academically in the first-year class.

Serving with Scott on the Editorial Board of the *Review* this year are: Kent Millikan, Executive Editor; Robert Hendel, Articles Editor; Mark Dray, Managing Editor; David Sutelan, Notes Editor; Don Ricketts, Current Decisions Editor; Cyrus Phillips and Thomas Clark, Research Editors; and Charles Kent, Book Review Editor.

The William and Mary Alumni Association has announced the recipients of the annual awards for the outstanding student contribution to each issue of the *William and Mary Law Review*. $25 cash prizes were presented to the following contributors to volume 8: Cyrus Phillips for his note, "Miscegenation: The Courts and the Constitution"; Robert Scott for his note entitled, "Compensation to Victims of Violent Crimes: An Analysis"; Mark Dray who wrote on "The Bankruptcy Act: Some Effects of the 1966 Amendments," and Kent Millikan for his discussion of "Limitations on the Power of Congressional Investigations."

U. S. SENATOR
WILLIAM B. SPONG, JR.
WILL ADDRESS
a
DINNER MEETING
of
PHI DELTA PHI
LEGAL FRATERNITY
on
FEBRUARY 5, 1968
(Hour and Location To Be Announced)



Principal speakers at the Tax Conference included M. Bernard Aidenoff, S. M. Frohlich, Dr. Davis Y. Paschall, Dr. Thomas C. Atkeson, Lester R. Uretz, R. Braxton Hill, Jr., Edwin S. Cohen, and Dean Joseph Curtis.

Dr. Thomas C. Atkeson, honored by an initiation into Phi Delta Phi legal fraternity and a testimonial dinner which attracted nearly 200 alumni, faculty and students, acknowledged the tributes in the Campus Center ballroom.

1968 SUMMER STUDIES IN LAW ANNOUNCED FOR EXETER

An eight-week series of accredited law courses in residence at the University of Exeter in England will again be offered by the College of William and Mary law school in 1968. The program of summer studies, running in two four-week sections July 1-26, and July 29-August 23, is an expansion of the highly popular program inaugurated by the Marshall-Wythe School of Law at Exeter this past summer.

In 1967, students from eighteen American law schools participated in an initial six weeks of study in standard American law courses, international law and surveys of the English legal system. Both the length of the summer program and the variety of the courses have been extended on the basis of the pioneering experience of the past year.

A tentative selection of courses for 1968 includes Administrative Law, Comparative Constitutional Systems, English Legal System, Future Interests, Insurance, International Business Transactions, International Law, Introduction to Civil Law, Jurisprudence, Legal History, and Restitution. Approximately half of the courses will be taught by William and Mary instructors and the other half by English instructors.

"We feel that, having tested the idea this past summer, we can offer a significant new dimension to American law students' education in our program at Exeter," said Dean Joseph Curtis of the William and Mary law school. "The courses each summer are selected with a view to acquainting American students with areas of public and private law which have undergone significant reform in England and thus may make the future practioner aware of the needs for reform of the same subjects in American law. There is also, of course, the obvious attraction of studying for summer credit in the mother country of the Common Law."

Administrative Law, Future Interests and Restitution are courses in which substantial emphasis is placed upon recent English reform movements. Insurance is offered with special reference to the legal problems of reinsurance, drawing upon the available resources of insurance practice in Lloyd's of London and the great reinsurance firms in The Netherlands. Speakers drawn from the Law Reform Commission, an agency somewhat analogous to the American Law Institute and its Restatement, are features in these and other courses.

Formal announcements of the summer program for 1968, with application blanks and detailed information, will be sent during November to all accredited American law schools. Advance information may also be obtained by writing to the Dean of the Marshall-Wythe School of Law, College of William and Mary, Williamsburg, Virginia 23185.

FBA PLANS NEW PROGRAMS WITH SCHOOL IN 1968

An early spring conference on labor problems in transportation, and an international symposium on space law in May, are two 1968 activities of the Federal Bar Association planned for Williamsburg in cooperation with the Law School. The FBA also sponsored the one-day program on patent, trade mark and copyright law held on campus in October.

The space law conference will repeat a smaller symposium in the subject held in Williamsburg last year. The 1968 meeting, co-sponsored by the Inter-American Bar Association, is expected to attract between 100 and 200 persons from a number of countries.

On Thursday, November 16, Dr. Thomas C. Atkeson was initiated as an honorary member of Jefferson Inn of Phi Delta Phi Legal Fraternity. The initiation was attended by Phi Delta Phis and their wives, and members of the faculty of Marshall-Wythe. Mr. Edwin Rockefeller, a distinguished Washington D. C. attorney and president of Providence II of Phi Delta Phi, was present to help preside over the initiation ceremony. Also helping Magister Sam Beale and Vice Magister Bill Brackett during the ceremony were Mark Dray, Don Ricketts, and Howard Busbee, three Phi Delta Phis who are candidates for the Master of Law and Taxation Degree, a program which had its inception at Marshall-Wythe under the inspiration and guidance of Dr. Atkeson and which has since recognized some fifteen recipients.

After the initiation, a dinner was held in honor of Dr. Atkeson. Among the distinguished guests attending were the Dean and Assistant Dean of the College, Dean Emeritus of the Law School, Dudley W. Woodbridge, and numerous alumni, among whom were several recipients of the Master of Law and Taxation Degree. President Davis Y. Paschall who had planned to attend and make some remarks was unexpectedly called out of town on a trip with the Governor. After dinner had been served, Alvin B. Marks, Jr. who was master of ceremonies called upon Dean Curtis to make some introductory remarks. After the close of these remarks the guest speaker, Mr. David O. Williams,

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December Conferences Attract 400-Plus Atten

Two hundred accountants and lawyers attended the Thirteenth Annual Tax Conference of the Law School at the Williamsburg Conference Center on December 2, and more than that number of lawyers and businessmen met a week later at the same site for the week's Concentrated Course in Government SubContracting.

A feature of this year's tax session was an afternoon panel on recent tax law changes and their applicability to Virginia, which will be repeated at the midwinter Williamsburg meeting of the Virginia State Bar Association in January. The December 2 conference was the last to be under the active direction of Dr. Thomas C. Atkeson before his retirement at the end of the present academic year.

The subcontracting discussion opens a new dimension in the training program on general government contracts inaugurated two years ago by Federal Publications, Inc. of Washington in association with the Law School. The contracting course, regularly given in February, deals generally with the procedure required of prime contractors with reference to supply and performance agreements with the government. The subcontracting conference deals with the three-way relations and responsibilities of government, "primes" and "subs."

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EDITORIAL

RESPONSE

We at the Colonial Lawyer have been very much surprised at the very quick and very strong support that we have received from our readers both in the well wishing and in the form of contributions toward the commencement of the paper. Since we have had so much support, we at the paper feel that we have an even larger responsibility than we had originally felt and will make every effort to prove that your support will not be groundless.

NOISE

We are advised that the new library will be ready for occupancy in the near future. At that time (whenever it may be) the contents of our present subterranean bookmobile will be moved to their new home, and that will be a great relief to students, staff, and faculty alike.

There is, however, one feature of our present library which we sincerely hope will *not* be transferred to the new building—the noise.

It is no secret that the present reading rooms have been used more for discussions of sports, politics, and sex than for the study of law. Day and night, the library resounds with conversation pitched at a level more suitable to a student lounge or a high school lunchroom than to a law library. It appears that the act of entering the door of the reading room automatically divests many of our budding attorneys of every last vestige of courtesy, taste, maturity, judgment, and consideration for others. The urge to gray borth witticisms, gossip, and golden oratory overhelms otherwise sensible individuals, to the detriment of education and the disgust of the serious student and the casual visitor.

To date, the library staff has made no attempt to keep the library quiet—and perhaps rightly so. Theoretically, at least, the law student should have reached a level of maturity and discretion such that he no longer needs to be policed like an elementary-school dropout. In view of the age and educational level of our student body, some degree of consideration and courtesy can justifiably be expected. So far it has not been forthcoming, to our general discredit.

The acoustics in the main reading room of the new library are excellent. If the bad habits acquired in the old library are transplanted, disturbance and distraction will be greatly multiplied, and we—and our law school—will be the poorer for it.

CUTS

The *Colonial Lawyer* would like to bring up something that is very noticeable at this time of year when we have back-to-back vacations. This law school requires that the professors turn in a list of students who were not in class on the last day before vacation and the first day back. Also, if a student cuts more than three times a semester, he is eligible for probation.

It would seem that this is a rule that does not fit into the atmosphere of a graduate school. Many students have been out of undergraduate school for a number of years, and still others have gone to schools where there was no requirement to attend all classes. There seems to be the feeling that we are still too young mentally to realize the loss that we can suffer from missing too many classes or even one class at vacation time.

It would seem that when the school accepts us they have made an effort to weed out those who are here just for the sport. Graduate students are basically at law school for one purpose, and that is the further their future. We who are law students know that we have a bar exam to face and that the information that we are given in many cases will be used daily in our profession.

Therefore, we recommend that instead of making the student attend classes, give them the choice, as is done at many other universities. If the student is too immature to realize that he is only hurting himself, let him leave via his poor marks and give the rest of us who want to get an education the more undivided attention of our professors.

SAM T. BEALE

The Colonial Lawyer deeply regrets the resignation of Sam T. Beale from his position as Co-editor. With the support of Gus Smith, SBA President, Sam was instrumental in the initial formation and organization of the paper. Because of Sam's increasing duties as President of Phi Delta Phi and the Bar Exam he felt that he could not devote enough time to do the paper justice.

LAW LIBRARY MOVE NOW IN PROGRESS

The second stage of the move of the Law School into its new quarters got under way as the holiday season approached. With the delivery of shelving and new furniture, including a handsome (though still incomplete) circulation desk, the operation plan for the transfer of the 45,000 volumes in the collection went into effect.

To move the basic materials—the current reporters, codes, statutory collections, Restatement and legal periodicals—while students are using them presented a monumental challenge which was masterfully met by a coordinated series of steps. Items were taken off the shelves all day Saturday and Sunday and moved over Monday morning and Tuesday, while a number of law students were in Richmond for the bar exams; by Wednesday noon—less than five days after the first book were put into tote boxes—this part of the collection was available for use *in toto*.

A weekend move for the Tax Library, and a final step of moving the stack materials, were next on schedule as this issue went to press.

SBA Proposes Faculty Study

After an initial strong response from the student body during registration the Student Bar Association is experiencing a marked decline in student participation. Much of this is due to the current scholastic demands placed on both the first and third year students but this is, unfortunately, more often used as an excuse rather than a reason for missing S.B.A. meetings and for not participating in S.B.A. sponsored activities. This column is aimed at those who have not attended the meetings of the Association or who have not participated in its activities.

Under its Constitution, the Student Bar Association is set up in such a way that Association policies are developed at meetings of the Executive Council before they are submitted to the student body at an open meeting. Under such an organization the importance of active student participation at the open meeting can not be over emphasized: not only do the members serve as the ratifying agency for the policies which have been formulated by the Executive Council but also the members exert a supervisory control over the financial commitments of the Council. As presently set up, the Executive Council must submit new activities to the Association in an open meeting before they may be acted on, but these same programs—and programs established by tradition—may be funded by the Executive Council, subject only to the objection by the members in open meeting.

At the last meeting of the Association, held on November 10th, the following business was carried on. Jack Coffey reported that a cocktail party and dance will be held on the Saturday of Homecoming at the Heritage Inn. After the fact it can be reported that both the cocktail party and the dance were a great success. In this annual event the S.B.A. was joined by Phi Alpha Delta and Phi Delta Phi as joint sponsors. Of immediate interest to all students is the Christmas party to be held on Thursday, the 14th of December. Announcements as to when and where the party will be held will be coming out shortly.

Bob Kahn, chairman of the Moot Court Committee, announced that Mr. Donaldson has been appointed as the faculty advisor to the Moot Court Competition. Bob also stated

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"Clerk—tell 'em courts gonna be delayed 'til my wife can g here with the proper robes!"

From The Dean's Office

It is hereby moved that a committee of four students (a chairma plus one student from each class) be appointed to study the adoptio of a course/instructor evaluation program, and that the committee r port their findings to the SBA, in writing, not later than the fir SBA meeting of the second semester.

The Committee shall be instructed to study the undergraduate in structor evaluation program here at William and Mary, and any oth program on which they can obtain information. The committee shal in its written report, submit a specific proposal for a system whic can be considered for adoption by the SBA. The proposal shall, in d tail, outline the recommended procedure for administering the pr posed system, recommend distribution of results, and recommend a com plete evaluation form.

The committee shall further be directed that the will and inten of the SBA in establishing such an evaluation system is not to brazen and contumaciously embarrass any instructor, but it is to establish sensible system through which constructive and reasonable studen criticism can be communicated in good faith to the administration an to the instructor. The purpose of the system will be to make a since effort to improve, on a continuing basis, the level of instruction in th law school. The committee shall draft their proposals with the will o the Association in mind, and shall ensure that their recommended sy tem clearly reflects this intent.

PROFESSOR JOSEPH CURTIS

There has been some recent activity on the part of students towar the conducting of a teacher-evaluation project and I have been aske to express my opinion in this column of its worth and feasibility.

I fully recognize that the objective of this activity would not b to provide a formal opportunity to let a teacher know how little yo think of him and to see how much you can hurt him in retaliation fo what you may presently suppose to be your long sufferings at hi hands. The use of "*presently* suppose" is deliberate, as you may som day find in retrospect that you learned as much or more from tha once ill-thought-of teacher as you did from those whom you may no highly regard. Granted that your purpose would not be to vilify bu to seek improvement in teaching effectiveness in the best interests o the school, that being, of course, the best interests of the students.

I believe that the students are the best judge of teaching effectiv ness, providing that the judgment is that of the large majority of th class, joined in by those representing all levels of achievement, an reached with some consistency over the years. Furthermore, I thin that the students collectively are not only good judges of the over-a competency of a teacher, but are in the best position to determine hi weaknesses and strengths. Perhaps students regard their views i this respect as *res ipos loquitar* and even conclusive. I do not feel tha strongly about it, but I do agree that students' judgment of teache should be accorded great weight. Consequently, I feel that studen opinions, carefully considered and properly channeled, can serve t make a teacher aware, or more aware, of certain weaknesses whic he might be able to correct or at least strengthen. A teacher mu realize that there is much room for improvement in aspects of h teaching, but not how critical is the need for it.

Such opinions and criticisms, however, are of no value to anyon but the teacher himself. If the true objective is to improve teachin effectiveness, they should not be used publicly to rank the teache impeach him, or otherwise as a medium for discredit. So long as the are imparted only to the teacher, he can accept them with more ob jectivity and not feel that he must reject them, consciously or othe wise, in defense of his standing wit hothers. Assuming that he ha integrity, and a student evaluation project would be no proper way t challenge that, he is much concerned that his work is of value t

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OPINIONS

BY JOE KELLEY

In an appeal from a conviction for first-degree robbery, kidnapping and first-degree murder, Thomas L. Varnum challenged his conviction on the grounds that the court erred in admitting the alleged murder weapon into evidence, because the weapon was located as a result of interrogations conducted without the preliminary protections outlined by *Escobedo* 1. *Illinois*, 378 U.S. 478(1964), and further clarified by *Miranda* 1. *Arizona*, 384 U.S. 436(1966). Without first giving the required warnings against self-incrimination or the right to counsel as set forth in *Miranda*, the police prevailed upon Edward Jackson, an accomplice of the deefndant, to reveal the hiding place of the murder weapon which was then used in ebidence against defendant. Under such circumstances, there was no doubt as to the inadmissability of the murder weapon in evidence against Jackson, but there remained the question whether defendant had standing to challenge the violation of Jackson's rights.

In holding that the defendant did not have the requisite standing, the Supreme Court of California, 427 P. 2d 772 (1967), concluded that "the privilege against self-incrimination is not violated when the information eliicted from an unwarned suspect is not used against him."

In order to establish some concrete constitutional guidelines in applying the privilege aaginst self-incrimination to in-custody interrogation the Supreme Court in *Miranda* held that whenever an individual is taken into custody or otherwise deprived of his freedom by the authorities and is subjected to questioning he must be warned prior to any questioning hat anything he says can be used against him in a court of law, that he has the right to the preesnce of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. The prosecution must prove at trial that the warnings were given and that any waiver of these rights by the deefndant was knowingly and intelligently made. Without such proof, no evidence obtained as a result of interrogation can be used against the person questioned. Is this to include all types of evidence, 384 U.S. 436 (1966)?

Prior to *Miranda* there was little question as to the admissability of nontestimonial, real, and derivative evidence. Blood tests, 352 U.S. 432 (1957), fingerprinting, 365 P. 2d. 609 (1961), voice identification, 355 P. 2d. 710 (1965), and police line-ups generally were upheld provided that the activity of the police in gaining such evidence was not conduct that shocks the conscience, 344 U.S. 165 (1952). *Miranda* does not bar the use of evidence obtained by the previously mentioned procedures, 384 U.S. 757 (1966). "The right to remain silent does not include the right to refuse to participate in such tests because the privilege aaginst self-incrimination applies to evidence of communications or testimony of the accused, but not to real or physical ebidence derived from him" 55 Cal. Rptr. 385 (1966). Indeed, even if the *Miranda* pre-interrogation warnings are not given, only statements gained as a result of that interrogation are inadmissible, 145 N.W. 2d. 447 (1966). "Pretrial interrogation of a suspect without warning him of his constitutional right to remain silent and without giving him the

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Karen Atkinson, second year law student, admires part of the "Magna Carta gallery" of illustrations and text now hung on the second floor of the new Law Building.

FROM THE DEAN'S OFFICE

(Continued from Page 2)

those who it is intended to benefit, and his conscience would not permit his ego, even an inflated one, to reject well-directed criticism. When you place his economic welfare and professional reputation at stake, you inject a conflict of interests and tend to compel him to regard your criticism as attack and not guidance. I would therefore resist any planned evaluation that contemplated publication of results or distribution of the critiques to any other than the subject teacher.

A teacher should have more than the right merely to refuse participation. He should not, and in fact could not, be compelled to participate. Nor should he be placed in the position of having to say "I will not do so." His declination should not be given the appearance of a refusal to conform, as it should be regarded that it is not yet the norm that students conduct an officially sanctioned critique of their instructors. As a matter of opinion, a teacher may feel that students are not the proper judges of his teaching ability, and as a matter of principle, that they should not be indulged their fling at ill-intentioned swipes. This may be semantics, but I feel that the initiative should be taken by the teacher by way of an invitation to the students to submit critiques if he wishes to receive them, rather than by the students requesting him to do so, and thus seeming to set him apart if he should refuse.

Since a faculty member could not and should not be compelled to submit to student critique, at least officially sanctioned, if he does not wish it, in final analysis this is a matter for individual faculty action and not for the school administration. The views that I have set forth above are expressed as a faculty member and not as dean.

In summary, as a faculty member, I would support a carefully considered student critique form which a faculty member could invite the students in his class to submit to him if he felt that he might profit from their comments on his teaching effectiveness.

DR. ATKESON HONORED

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Jr., was introduced. Mr. Williams who is presently tax counsel for Bethlehm Steel Corporation was perhaps the most appropriate person to talk about the life and accomplishments of Dr. Atkeson, as he was the first recipient of the Master of Law and Taxation Degree and a close friend of Dr. Atkeson.

While Mr. Williams spoke of many facets of Dr. Atkeson's personality and life familiar to those who have been fortunate enough to know and study under Dr. Atkeson, he also was able to characterize in great part the totality of the accomplishments of this great scholar and his immeasureable contributions to the field of American Tax Law. For this exceptionally moving portrayal of our new brother the members of Jefferson Inn and all those attending the dinner can indeed be grateful. At the close of Mr. Williams' remarks, Magister Sam Beale presented Dr. Atkeson with his membership pin. As a fitting climax to a memorable evening, Bob Scott, Editor in Chief of the William and Mary Review, announced that the Spring Edition of the Law Review would be dedicated to Dr. Atkeson.

SPORTS

After completing an undefeated season in the independent intramural league, the Law School's Humpers met their match in the All College Championship game against powerful Sigma Pi Epsilon, Sig Ep "winning" the contest in a heartbreaker by the usual score of 13 points, one foot—to 13. (One foot was the distance the ball was moved offensively by Sig Ep in the playoff period after the game had ended in a 13 to 13 deadlock.)

Entering the final game of the season, the Humpers boasted an 8 and 0 record as compared with an 11 an 0 record for the fraternity champions. The Humpers opened the scoring when Joe Howard gathered in a short pass from Gus Smith and had clear sailing down the sidelines on a 50 yard touchdown play. Smith hit Howard again for the extra point and the score was 7 to 0. Sig Ep bounced back almost immediately and tied the score at 7 to 7. And on the next series of downs in this fast moving contest, Ace Humper receiver, Rick Harding got a step on his defender and Gus Smith laid a perfect strike in his hands for six points, placing the Humpers in front once again, 13 to 7. An attempeted pass for the extra point to Amole was broken up by the Sig Ep defense and the score stood at 14-7.

Once again, Sig Ep bounced back, moving the ball downfield with a series of short passes and a seemingly impossible falling catch by the Sig Ep receiver. The half ended with the score 13 to 13.

Neither team could score in the second half as the defense dominated play. The Humpers almost scored late in the game when key passes from the brilliant Humper quarterback, Smith, moved the ball to the Sig Ep 5 yard line. But here the drive stalled. With the score tied at the end of regular play, a playoff was necessary. Under national collegiate intramural rules each team has the ball for four offensive plays originating at the 50 yard line alternating after each down. At the end of the series, whichever team has moved the ball farther wins. Going into the last play, the ball was in Sig Ep territory. This meant the Humpers had moved the ball offensively farther than Sig Ep. The fraternity then hit on a halfback release pass which moved the ball one foot past the 50 yard line into Humpers territory. This was sufficent to establish them as All Colege Champions and winners of this final

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George Wythe is looking at something else, but Sue Reynolds, third year law student, examines the exhibit in the foyer display case of the new Law Building. The original models for the Law School Medallion are shown in low right, while to the left on the lower shelf are loaned exhibits of John Marshall's law notes taken on campus, and the notes made by St. George Tucker for revising Blackstone.

WYTHE SOCIETY HEARS TWO STATE COURT JUDGES

The Wythe Society held its first meeting of the year in the new law school building. Distinguished guests at this meeting included the Chief Justice of the Supreme Court of New Hampshire and a Justice of the Supreme Court of Illinois, both of whom took an active part in the discussion on capital punishment. The only incident to mar this auspicious beginning was the inability of the Keeper if the Keg, Jerry Robertson, to tap the keg. The speaker at the second meeting was Mr. Robert Simpson, Commonwealth's Attorney for Virginia Beach, who gave members of the Society an insight into the practical problems of his position.

The major problem of the Society has been trying to find adequate facilities for the meetings. This problem was solved when John Donaldson volunteered the use of his house for the Society's Tuesday night meetings. Whether because of the informality of the surroundings, the increased efficiency of the Keeper of the Keg, of the volatile nature of the topics, which ranged from hippies to lawyers' fees, the third meeting was the most spirited of the year. The same ingredients produced another successful meeting on Dec. 5, when Dr. Norman of the Psychology Department of the College spoke on "Criminal Responsibility and the Insanity Rule."

The officers of the Wythe Society extend an open invitation to the student body to attend the next meeting. It will be the ideal place to release pre-examination tensions.

FRATERNITY NEWS

Phi Alpha Delta

The brothers of Phi Alpha Delta have completed plans for their first dinner meeting to be held on the evening of December 13 at the Lobster House. The speaker will be Marvin M. Murchison Jr., a graduate of Marshall-Wythe and currently the Commonwealth's Attorney for the City of Newport News. The meeting is open to the student body and their wives. Watch for notices as to the price and time of the evening.

The sale of cram course notes at the course in Richmond was very successful. Salesman and vice-justice Ed Tomes announced that over 50 sets were sold, not to mention the free distribution of sets to PAD members. The brothers taking the course will up date the sections that need changing during the second semester in preparation for the June course.

Initiation of the new pledges will take place on December 14, in the afternoon. The place for the initiation of these men, Jack Coffey, Joel DeBoe, Ron Hallman, Mike Jenkins, John Reed, and Tom Versi, will be announced shortly.

The professional program is taking shape under the direction of Joe Buxton. Aided by Joel DeBoe and Mike Jenkins, he has set up an extensive program for the remainder of the year. The next dinner meeting will be held early in January. The speaker for that meeting will be Nelson Durden, a partner in the firm of Downing, Andrews and Durden. Mr. Durden will speak on the topic of fees.

Joel DeBoe is currently attempting to arrange a tour of the Newport News court system. This program is not set to take place until early February and will be on a date that the most interesting docket can be found.

Phi Delta Phi

Two monthly dinners highlighted the late fall events of Jefferson Inn of Phi Delta Phi before the Christmas recess. The first of these entailed a testimonial dinner November 16 to give plaudits to Dr. Thomas C. Atkeson, retiring professor of taxation, for his contributions to the Law School. Dr. Atkeson was made a honorary member of PDP on this occasion at which David O. Williams, first graduate of the M.L.&T. program, was the guest speaker. Pete Marks, chairman of the testimonial dinner, is to be congratulated for a fine job.

The latter of these dinners involved a combination initiation primarily and Christmas party secondly for the Fraternity on December 13. Initiation was held for new Brothers at 5:00 P. M. in the Campus Center Little Theatre and then a cocktail and egg nog party ensued followed by a subsequent dinner at which Mr. C. Vernon Spratley, Jr., United States Attorney for the Eastern District of Virginia, was the featured speaker.

The new Brothers of PDP are Tony Brodie, Jon Bruce, Homer Eliet, Joe Kelly, Dan Kemper, Roger Lease, and "Woody" Woodruff.

Jefferson Inn also conducted a brief business meeting November 27th. While looking forward to the coming holiday season, but not so much to the following impending exams, the Fraternity is already anticipating a continuing eventful year during the spring semester.

The Brothers of Jefferson Inn, Phi Delta Phi, would like to extend to the rest of the Law School, faculty, staff, and students, a very cordial season's greetings.

Moot Court Argues Under New Procedure

The second year moot court problem was argued on December 11th through 14th in the Dodge Room of the Phi Beta Kappa Hall. The eight participants argued their original sides on the first two days and reversed themselves in the arguments of the last two days of court.

The oral arguments came after three weeks of preparation in which time briefs were prepared by John Gaidies, Tom Steger, Lloyd Rials and Ed Newton for the appellant with Bob Kahn, Sal Jesuele, John Crouch and Bob Lowman devoting themselves to the appellee's contentions.

This semester's appellate moot court consisted of only a short problem since the first semester's work is designed primarily as an exercise as opposed to full scale competition. Consequently the problem had fairly clear cut lines of opinion on it.

The arguments dealt with a suit for the specific performance of a contract to buy land and improvements thereon. Prior to the time set for the final payment and tender of the deed and legal title, the house on the premises burned. The buyer refused to make the last payment which was equal to the value of the house. The seller collected insurance for the building, again equal to the value of the structure, and then sued buyer to compel payment of the full contract price. Judgment on the pleadings was given the vendor and the defendant appealed.

The case was interesting inasmuch as the majority opinion would allow a decision in favor of the seller while the equities of the situation seemed to favor the buyer. For those who started with the argument for the appellant, the situation when they were called on to argue for the appellee, called for acting ability of the highest order.

All involved enjoyed the practice and look forward to next semester's moot court competition with its expected increase in participation.

Alice in wonderland — wondering when the new circulation desk will be ready to handle books in the Law Library — is Mrs. Riecks, another Law Library assistant, shown behind the first assembled units of the new desk.

"Yes, it's really true—we got new furniture!" says Law Library Assistant Nacy Skillman to a doubting phone caller. Marcia Miles is trying to find things after moving them into the new desk in the general Law School office.

Recent Activities Of The Faculty

PROFESSORS SPEAK TO FEDERAL ADMINISTRATORS

Professor James P. Whyte, Assistant Dean of the Marshall-Wythe School of Law, and Professor William F. Swindler, spoke on "The Decision-Writing Process" to a group of hearing examiners of various Federal agencies in a week-long workshop at the Conference Center. They discussed the subject of clarity in drafting the findings of administrative agencies. The workshop is under the sponsorship of the U.S. Civil Service Commission.

SWINDLER COMPLETES BOOK MANUSCRIPT

Professor Swindler delivered the main portion of his manuscript, "Court and Constitution in the 20th Century," to Bobbs-Merrill Publishing Co. in New York last week, with the summary chapters and appendices to follow early in December. The book, which analyzes the cyclicial crises in constitutional interpretation from the 1890s to the present, is scheduled for publication early next fall. In Philadelphia, Swdinler also discussed with the American Philosophical Society the prospects for publishing the original journal of the Mason-Dixon Survey which has been jointly edited by the law Professor and Dr. A. Huglett Mason of Arlington, College alumnus and retired Physicist to the Army Chief of Staff.

PROFESSOR STASON VISITS ENGLAND

Professor E. Blythe Stason, Jr. of the School of Law went to England last summer, where he did some work in London connected with his membership in the English bar. He then visited the School of Law's summer session at Exeter University in Exeter, Devon, where he stayed at the home of Dr. Dominik Lasok of the Exeter University Faculty of Law, who was visiting professor of law at the College last year.

PROFESOR STASON AT HARVARD CELEBRATION

In September, Professor Stason attended the Harvard Law School's Sesquicentennial Celebration in Cambridge, Massachusetts.

A Modest Proposal

Attention, Gentlemen of Marshall-Wythe:

The time has come for the minority to assert its rights and open an active campaign to storm the bastions of masculine exclusiveness. Too long has the distaff been overprotected and underinformed regarding admisison to legal fraternities.

Information has filtered through the cloak of secrecy, and the feminine law students are armed with the facts. Women can be and have been admitted to the legal fraternities at such strongholds of masculinity as the University of Virginia. In an article appearing in the November 16th issue of the *Virginia Law Weekly* the following is stated: "Phi Delta Phi's new pledges include G. H. Allen, *Mrs.* M. M. Angus" —and "the seventeen second year students accepting bids from Delta Theta Phi included J. H. Alves, *Miss* M. L. Dantzler, etc."

In light of the foregoing, surely the gentlemen of Marshall-Wythe would not wish to appear so Victorian in their views as to exclude women hereafter. Face the reality of the 20th century; there are women in "your" law school, why can't they be members of "your" fraternity?

S. K. Huffman

THANKS

Dear Mr. Editor:

For laughs, I am enclosing my check for $2.00 as a contribution toward the support of *The Colonial Lawyer*.

It would be interesting to know how many alumni were raised from their seats upon reading that they were not "particularly distinguished by their achievements."

I think perhaps you might be missing the point relative to the basic functions of a lawyer. While he might become distinguished if he was President of the United States, he does achieve a mark of distinction in the eyes of those clients he has served well.

As a matter of fact, without being President or Secretary of State, I have done so well and have become so distinguished that I could have sent $3.00 as a contribution if you had asked for it.

Very truly yours,

WILLIAM T. PRINCE

SBA EVALUATION

(Continued From Page 2)

that local lawyers, in addition to faculty members, may sit as judges in the annual elimination tournament next semester.

Dennis Hinsley, chairman of the Securities and Investment Club, stated that the club will hold an organizational meeting in the near future. The purpose of the club will be to present students an opportunity to learn and put in practice the fundamentals of securities investing.

The chairman of the Intramural Committee, Bill Shannon, commented on the success of the Law School intramural football program and announced that a bowling league will be formed after Christmas. The intramural basketball season will begin soon and team rosters should be completed.

As a part of new business a resolution was passed establishing a committee to present a faculty evaluation report for the informal use of the administration. This committee, with Glenn Sedam as chairman, has now been formed and will present its recommendations to the Association in February.

The success of all of the above committees, indeed the success of the entire S.B.A. program depends on student support. While committee activities require time on the part of the members participating, those students who are active find that they have become more interested in the affairs of the Law School and that their contribution is important both to their professional future and to their present status as students.

SPORTS

(Continued from Page 3)

contest with the independent champion Humpers. The law school teams finished the season with creditable records; the Barristers ,5 and 1; the Chancellors, 4 and 2; and the King's Bench, 2 and 4.

Barristers' Brides Has Holiday Party

On December 17 in the Williamsburg Community Center, the Barristers' Brides will hold their annual Christmas Party for the children of law students. The party will be followed by a covered dish supper and carol sing around the fireplace. We promise to have a very educated Santa complete with C.P.A. and J.D. degrees . . . a sack full of toys too, incidentally!

Approximately 70 people attended our Square Dance this year. All of those there can thank our able caller, "Charlie" for their newly-acquired "skills."

On Homecoming week-end the group held a very successful food sale on the Duke of Gloucester during the parade.

Co-chairmen were Joni Dray and Betty Dickereon.

At the November meeting the Brides got some ideas for Christmas decorations and gifts from Mrs. Devaux of the Christmas shop. At the December meeting the wives will show those decorations that they have made based on these ideas.

At a recent meeting the idea of an introductory law course for wives of students was discussed. Thus far, the response has not been sufficient to warrant the organization of the course.

Program chairwoman, Mary Busbee, is attempting to set up a program in which a representative of a leading cosmetic company will attend a meeting and demonstrate the proper use of make-up to the group. This program is scheduled for the January meeting.

The officers of the Barristers' Brides would like to thank the wives for their tremendous response to all of our functions. We hope that even more wives will join our organization in the coming months.

OPINIONS

(Continued from Page 3)

right to counsel does not constitute prejudicial error in the absence of proof that a confession, admission, or statement obtained as a result of such interrogation was used against him in evidence at trial," 145 N.W. 2d. 448 (1966). It becomes apparent that Varnum is not protected if *Miranda's* exclusionary rule is narrowly interpreted.

The same state court that correctly foresaw an exclusionary rule as announced in *Miranda*, takes a limited view of the rule it foresaw. The court points out that unreasonable search or seizures are in themselves unlawful; therefore, a defendant's constitutional rights are broken whenever there is an unreasonable search or seizure. The exclusionary rule is used to deter—to compel respect for the constiutional guaranty in the only effectively available way—by removing the incentive to disregard it, 364 U.S. 206 (1960). The exclusionary rule is not a subatanct of the right tself but is a means by which the right is enforced. Hence any "person aggrieved" has standing to challenge whenever evidence is obtained in violation of the Fourth Amendment constitutional guarantees, whether or not it was obtained in direct violation of that particular defendant's constitutional rights, 45 Cal. 2d. 755 (1955). *Miranda*, on the other hand, protects personal rights—the rights against self-incrimination and the right to counsel. There can be a violation of the Fifth and Sixth Amendments only when evidence is obtained from and admitted against the same person without first giving him the requisite warnings. The dissent contends that interrogation conducted without the required warnings is unlawful from the very moment of the first question. As is the case in unreasonable search or seizures, any evidence obtained in violation of the *Miranda* warnings should be excluded because the exclusionary rule is intended to deter unlawful police activity.

Does *Miranda* forbid interrogation in violation of its rules or does it only make statements inadmissible when obtained by the police during such interrogation? Most of the cases which have considered the question conclude that such interrogation merely makes statements inadmissible; consequently, interrogation in violation of the *Miranda* rules does not of itself void a conviction after trial, 145 N.W. 2d. 447 (1966). By such a narrow interpretation it is possible, without prior warnings as required by law, to interrogate John Doe in order to secure information for use in prosecution of Richard Roe, 20 Vand L. Rev. 39 (1966). This is what happened in *People* v. *Varnum*, 59 Cal. Rptr. 108 (1967), and until the United States Supreme Court rules on the problem, the language of *Miranda* will allow the states to narrowly construe the exclusionary rule and thus conclude that interrogation is wrong only when, without giving the requisite warnings, statements are used in evidence against that person.

JOSEPH H. KELLEY

Seasons Greetings