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# The Colonial Lawyer



Marshall-Wythe  
School of Law

*Spring 1969*

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*Marshall-Wythe  
School of Law*



College of William and Mary in Virginia

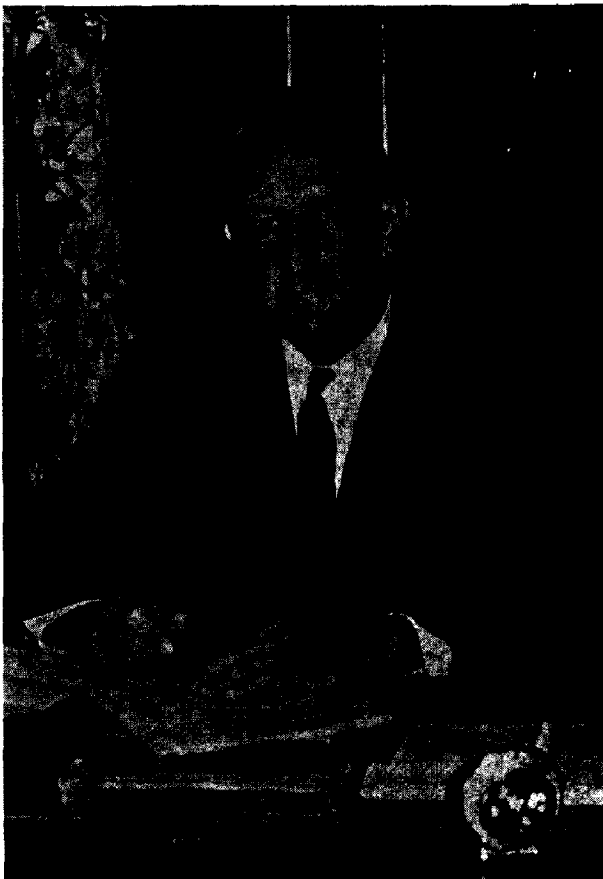
*Spring 1969*

COVER: Chief Justice John Marshall on the portico of the Wren Building



# VIRGINIA'S Financial Structure

By WILLIAM C. BATTLE



William C. Battle of Charlottesville, Virginia is a former United States Ambassador to Australia. A graduate of the University of Virginia Law School, he is a senior partner in the firm of McGuire, Woods & Battle. Currently he is seeking the nomination of the Democratic Party for Governor of Virginia.

**I**N *Virginia* the sources of revenue and the expenditures of funds are administered to two levels: the State and the localities. Each separate unit of government generally operates independently, although there have developed through the years recognized areas of taxation and responsibility exercised by each of the levels of government. Thus, the localities raise certain revenues which they expend as they see fit; the State raises certain revenues which

are by law paid over to the localities on the basis of varying formulae; and the State raises certain additional revenues which it uses in implementing a general government for *Virginia*. Additional sources of State and local revenue include Federal grants to the State and to the localities, and the borrowing of funds through the issue of revenue bonds and a limited amount of general obligation bonds.

Superimposed on this pattern is a multifaceted collection scheme<sup>1</sup> whereby some revenues are collected locally even though used at the State level (such as the income tax on individuals, etc.) and some revenues are collected at the State level even though used locally (such as the local option sales tax, etc.).

The sheer growth of revenue in *Virginia* has been staggering. The State's total revenue, amounting to \$246 million in the fiscal 1950, increased to \$530 million in 1960 and to \$1,126 million in 1967. When stated in per capita amounts, thus discounting population increases, total revenue rose from \$74.79 in 1950 to \$135.26 in 1960 to \$249.78 in 1967.<sup>2</sup>

City revenue in *Virginia* has grown from \$32 million in 1940 to \$205 million in 1960.<sup>3</sup> Within this increase in revenues, a significant shift in sources occurred, with the proportion of total revenues from property taxes decreasing and from intergovernment revenues increasing (the latter more than doubling in percentage during the two decades from 1940 to 1960). Revenue of the 204 towns in 1960 was \$13 million,<sup>4</sup> a small figure attributable partly to the small size of the towns (only 13 were above 5,000 population) and partly to their lack of responsibility for schools, public assistance, and recording and judicial functions. The growth in county revenue parallels that of the cities, increasing from \$29 million in 1940 to \$224 million in 1960. In 1966 the county revenues aggregated \$382 million. Contrary to the pattern for the cities, the proportion of total county revenues from local sources (excluding intergovernmental transfers of funds) has increased slightly during the quarter century from 1940 to 1966.<sup>5</sup>

In 1960, intergovernmental revenues accounted for \$272 million of \$983 million of revenue for *Virginia* (both State and local); of this \$272 million total, \$147 million was transferred wholly within *Virginia* from one level to another, and \$125 million represented Federal payments that do not duplicate any *Virginia* source revenue. All in all, after eliminating duplications, this latter source of revenues (Federal payments) accounted for 15 percent of total revenues, and *Virginia's* own sources furnished 85 percent.<sup>6</sup>

In comparison with other states in fiscal 1966-1967, the per capita total revenue in *Virginia* of \$361.97 (State, local and Federal) was below that of the national average of \$463.08, below the average of southern states (\$368.51) and below the average of non-southern states (\$483.83). Excluding Federal aid, per capita revenue from its own sources (\$296.25) was greater than the southern average (\$292.44), but below the non-southern average (\$404.97) and the national average (\$384.72).

The load of revenue on economic resources is perhaps better tested in terms of revenue amounts per \$1,000 of personal income of residents. On this standard, *Virginia's* total revenues (\$141.04) was below the southern average (\$166.48) as well as the non-southern average (\$155.94) and the national average (\$157.84).

## STATE FUNDS

As a matter of policy, the General Assembly has set aside certain types of revenue to be used wholly for special purposes. Such revenues comprise the special fund. All other revenues which have not been so marked constitute the general fund.

Broadly speaking, special fund revenues, which comprise approximately two-thirds of the total revenue of the State government, are derived largely from the use taxes (such as gasoline taxes), Federal grants, and sales of commodities or services (such as college tuition). Because the revenues from the sale of revenue bonds and general obligation bonds are set aside for special purposes, they are also regarded as special funds. The general fund revenues are derived largely from taxes levied on individuals (such as intangible personal property, retail sales, income, and inheritance taxes) and on business (such as income, capital, and rights and privileges), and from profits of the State liquor monopoly.

The general fund is the sole source of support for many overall State administration functions. In addition, it is an indispensable source of support for mental health activities, for general health, for conservation of natural resources, for education into college level, and for local education as well as for some other local activities.

The special fund supports entirely the State highway system from revenues raised through motor fuel taxes, vehicle and operators' fees, miscellaneous and special revenues, and Federal aid. The special fund also provides support for higher education and associated educational agencies, public health, public welfare, conservation and development, agriculture, vocational rehabilitation, corrections and criminal charges, as well as for some other local activities.

The separation of general and special funds has several practical implications. Given any stated sum in the general fund, the functions which it supports (education, mental and physical health, and conservation) compete for appropriations. An increase in the appropriation for any one function represents an amount not available for the other functions. In other words, a function supported by the general fund can receive additional appropriations only at the expense of another function, or as the general fund itself becomes larger — primarily through a tax rate increase or through levying a tax on new objects or through an increase in the base on which an existing tax is levied. It is also significant to note that as more kinds of revenue are placed in the exclusive category of special funds, less revenue remains in the category of general funds for the agencies and functions which do not receive service charges, use taxes, or other special fund revenues.

#### REVENUES AT THE STATE LEVEL

The *Virginia* tax system accounts for more than 66 percent of the revenues raised from within the State. Even adding Federal grants and donations to the State revenues, the tax system still accounts for over half of the total revenue.<sup>7</sup>

Tax sources of revenue include more than 40 different taxes, ranging in the fiscal year ending June 30, 1967 from the high-producing tax on the incomes of individuals and fiduciaries (\$191 million) to the low-producing tax on public rock oyster exports (\$8,000). The range of objects subject to taxation include the familiar objects of income, inheritances, gifts, wills, and retail sales, to the not so familiar agricultural products promotion taxes.

Non-tax sources of revenue include Federal grants, so-called institutional revenues from educational institutions, hospitals, etc., revenue from rights and privileges licenses, interest, dividends and rents, and miscellaneous revenues from State liquor monopoly profits, fines, donations, etc.

In examining trends in State revenues, comparisons are often made on a per capita basis. Another basis of comparison is to

test the load of revenue on economic resources by expressing the revenue in amounts per \$1,000 of personal income of residents. The following charts<sup>8</sup> reflect the trends on both these bases of comparison during the eleven years from 1950 to 1961.

#### MEASURES OF STATE REVENUE CHANGE, BY MAJOR CATEGORY 1950 to 1961

Fiscal Year	Total Revenue	From Other Governments	From Own Sources		
			Total	Tax Revenue	Non-Tax Revenue
Per Capita Amount					
1950.....	\$ 74.79	\$ 8.48	\$ 66.30	\$46.77	\$19.53
1961.....	148.45	26.54	121.92	90.67	31.25
Percent increase	90.4%	212.9%	83.8%	93.8%	60.0%
Revenue Per \$1,000 of Personal Income					
1950.....	\$ 67.90	\$ 7.70	\$ 60.20	\$42.46	\$17.73
1961.....	79.52	14.21	65.31	48.57	16.74
Percent increase	17.1%	84.5%	8.4%	14.3%	-5.6%

During the same period, the personal income of *Virginia* grew by 83 percent, so that revenue loads rose much less in relation to ability than in relation to population.

The following chart classifies the State revenue according to the economic nature of the base.

#### STATE REVENUE CLASSIFIED BY ECONOMIC BASE 1950 and 1961

Fiscal Year	Tax Revenue			Non-Tax Revenue	
	Personal Taxes	Business Taxes	Consumption Taxes	ABC Revenue	From Governmental Operation
PER CAPITA AMOUNT					
1950.....	\$12.39	\$19.24	\$15.14	\$ 4.66	\$14.50
1961.....	28.65	30.70	31.32	4.23	26.83
Percent increase	131.2%	59.5%	106.8%	- 9.2%	85.0%
REVENUE PER \$1,000 OF PERSONAL INCOME					
1950.....	\$11.25	\$17.47	\$13.75	\$ 4.23	\$13.17
1961.....	15.35	16.44	16.78	2.27	14.37
Percent increase	36.4%	- 5.8%	22.0%	-46.3%	9.1%

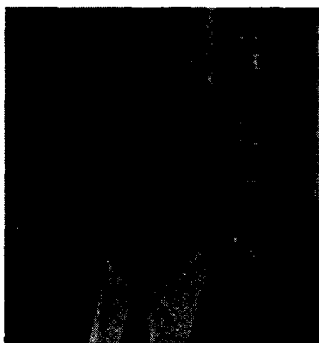
**Tax System.** The income taxes on individuals and corporations have been a major revenue producer for *Virginia* for a number of years.<sup>9</sup> For the fiscal year ended June 30, 1967, these taxes generated \$241.7 million of revenue, accounting for over 41 percent of all revenues raised at the State level through taxation (or 21 percent of total revenues from all sources). The State imposes a tax on the gross receipts of public service corporations in lieu of an income tax on their net incomes. The rates vary for each type of public service corporation, but the aggregate of tax yield for the fiscal year ended June 30, 1967, was \$29.5 million (approximately 2.6 percent of total revenues).

The sales tax, which was installed on a State basis effective September 1, 1966, is also becoming a significant contributor to State revenues. For the fiscal year ended June 30, 1967, the sales and use tax produced over \$74 million, or more than 6.5 percent of total revenues (even though it was effective for less than one full year). The new budget analysis for the biennium 1968-1970 shows expected sales tax revenues of \$374.8 million,

(Continued On Page 12)

## Curtis Resigns as Dean

THE staff of *THE COLONIAL LAWYER* is saddened to learn that Joseph Curtis has resigned his deanship at the Law School, to be effective at the end of the present semester. He will be remembered by the students, faculty, and alumni not only for his practical wisdom in the classroom, but for his efforts in the betterment of the Law School proper.



Dean Curtis joined the law faculty in 1948 as an Associate Professor. He was promoted to full Professor in 1953, became the Acting Dean in 1962, and assumed the deanship in 1964. He received his LL.B. and LL.M. at New York University in 1937 and 1948 respectively, and prior to coming to William and Mary, served as the Administrative Assistant to the Dean at that law school.

A nationally recognized expert in taxation, Dean Curtis has lectured at such institutions as Brookings, New York University, and Virginia and has authored numerous articles on this subject. Since his arrival here, he has been an active lecturer in the Masters program in taxation, the first of its kind in the United States, and a Lecturer and Director of the William and Mary Annual Tax Conference.

The Dean has been an active public servant, serving on many advisory committees within the Virginia State Bar Association and also in the State. In 1968 Governor Godwin appointed him to the Virginia Commission of Conflict of Interests in Public Office.

Of paramount interest to the student body are the dramatic improvements made in the Law School under Dean Curtis's administration. Since he has assumed the deanship the size of the student body has more than doubled to the present enrollment of 200. During this period the faculty has also doubled.

Even more important to the students has been the Dean's successful efforts to obtain adequate facilities for the school. In 1964 the law school was an underground operation headquartered in the basement of Bryan Hall. In 1967 the school moved into the old library and today after modernization and expansion of the facility, the Law School is a self-contained unit.

No less important have been the programs initiated under Dean Curtis's supervision, which bring the Law School national recognition. In 1965 the Sherwell Lecture series began, featuring annual talks by the President of the American Bar Association. In 1967 a comparative studies program was established with Exeter College in England and in the same year the first Marshall-Wythe Medallion was presented to an outstanding figure in the field of law.

The Board of Visitors, at their special meeting on March 15, 1969, appointed Professor James P. Whyte, Jr., currently serving as Associate Dean, as Acting Dean of the Law School, effective July 1, 1969. As the previous years have been ones of great challenge to the Law School we are particularly looking forward to the leadership that Dean Whyte will give to us in the future.

## Law School Now Complete

ON Tuesday morning February eighteenth 1969 the new Marshall-Wythe Building was officially opened. Prior to the completion of the new building the law school was forced to operate at less than optimum conditions. The law library housing the current reports, codes, statutory collections, restatements and legal periodicals was located in the Marshall-Wythe Building while classes were held in Washington Hall, Rogers Hall and William Small Physical Laboratory requiring students to spend a great deal of time commuting between facilities. This situation created much confusion and prohibited continuity between the first, second and third year classes.

The evolution of the new physical plant was a slow and difficult undertaking which extended over several years. The renovated building with ideal facilities for a law school was previously the library for the College of William and Mary. The establishment of the main floor as a law library and offices for the Dean and Associate Dean required the movement of 47,000 volumes and the installation of new shelving and furniture. The existing second and third floors were transformed into faculty offices, classrooms, The LAW REVIEW office, Student Bar Association office and a student lounge and snack bar. A new wing was added to the rear of the building in which are found two large, air conditioned classrooms equipped with modern desks and chairs, and an elaborate wood panelled Moot Courtroom.

Now that the long wait has been endured and the entire Marshall-Wythe Law School is functioning in its own building as a completely self-sufficient unit, many of the benefits are self evident. However, in addition to the excellent new facilities the new law school has also provided its faculty and students with a close knit environment creating a superior academic atmosphere.

## SBA Co-Sponsors Quint Circuit Conference

GIL BARTLETT, Fourth Circuit Vice-President of the Law Student Division of the American Bar Association, and Andy Parker, President of the Student Bar Association of the Marshall-Wythe School of Law, recently sponsored a five circuit conference of the Law Student Division in Williamsburg on March 6 through 9.

The conference was highlighted by work sessions on Law Student Division projects, and by American Bar Association speakers. Henry A. Clay, Director of the Law Student Division for the American Bar Association, spoke on the future of the organization and Bernard G. Segal, President-elect of the American Bar Association, spoke on the rights and responsibilities of student protesters. The program was climaxed by the election of circuit vice-president for the coming school year.

During the program Gil Bartlett received the American Bar Association gold key award. One of three law students in the nation to receive the award, Bartlett was cited for his contributions to the Law Student Division in the four states of South Carolina, North Carolina, West Virginia and Virginia. During the conference the Marshall-Wythe School of Law received the runner-up award for the outstanding Student Bar Association in the country. Accepting the award were Job Taylor III and Duncan Garnett.

WELL COUNSELLOR, NOW  
THAT YOU'RE HERE I GUESS  
I CAN GO ON WITH MY  
QUESTIONING, HUH?





Glenn Sedam and Justice Tom Clark at the Southern Law Review Dinner.

## Marshall-Wythe Hosts Southern Law Review Conference

**G**ROWTH, participation, dedication and inspiration highlighted the second annual Southern Conference of Law Reviews held here in *Williamsburg, Virginia*, from November 21st through November 23rd, 1968. Hosted by *The William and Mary Law Review*, Marshall-Wythe School of Law of the College of William and Mary, this year's session saw over a two-fold increase in the number of schools attending.

Chaired by Glenn J. Sedam, Jr., Managing Editor of *The William and Mary Law Review*, and aided by Anthony Gaeta, Jr. and Dennis C. Hensley both of the staff of *The Review* the Conference attracted the Hon. Tom C. Clark, Associate Justice of the Supreme Court of the *United States* (Ret.) as the featured speaker at the Friday night banquet.

Fifteen schools from an area ranging from *Maryland* to *Florida* were in attendance and took advantage of the expanded program. Last year's trial Conference, held at the University of *South Carolina*, drew seven schools and offered a more modest program in attempting to start the now yearly event. At the business meeting on Saturday, Emory University, *Atlanta*,

*Georgia*, was picked as the site of next year's Conference.

The general thrust of the Conference was on a practical level; editorial problems, writing, management, and candidate selection were the areas covered in depth by the four seminar meetings. The basic concept of these seminars was to explore the different methods of solving problems common to the publishing of law reviews on the student-run basis. This aspect was especially important for those students who are going to rise into the editorships of their respective reviews during the coming year. In this way it is hoped that quality of the law reviews will be refined during the exchange of ideas inherent in a seminar-discussion atmosphere.

Another important aspect of the conference was the opportunity for the law review staffs to meet with several publishing companies on a formal and informal basis. Mr. Randolph C. Williams of the Williams Printing Company, *Richmond, Virginia*, the Saturday luncheon speaker, gave the assembled group hints for dealing with their printers. Other companies establish-

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# FRATERNITY NEWS

## PAD PDP

**T**HE Wythe Chapter of Phi Alpha Delta Law Fraternity hosted the 29th Annual Regional Conclave at the Cascades on February 28 through March 2, 1969. The program was arranged by District Justice Robert Elliott and his assistant, William Scott. Michael Kris and James Corbitt were initiated at the Model Initiation conducted in the Great Hall of the Wren Building. During the business session Harry Saunders was elected to a regional office. The regional officers are the highest positions which can be held by a student in Phi Alpha Delta. The main speaker at the Conclave was William L. Scott of the U. S. House of Representatives.

The officers for the present year are as follows: Justice, Harry Saunders; Vice Justice, Robert Wick; Clerk, Paul Jensen; Marshall, Sid Insley; Treasurer, Joel Shane; and Historian, John Sabourin. In late March the Brothers held nominations and elections for local offices for the coming year. The results of this election have not as yet been disclosed.

On March 21, 1969, the following ladies and gentlemen were pledged to the fraternity: Eileen M. Albertson; Carmen Alonso; Barbara Bassuener; Richard Bray; Susan Cocke; James Corbitt; Rodney Crowgey; James W. Deboe; John Evans; Willard Funk; Robert Harwood; Robert Ingram; Michael Kris; Dianne Lynch; Tom Meyer; Ray McCauley; Bill Offutt; Stuart Roberson, Jr.; James R. Traylor; Kathleen Ward; and Jeffrey Zwerdling.

For its spring program the Chapter has planned an informal faculty smoker. This will include three faculty members relating some of their lighter associations with the law. The Chapter is also planning to have a speaker to be announced later.



— GUESS WHO REPRESENTS THE LAW SCHOOL —

**T**HE Jefferson Inn of Phi Delta Phi International Law Fraternity under the leadership of Jerry Robertson, (*Magister*), Bill Field (*Vice Magister*), Vernon Spratley (*Clerk*), Doug Walker (*Exchequer*) and Joe Kelley (*Historian*) has maintained its role as the largest and most active legal fraternity at Marshall-Wythe. During the fall semester, the Inn was privileged to receive State Senator Herbert Bateman's luncheon address on the "Dissent in Contemporary American Society." Later at the November dinner meeting, gubernatorial candidate, Henry Howell discussed the national elections and the effect that those elections might have on the Democratic party in Virginia.

On the lighter side, the Inn sponsored a combo party in October immediately following the first home football game, and a second party in December just prior to the Christmas vacation. In addition to these parties, three rush functions were held later in the year.

On March 21, 1969, the Brothers conducted pledging of the following thirty-six gentlemen: Douglas J. Adams, N. H. Ancarrow, William R. Bland, N. J. Deroma, H. D. Garnett, Jr., Arthur G. Girton, F. J. Hicks, S. M. Hirsch, T. R. Johnson, B. K. Jones, William T. Jordan, Donald E. Lee, Thomas R. Lewis, Carl S. Markowitz, Haldane R. Mayer, F. K. Morrison, R. C. Nichols, Thomas K. Norment, Jr., Donald G. Owens, Robert Phelps, John C. Qua, Thomas S. Reavely, C. M. Salle, F. L. Shreves, Louis L. Shuntich, Leslie P. Smith, L. M. Spigel, M. P. Stafford, Ray C. Stoner, Gerald R. Tarrant, Job Taylor III, Bruce E. Titus, Robert L. Walker, Emmet T. White, Jr., W. Jon Wilkins, and Richard L. Young.

The initiation banquet for the new pledges is tentatively scheduled for March 27, at the Wedgewood Dinner Theater. Also plans are being formulated to secure a speaker of national prominence for an April or May dinner meeting. In addition, nomination and election of next year's officers will be held in mid April.

Special recognition should be given to those Brothers who have been active in other student activities. *Law Review* editors include: Charles Friend (*Editor-in-Chief*), Gil Bartlett (*Operations Editor*), Gary Legner (*Research Editor*), Glenn Sedam (*Managing Editor*), Jim Stewart (*Notes Editor*), Paul Morley (*Articles Editor*), and Homer Elliott (*Current Decisions Editor*). Those elected to high positions in the Student Bar Association include: Andy Parker (*President*), Scott Swan (*Vice President*), Terry Light (*Secretary-Treas.*), and Tom Horne (*Councilman*). C. Vernon Spratley III is presently Editor of *THE COLONIAL LAWYER*. Also Gil Bartlett is *Vice President* of the Fourth Circuit of the Law Student Division of the American Bar Association. Glenn Sedam serves as *Chairman* of the Committee on International Law in this same organization.

**BARRISTERS BALL**  
April 25

## A Revival of Roman Law

(By Charles E. Torcia, Professor of Law, College of William and Mary)

IT cannot be gainsaid that a student of the law would find it intellectually stimulating and rewarding to look, on occasion, into the distant legal past. A journey back in time some 2,000 years would take the interested student to the greatness that was truly *Rome* — her system of law. Even cursory perusal of the Roman private law would admit of the observation that here was a system that was mature and sophisticated. It would be refreshing and humbling to learn that we, including the English Common Law, do not have a monopoly on legal creativity.

By the careful analysis of certain similarities and contrasts between the Roman and Common Law, the understanding of our own law would be enhanced. Thus, one could perceive, after examining the judicial functions of the Praetor, that Praetorian Law was the rough equivalent of our own Equity. This is not only interesting for its own sake, but also is a useful means of sharpening understanding of the branch of our law. Our appreciation of the doctrine of respondeat superior could only be deepened by our exposure to its root in the liability of the Roman *pater-familias* for the delicts of his son causing injury to another. Indeed, a familiarity with the approach of the Romans to the institution of adoption and the rules of inheritance could only result in a better understanding of our Common Law counterparts. It is in this sense, then, that the study of Roman law can serve a "practical" purpose for us.

While there are other values to be derived from exposure to the law of *Rome*, the discussion of which is beyond the scope of this brief note, one further point might be made. It is clear that the system of most nations is the civil law which, of course, is bottomed in large measure on the Roman Law. As our world almost yearly becomes smaller and smaller, what with the increasing rapidity of communication and transportation media, it is plainly the course of wisdom that we familiarize ourselves with the content of such foreign legal systems. Before launching such a study, however, we should begin at the beginning with a study of Roman Law.

It may be noted that the value of exposure to Roman Law has not been overlooked by William and Mary. Charles Phinias Sherman, one of the more active Romanists in the United States, introduced Roman Law to William and Mary curriculum in the late twenties. Although he discontinued these offerings after about ten years, he did leave three permanent mementoes of his work at the Law School: his own definitive library of Roman Law, a fund for an annual student essay and prize on a Roman Law topic, and upon his death about six years ago a bequest for the upkeep of the library collection on the subject. In recent years, the Law School has offered Roman Law during some of the summer sessions. Indeed, in the coming summer such a course is to be offered by Dr. William R. Swindler who, because of his keen command and sense of history, will certainly imbue such a course with the delicate perspective it demands.

While the subject of Roman Law has been slighted by a great majority of law schools — perhaps mainly for the reason that it is a luxury in the curriculum which timewise simply cannot be afforded — it seems that the time has long since come for the legal academic community to give the subject a hard look in the way of re-evaluating its need and relevance. By way of indicating that this revival of Roman Law sentiment is not the strong feeling of only this writer, it is noteworthy that the

American Council of Learned Societies has formed a Committee on Roman Law "to strengthen and develop Roman law studies in American universities." At its meeting in May 1968, the newly formed Committee "agreed that it is possible and desirable to offer in the law school a course in Roman Law so designed as to have value both for law students and for graduate and undergraduate students in the school of arts and sciences." Indeed, the Committee declared that it "will try to interest deans and faculties at four or five universities in offering at least one course in Roman Law during the year 1969-70." The activity this Committee statement portends certainly represents a long step in the direction of eventual recognition of the value of Roman Law by its inclusion in the curricula of American law schools generally.

## LEGAL AID

THE Legal Aid Program at Marshall-Wythe has begun its second semester of working with local attorneys in *Norfolk* and in *Williamsburg*. Currently, 15 members from the Law School are participating in the projects every week, Monday through Friday.

Second and third year students are giving their time in the offices of local attorneys and judges. In *Norfolk*, through the *Tidewater* Legal Aid Society, students work with the Staff Attorney, Mr. William E. Fulford, and with the members of his office staff.

In *Williamsburg*, students aid the local judiciary in specific projects such as juvenile and domestic relations problems.

The students working with the practicing attorneys are not expected to handle cases by themselves. However, the ABA has recently approved the Model Rule, which, if adopted in *Virginia*, will allow third year students to participate in a limited practice before the local courts.

Fred Grill, the Coordinator of the Legal Aid Program at Marshall-Wythe, listed the three objectives of the program:

1. Aid to the community: Students can help people who in many instances would have been unable to afford legal advice.
2. Aid to the local judges and attorneys: Student aid, in many instances, allows the attorneys to take on a greater case load and to prevent the slowing of the legal process.
3. Aid to the students. The student gains practical experience through his participation in the Legal Aid program that he is unable to receive from the classroom environment.

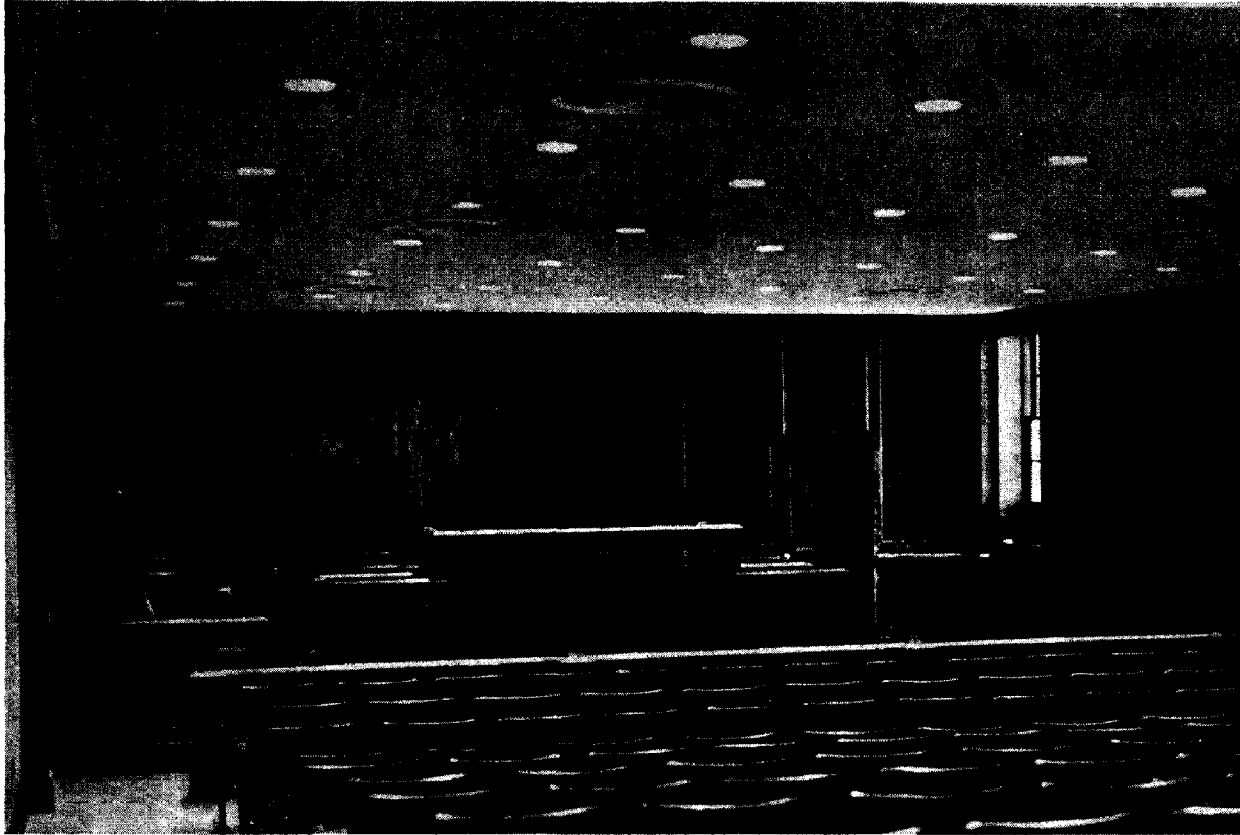
"This is the best time to gain practical experience," Fred said. "Later, this experience can help you to save time, when time will cost you money."

Second and third year students, who participate in the Legal Aid Program, receive a maximum of two hours of credit upon completion of 45 hours of work.

First year students, who may be interested in participating in the program, are encouraged to contact any of the members for further information.

Students working in *Williamsburg* are: Steve Crampton, Coordinator, Joe Smith, Stuart Spirn, and Lenny Starr.

Students participating in *Norfolk* are: Hal Bonney, Tony Brodie, Bill Field, Fred Grill, Earl Hale, Barry Hollander, Bob Kahn, Saul Pearlman, Jim Sabourin, Frank Sando, and Eleanor Seitz. Lenny Starr is coordinating the *Norfolk* program.



Moot Courtroom

## Moot Court Moves Into New Quarters

**T**HE Moot Court program at the Marshall-Wythe School of Law has just completed a successful fall semester program under the direction of the Moot Court Board, its chairman, Bob Kahn, and the program's faculty advisor, Mr. Charles E. Torcia. Participation in the program is greatly increased during the fall term with the required participation of the entire first year law class as a part of their course in legal methods and writing. This course serves both as a means of teaching the student at the beginning of his law school career to use the research facilities of the law library and to prepare and present an appellate brief, and to stimulate interest in the moot court program with the goal in mind of enticing the student in later semesters to enroll in the program on a voluntary basis.

This past November oral arguments of both the first year students and the upper class competitors were heard in the campus center with a panel of three judges hearing each argument. The first year students had panels consisting of one faculty member and two upper class law students, and the upper class arguments

were heard by one faculty member, one local attorney, and one upper class law student. It is hoped that by the time oral arguments are heard for the spring semester in late April that the scene can be transferred to the new moot court room in the law school. This will definitely add much more authenticity to the presentations, and it is hoped will instill in the participant the sense of seriousness of the activity in which he is engaging.

Although the program lacks the numbers that it did in the first semester, the competition is expected to run high since the second year students will be fighting for a spot on the team which will represent the law school in the national Moot Court competition, and the participating first year students will be attempting to gain valuable experience which will better enable them to compete in this highly skilled event.

The prospects for the program appear good. The formation of the student governing board to control the program's activities and the incentive of receiving one hour of graded credit for participation have increased interest and have given the student a sense of joining in a worthwhile activity in which he has active control. It is hoped that the program will continue to grow in both the number of participants and the quality of participation, and with the new facilities and the new organization of the program, this hope appears to be one which will turn into a reality.

*EDITOR'S NOTE: Professor Jolls, who came to us last year, used to practice law in Chicago, and later became a vice president of a major bank there. In 1968 he took early retirement to enter the field of law teaching. His principal experience has been in the areas of corporate securities, trusts, and commercial law.*

## A Few Words From A Newcomer

BY PROFESSOR THOMAS H. JOLLS

HAVING been asked to write a brief comment on something for THE COLONIAL LAWYER, I have turned to a subject that has been of absorbing interest to me, and with which I am highly familiar—the change from the “outside world” to the academic life, and all that goes with it. I hope that some of my observations, based on a very brief teaching career started in the fall of 1968, may be of interest.

What differences are there between our law students and those I knew at a major midwestern law school thirty-five years ago? First, the students here are more extroverted and better able to talk on their feet. Serving as a judge in Moot Court competition, I found their ability to make their points, and to swing into hostile questions, very impressive. One could assign two reasons for this, I suppose: (1) This generation has had better exposure through grade school and high school to an educational process which includes class and platform speaking for everybody; no one will deny that students of today are much more articulate than in my time; (2) Everybody knows that Southerners are better talkers than Northerners anyhow.

Also I believe that these law students, or a much greater proportion of them than in my class, are ready and willing to donate at least some part of their energies to services, professional or otherwise, for those less fortunate. As a student, I remember a distinguished lawyer coming to talk to us on “Legal Ethics”, and winding up by upbraiding us for our narrowness. “The trouble with you young men is,” he said, “that I see among you no crusaders for lost causes, and that is what the law needs — you fellows just want to go to Wall Street or La Salle Street and make a lot of money.” Of course he had just come from there himself, but, in all justice, I think he had done his share of “crusading” as a young man. Anyhow, when we graduated two years later the depression was in full swing and no one could accuse us of selling our souls for money. He who got a job that involved being paid was the subject of profuse congratulations.

Teaching is interesting. I find it hard work as well — it takes a surprising amount of time to prepare, and re-prepare, for a single class (and sometimes a couple more hours afterward to find materials to fill holes that suddenly appeared in the dike). As in any meaningful activity, there are problems that must be thought over and dealt with; however they are new and different and therefore refreshing. Perhaps the greatest blessing is that the telephone rings two or three times a day instead of twenty.

This has been an exciting year and I am looking forward to some more of them at William and Mary.

## Three New Members Added To Law Faculty

ALTHOUGH the Marshall-Wythe School of Law will be temporarily deprived of the talents of Mr. Rodney Johnson, the student body will see in addition to Mr. Johnson's replacement, two new faculty members. Mr. Robert Scott, coming to the Law School as a visiting instructor, will assume Mr. Johnson's teaching responsibilities for the 1969-1970 session. John H. Davies and Don W. Llewellyn will be added to the current teaching staff.

Mr. Johnson will be journeying to New York University for a year in pursuit of the LLM degree. Mr. Scott comes back to Marshall-Wythe after graduating from here in 1968. He will complete his Master of Laws degree from the University of Michigan prior to the fall term. While at William and Mary, Mr. Scott was Editor-in-Chief of the Law Review, recipient of the W.A.R. Goodwin Memorial Scholarship, member of the Phi Alpha Delta Legal Fraternity, and ranked first in his class.

Mr. Llewellyn graduated from Dickinson College (A.B., 1957), Dickinson School of Law (LLB - J.D., 1961) and New York University with an LLM degree in taxation in 1967. While at Dickinson Mr. Llewellyn was the legislation editor of the Dickinson Law Forum.

From 1962 to 1965 Mr. Llewellyn engaged in general practice with Souder and Schoelkopf of Souderton, Pennsylvania and from 1965 to 1967 with the firm of Souder and Llewellyn, concentrating mainly in the areas of Corporations, Trusts and Estates, and Real Estate. Mr. Llewellyn left active duty with the Armed Forces in 1966 after serving in the Judge Advocate General Corps.

Currently, Mr. Llewellyn is an Assistant Professor at the College of Law of Williamette University in Salem, Oregon. There he has taught Income Tax, Corporation and Shareholder Taxation, Estate and Gift Taxation, Legal Accounting and Estate Planning.

Mr. Davies graduated from the University of Illinois in 1963 with a B.S. degree in Commerce and Law and from the University of Illinois College of Law (LLB, 1965), where he was a member of the Illinois Law Forum and the recipient of two honorary scholarships.

From 1965 to 1968 Mr. Davies practiced with the firm of Winston, Strawn, Smith and Patterson of Chicago, where he concentrated in the field of federal taxation and corporate law. Mr. Davies also performed legal services for the Neighborhood Legal Assistance Center of Chicago, which aids persons otherwise unable to afford a lawyer.

Mr. Davies is a member of the American Bar Association, the Illinois State Bar Association, the Chicago Bar Association and the Illinois Society of Certified Public Accountants. Mr. Davies is presently pursuing the LLM degree at Harvard Law School. He is primarily interested in the areas of Taxation, corporate law and securities regulation.

## Casner To Receive Marshall-Wythe Medallion

THE 1969 recipient of the Marshall-Wythe School of Law Medallion is A. James Casner, Weld Professor of Law at the Harvard Law School. Mr. Casner has been a member of the Faculty of Harvard since 1938, and previously was on the faculties of Law at the University of Illinois and University of Maryland.

The Medallion was created in 1967 to provide the nation's oldest law school with a distinctive method of recognizing outstanding men in the legal profession in the *United States* and abroad. The award is presented annually by the William and Mary Law School Association through finances made available through a private gift to the Law School.

The medal shows profiles and dates of the Law School's namesakes, John Marshall, renowned Chief Justice of the *United States*, and George Wythe, first *American* Professor of Law. On the reverse side is the seal, name and founding date of the College. The model for the medal was designed and prepared by Professor Carl A. Roseberg of the College's Department of Fine Arts.

Mr. Casner is author of a book entitled *Estate Planning*, which is a two-volume work with a 1968 supplement, and is editor-in-chief of the *American Law of Property*, an eight volume treatise. He has worked closely with the *American Law Institute* and was a Reporter for the Institute's project to prepare model estate and gift tax laws. William and Mary law students know Mr. Casner best as the co-author of our basic text *Cases and Text on Property* used in Property I and II courses.

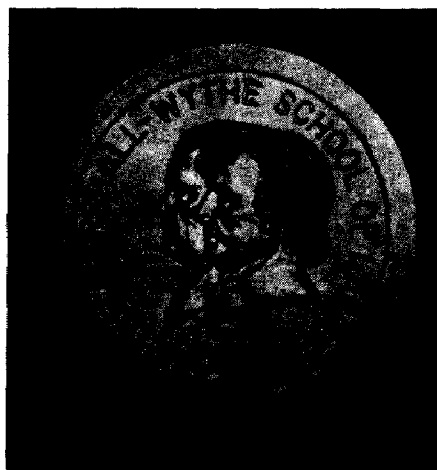
Mr. Casner has been an Associate Dean of the Harvard Law School from 1961 to 1967, and Acting Dean from October, 1967 to July, 1968. He holds an A.B. and LL.B from the University of Illinois, Doctor of Juridical Science from Columbia University, and an Honorary Master of Arts from Harvard. He belongs to bars in Illinois, Maryland and Massachusetts and has been admitted to practice before the Supreme Court of the *United States*.

Among his past accomplishments Mr. Casner has been associated with the law firm of Ropes, Gray, Best, Coolidge and Rugg in Boston, Massachusetts from 1945 to 1958. Previously, he was a Colonel in the *United States Air Forces* serving in Europe primarily, from 1942 to 1945. He also serves as Chairman of the Law Editorial Board of Little, Brown and Company, as well as being a member of the Board of Directors for the Old Colony Trust Company.

The Medallion has been presented twice since it was originated in 1967. Chief Justice Robert J. Traynor of California received the honor April 27, 1968, and Norris Darrel, President of the *American Law Institute* was honored June 11, 1967.



A. James Casner



Marshall-Wythe Medallion



## Profile: Class of '71

**T**HE FIRST year class, entering in both June and September, 1968, has the rare distinction at Marshall-Wythe of being the largest in the school's history. In all, there are seventy new law students, seven of whom are women.

These seventy students were chosen from applications numbering well over five hundred. Of the seventy, there were also nine transfer students and five Candidates in the Master of Law and Taxation Program.

Discounting transfer students and Master of Law and Taxation Candidates, grade point averages ranged from 2.9 to 1.0 (on a 3.0 scale) with the median grade point average being 1.6. The scores on the Law School Admission Test ranged as high as 642 with the median score being 559.

Undergraduate institutions represented by enrolled first-year students are: William and Mary, 12; Old Dominion, 4; Virginia Military Institute, 3; 2 each for Hampden-Sydney, Ohio University, Randolph-Macon, United States Military Academy, University of Virginia, and Virginia Commonwealth University; and one each from Alfred, Arizona, Buffalo, Connecticut, Denver, East Carolina, Fairleigh-Dickinson, Franklin & Marshall, Georgetown, Georgetown (Kentucky), Grove City, Hillsdale, Hobart, Illinois State, Iowa State, Knox, Lafayette, Lindenwood, Lynchburg, Mansfield State, Michigan, North Carolina, Occidental, Purdue, Rutgers, St. John's, St. Mary's, St. Michael's, St. Norbert, Susquehanna, Tampa, United States Naval Academy, Virginia Polytechnic Institute, Wake Forest, Washington, Washington and Jefferson, Western Michigan and Wisconsin.

These seventy students, when added to the upperclass enrollment of 122, make a total enrollment for the law school of 192.

With regards to the anticipated class for June and September, 1969, the Admissions Committee reports applications are now in excess of 750, with even more expected. Once again, approximately seventy students will be accepted from these applicants.

Associate Dean James P. Whyte reports that from the applications already received there should be a sharp rise in the median LSAT scores, as well as the median grade point average, over those of previous years. He also noted that next year's applicants are in keen competition for the Goodwin Scholarships.

We can therefore look forward to a great future for Marshall-Wythe. The first year class now enrolled and its expected replacement in the following year are just additional factors to the growing character and quality of the student and graduate at Marshall-Wythe.

## Virginia's Financial Structure

(Continued from Page 3)

versus \$190 million for the previous biennium, an increase of 97.2 percent.

**Grants by Federal Government.** The second largest source of revenue for the State for the fiscal year ended June 30, 1967, came from grants by the Federal government, accounting for more than one-fifth of total revenues. These grants aggregated \$244.2 million for the fiscal year, exceeding the amount generated from all income taxes imposed on corporations, individuals and fiduciaries. In descending order of magnitude, the grants were made for roads, education, welfare, health, unemployment benefits, the visually handicapped, conservation and development, and

other purposes. Most of the grants from the Federal government involve some form of matching funds from the State, which places a heavy demand on general funds.

**Rights and Privileges.** This source of revenue, amounting to \$79.7 million for the fiscal year ended June 30, 1967, comprises revenues obtained from business licenses, motor vehicle and chauffeur licenses, miscellaneous privileges and other licenses, permits, etc. Licenses have been prescribed from time to time for more than sixty different classes of businesses, occupations and professions, and there have existed almost as many different methods of determining the tax. Some taxes are levied on a flat rate basis, some very according to the size of town in which the particular business operates, and some are based on gross receipts or on gross purchases. Business licenses are no longer a significant source of revenue, accounting for less than one-half of one percent of total revenues for the fiscal year ended June 30, 1967. Motor vehicle and chauffeurs licenses, on the other hand, contributed 4.2 percent of total revenues for the same period.

**Alcoholic Beverage Revenues.** Alcoholic beverage revenues are derived from operations of the Alcoholic Beverage Control Board plus taxes on beer, beverages, wines and spirits. For the fiscal year ended June 30, 1967, revenues from alcoholic beverage sources included \$26.5 million from tax sources and \$130.3 million from alcoholic beverage sales, for an aggregate of \$156.8 million. Offsetting the revenue from whiskey sales through the State monopoly system were expenses for the costs of goods sold (\$98.5 million) and other operational and administrative costs (\$13.2 million). The net profit from the operation of the State monopoly for that fiscal year, after statutory adjustments and departmental charges, was \$16.9 million.

**Institutional Revenues.** Revenues from various institutions generated through the sale of services produced \$85.2 million for the fiscal year ended June 30, 1967. From this source of revenue, educational institutions accounted for the largest segment. Other revenue came from medical hospitals, mental hospitals, health sanatoria, etc.

### STATE INDEBTEDNESS

Virginia is obliged to borrow money to finance its activities. As a result of a favorable referendum held November 4, 1968, the State is authorized to pledge its full faith, credit and taxing power for the payment of principal and interest on an aggregate \$81 million bond issue. This limited bond issue, which takes advantage of a special provision in the Virginia Constitution permitting general obligation indebtedness not exceeding one percent of the assessed valuation of all real estate in the State,<sup>10</sup> is the only exception to the popularly described "pay-as-you-go" system on which Virginia has operated for almost one-half century. Prior to the rise in popularity of that slogan, Virginia struggled under a fairly heavy debt burden attributable partly to the Civil War and, more significantly, to the financing in early days of internal development programs designed to facilitate transportation among the Tidewater areas and into the western areas of the State.<sup>11</sup>

Although firmly enunciated as State policy, there have been at least three well defined methods by which the State has attempted to avoid strict adherence to the "pay-as-you-go" philosophy. The first is the creation of the so-called State Authority, which traces its early beginnings as far back as 1922.<sup>12</sup> Although the individual authorities which have been created during the intervening years may differ to some extent in purpose and struc-

ture,<sup>13</sup> they are all corporate State agencies and possess borrowing power through the issuance of their revenue bonds. The State, of course, is not legally liable for the obligations issued by the authorities; thus, the obligations do not comprise general obligations of the State, although many persons have speculated recently on whether the State would nevertheless come to the aid of any authority that ran into financial difficulties on account of its debt burdens.

The second way in which strict adherence to the "pay-as-you-go" philosophy has been avoided is the issuance of so-called revenue bonds. State institutions, such as universities and colleges, are authorized to issue their bonds for specified purposes, to be repaid only out of revenues derived from the project erected with the bond proceeds or from similar existing projects. Once again, the bonds are not general obligations of the State, but the same questions can be raised as to whether the State would aid any institution that ran into financial difficulties. Similarly, the State Highway Commission has been authorized to purchase or construct and operate several bridge and ferry facilities.<sup>14</sup> Accordingly, several series of revenue bonds have been issued to cover the costs involved; the State is not obligated to pay the bonds except from tolls and revenues of the project. However, the State Highway Commission is authorized to contribute funds toward the operation, maintenance and construction of the project for which the bonds were sold, but may not obligate itself to do so.

And finally, municipalities and localities are authorized to issue bonded indebtedness for almost any projects within their territorial limits, subject to certain limitations. To the extent that localities must make expenditures for which money has to be borrowed, there exists another inroad on the "pay-as-you-go" system even though the State itself does not do the borrowing. In cities and towns, the aggregate outstanding indebtedness at any time for general obligation bonds is not allowed to exceed eighteen percent of the assessed valuation of the real estate in such city or town. In the case of revenue bonds issued for almost any revenue-producing undertaking, the percentage limitation is not applicable. Counties are granted the same powers as the municipalities to borrow money, except that the eighteen percent limitation is not applicable and as to such bonds, there must have been a favorable referendum. In case a locality runs into financial difficulties, there exists a special provision of State law authorizing the governor to direct the State Comptroller to withhold State grant-in-aid (other than certain educational grants) otherwise payable to the locality, with a view towards using such grant-in-aid to satisfy the defaulted bonds.

#### REVENUES AT THE LOCAL LEVEL

Some note should be made of the revenues raised at the local level. Revenues through borrowing have been mentioned in the preceding section. Among the other revenues, property taxes comprise the backbone of the local tax systems. As worked out in 1926, real estate, tangible personal property, machinery and tools used in the manufacturing and mining businesses, and merchants capital were segregated for local taxation exclusively. (In the segregation of items for taxation, intangibles were made subject to State taxation only.) The property taxes imposed across the State vary not only in the subject of taxation, but also in nominal and effective true tax rates, giving rise to one of the major complaints about property taxation generally.<sup>15</sup>

As noted previously, the General Assembly in 1966 enacted a State sales tax effective September 1 of that year. One-third of the current three percent rate is apportioned to localities on the

basis of school age population and is to be used by the localities for the construction and maintenance of public schools. In addition, localities are permitted to impose an optional one percent sales tax, and all 35 cities and the four urban counties had adopted the local option sales tax as of 1967.

Other sources of revenue for the localities include business and occupational license taxes, which provide perhaps the greatest variation in local taxation. All cities impose varying numbers of such taxes at varying rates among the cities. By and large, counties do not possess a general license tax authority, although the urban counties have specifically been authorized to impose such taxes. In addition, there are fourteen general subjects of license taxation available for all counties, ranging from motor vehicles to fortune tellers. Cities regularly impose license taxes on a wide variety of additional subjects.

Grants-in-aid from the State to localities are derived principally from the general fund of the State and also certain special funds originating both within the State and from the Federal government. These grants are utilized by the localities for such functions as public elementary and secondary schools, public welfare, public health, and highways, roads and streets. Under the existing financial set-up in Virginia, a substantial portion of the revenues of all the local governments consists of grants from the State. However, there are wide differences among the localities. For example, *Arlington County* in 1961



"YOU KNOW DAMN WELL THIS  
ONES DIRTY — LOOK AT C.T."

received 14 percent of its revenues from the State, while State grants in *Buchanan County* for the same year made up 75 percent of its total revenues. Other localities fell between these two extremes.

#### IMPACT OF THE FUTURE

The impact of the future on *Virginia's* financial structure and its tax system is difficult to predict. Certain trends, however, are becoming apparent and will have an effect on the State. First, taxes imposed from all sources have risen astronomically since the turn of the century. In 1902, *America's* total bill for all taxes of all kinds amounted to \$18 per capita. By 1948, it was \$377; by 1960, it was \$709; and in 1968, it was more than \$1,000. Through the period of the Second World War, by far the greatest percentage of the total taxes were collected by the Federal government. Since that time, even though the Federal tax revenues have increased, state and local tax revenues have also begun to rise sharply.<sup>10</sup>

Secondly, there is some popular unrest regarding the tax cost of government. In the 1969 legislative season, the governors of various states have begun to present their tax recommendations, ranging from comprehensive programs proposed by the governors of both *Georgia* and *South Carolina*, to the declaration of the governor of *Delaware* that a tax increase would be an unwarranted imposition on taxpayers. But despite a growing financial need among the states, many governors are simply not recommending current tax increases. This may be the result of an accurate reading of the public mood: *Youngstown, Ohio* was forced to close its schools for a month at the beginning of this year after voters defeated a desperately needed bond issue; *Richmond, California* voters have refused three times to raise the school tax rate necessary to provide better education; voters during the election month of last November rejected \$4 billion dollars of the \$9 billion dollars in bond issues that came up for a vote; and in perhaps the most symbolic display of public opinion, taxpayers in *Massachusetts* have taken to wearing tea bags in their tie clasps as a symbol of the *Boston Tea Party* and their way of objecting to a tax increase proposed by the new governor (who has already begun receiving used tea bags).

Finally, there is a developing trend among states to permit a wide variety of credits against the income tax. Certain types of these credits, of course, appear in many states, such as credit given for income taxes paid other states and credit for persons aged sixty-five or over, for the blind, or for student dependents. Others are not so common, such as those allowed for supporting a mentally retarded child at home, or for the cost of constructing a radiation fall-out shelter.

Probably of greater significance, however, is the fairly recent development whereby certain states are beginning to allow credits for retail sales and property taxes. With respect to sales tax credits, the basic proposal allows a credit for sales taxes paid on food and prescription drugs. This basic pattern may be altered in several ways: it may be limited to individuals having less than a certain dollar amount of taxable income per year, or the amount of the credit may vary with the taxpayer's income level. In a later trend, a few states have begun to afford property tax relief by permitting income tax credits for such taxes. In their proposal to state legislatures, several of the governors have suggested the consideration of credit for sales and property taxes on varying bases.

*Virginia* is not immune from these pressures. Perhaps the magnitude of the "tax bite" is not as heavy in *Virginia* as elsewhere, since the State and local tax burden in fiscal 1967 ranked

*Virginia* only 41st in the nation on a per capita basis and 44th in terms of tax per \$1,000 of personal income.

But there are increasing pressures within the State for services, and the furnishing of additional services will require additional revenues. Some of these additional revenues can be realized without tax increase simply by relieving current revenues of the burden of constructing capital improvements that may properly be financed through borrowing. Additional revenues may be realized without tax increases simply as the economy of the State grows and enlarges, at least with respect to those taxes imposed on a relatively elastic base capable of reflecting the economic growth. Still additional revenues can be realized without tax increase through a vigorous enforcement of the existing tax system. Finally, maintenance of the highest degree of operating efficiency within governmental operations will result in additional revenues available for expanded services without tax increase.

The financial future of *Virginia* will depend in part on the development of an appropriate borrowing structure for the State, and in part on the most efficient administration of the State government.

#### FOOTNOTES

1. Within the State organization, financial matters are handled by the State Corporation Commission and by various agencies in the executive branch of government. Included are the Department of Taxation, *Virginia* Alcoholic Beverage Control Board, Division of Motor Vehicles, and other agencies which charge fees, collect tolls, etc.

2. Based on *Opportunities for the Improvement of Virginia's Tax Structure*, *Virginia* State Chamber of Commerce (1962), p. 21 (hereinafter referred to as C of C Tax Study (1962)); Report of the Comptroller to the Governor of *Virginia* (1967), Statements Nos. 3 and 4 (hereinafter referred to as the Comptroller's Report (1967)).

3. *Ibid.* This type of information for *Virginia* cities has to be obtained privately through questionnaires, etc. By action of the 1964 General Assembly, cities were required to adopt uniform fiscal year accounting procedures satisfactory to the Auditor of Public Accounts, effective not later than July 1, 1966. Presumably, the effect of such adoption will show up in reports for the fiscal years on or after June 30, 1967, and will begin to be reflected in the State Auditor's Report for that period, usually published in December of the following calendar year. Acts of Assembly 1964, c. 426.

4. *Ibid.*, p. 27.

5. *Ibid.*, p. 27. Report of Auditor of Public Accounts (1966), p. 4 (hereinafter referred to as Auditor's Report (1966)).

6. Based on C of C Tax Study (1962), pp. 31-35.

7. For the fiscal year ending June 30, 1967, revenues (exclusive of temporary loans, proceeds from sale of revenue bonds, contributions to retirement systems, etc.) were \$1,129,582,208.19. Of this amount all taxes accounted for \$582,837,546.04 or 51.61%. If Federal grants of \$244,182,856.08 are excluded from the total revenue figure, then taxes accounted for 65.3% of the revenues from *Virginia* sources.

8. C of C Tax Study (1962), pp. 22, 23. Based on various Comptroller's Reports.

9. Income taxation in *Virginia* began at least as early as the 1770's, and an income tax has been levied on various classifications of income continuously since 1843. Stauffer, *Taxation in Virginia*, 98 (The Century Co., 1931).

10. Va. Const., 184-a. This section, added as a part of the 1928 revision, authorizes the State to incur debts for some single purpose constituting a new capital outlay distinctly specified in the law authorizing the debt, which law must be approved by the General Assembly. Thereafter, the question must be submitted to a referendum for a favorable vote. The aggregate amount of debts authorized in such fashion may not at any one time exceed one percent of the assessed value of all the taxable real estate in *Virginia*.

11. In 1816 the Board of Public Works and the Fund for Internal Improvement were created by the General Assembly. The first bond issue for subscription to internal improvement projects was floated in 1820, and from that time the level of State indebtedness increased gradually through a myriad of bond issues until the time of the Civil War. By the turn of the century, in 1901, *Virginia's* per capita indebtedness was third from the highest among all states.

12. The *Hampton Roads* Commission was created in 1922 by the General Assembly, and was replaced four years later by the State Port Authority of *Virginia*. In 1928, the General Assembly created the *Norfolk-Portsmouth-Norfolk County Bridge* Authority. None of these agencies were "true" authorities in the sense that we know them today, since they possessed either no legal or no practical power to borrow money. In 1942 the General Assembly created the *Elizabeth River Tunnel* Commission to replace the old Bridge Authority, and with the passage of this act, *Virginia's* first State Authority as it is known today came into existence.

13. Most authorities that have been created operate in the field of bridge and highway construction and operation, such as the *Richmond-Petersburg Turnpike* Authority, the *Chesapeake Bay Bridge and Tunnel* District, and the *Chincoteague-Assateague Bridge and Beach* Authority. However, there have been a few other authorities designed to engage in non-highway activities, such as the *Virginia Public School* Authority.

14. This authority was established in 1940 by the General Assembly, in the State Revenue Bond Act.

15. For the tax year 1966, all counties and cities imposed a levy on tangible personal property, but six counties and five cities did not tax machinery and tools. Sixteen counties and all but one city did not impose a levy on merchant capital. Similar differences in property taxation exist also in the real property area. There is also a lack of uniformity as to the tax rates and to the computation of the assessed value of the property to which the respective rates are applied. The product of the nominal tax rate times the assessment ratio yields the effective true tax rate imposed by the localities. For 1966, the true tax rates ranged from \$.33 (in the low county, *Surry*) to \$1.59 (in the high city, *Richmond*).

16. Total State and local tax collections across the country rose from \$56.7 billion in fiscal 1966 to \$61.2 billion in fiscal 1967 to \$68.9 billion in fiscal 1968. Moreover, in fiscal 1967, state and local tax collections in nineteen states totaled over \$1 billion each, including *Virginia*. On a per capita basis, three states in 1967 had per capita burdens of more than \$400 each; and twenty other states and the *District of Columbia* had per capita burdens of \$300 or more. *Virginia's* per capita tax burden was \$239.

## Marshall-Wythe Hosts Law Review Conference

(Continued from Page 6)

ed informal contacts through "open house" parties after the day's formal session had ended. Special recognition was given to The Michie Company, *Charlottesville, Virginia*, for underwriting the production of the Conference programs.

As an outgrowth of Justice Clark's presentation, members of the Marshall Wythe School of Law have entered into a new phase of legal work. The Legal Profession class of the School of Law has undertaken the study and research of the problem of *habeas corpus*. The results of this work will be turned over to the Federal Judicial Center in *Washington, D.C.* which is headed by Justice Clark. This program not only enriches a student's legal

knowledge but also gives him the chance to work in conjunction with other lawyers and an outside agency.

Other presentations given at the Conference included a speech by Donald R. Larrabee, Bureau Chief, Griffen-Larrabee News Bureau, *Washington, D.C.*, who has covered the *Washington* political scene for more than 20 years. Also included in the program was a panel discussion entitled "Are You Doing Your Thing." This was moderated by Dr. William F. Swindler, Faculty Advisor, *The William and Mary Law Review* and included Allan I. Mendelsohn, a *Washington* Attorney formerly of the Department of State and Donald Clifford, Faculty Advisor, *North Carolina Law Review*.

The schools attending were: University of *South Carolina*, University of *Maryland*, University of *North Carolina*, University of *Richmond*, University of *Virginia*, Mercer University, Emory University, *Washington* and Lee University, Catholic University of *America*, Wake Forest University, University of *Mississippi*, University of *Florida* and University of *Kentucky*.



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