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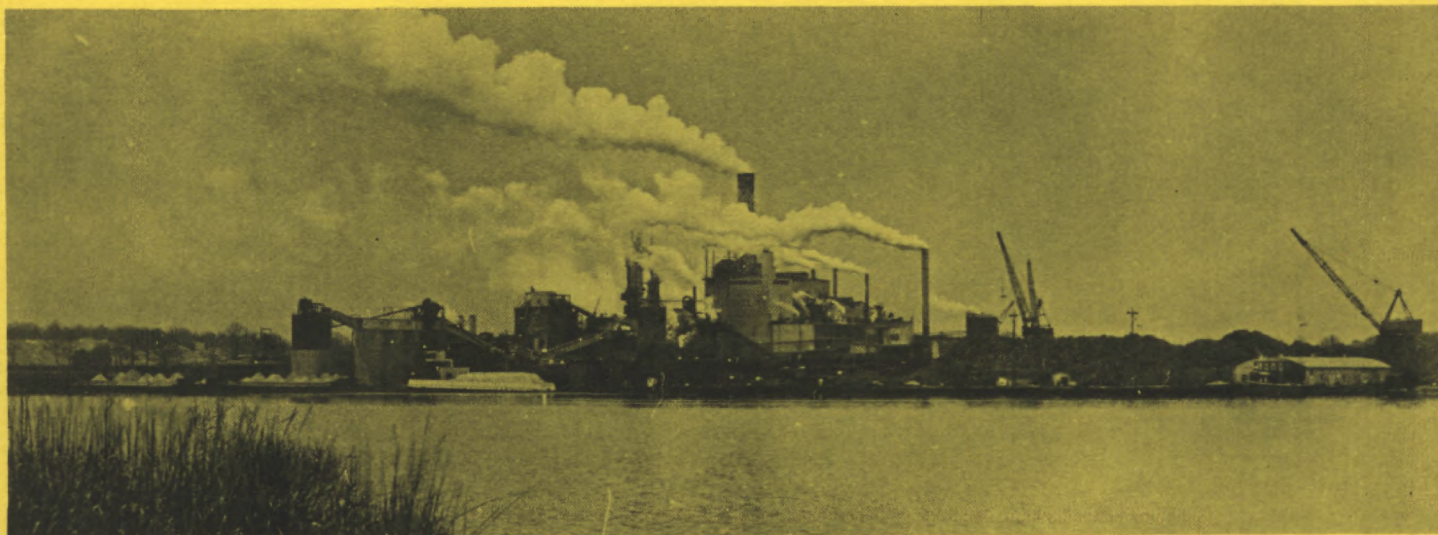
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THE COLONIAL LAWYER



How will Virginia Balance the Need?



Fall 1971

The Colonial Lawyer

Volume 3, Number 1

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NEWS BRIEFS

ENTERING CLASS — From over 1,200 applications, 179 students were registered at Marshall-Wythe on September 9, 1971. Associate Dean John E. Donaldson reports that this represents a 60% increase in applications as compared with a projected national rise of 40% this year. The entering class is divided almost equally between Virginia and out-of-state residents. Academically the class has a grade point average of 1.8 on a 3-point scale and a mean LSAT of approximately 604.

FACULTY RECOGNIZED — Two Marshall-Wythe faculty members have been honored nationally as "Outstanding Educators of America" this year. Professor Arthur W. Phelps has authored scholarly texts in the field of Virginia procedure, evidence, and domestic law. Associate Professor Robert E. Scott has made notable achievements in just three years as an instructor and as Faculty Co-advisor to the William and Mary Law Review. The "Outstanding Educators of America" is an annual program to recognize outstanding leadership and achievement in the field of education.

NEW LAW BUILDING — Dean James P. Whyte states that the law school has submitted a request for planning money for a new law building. The funds would meet architectural and engineering fees for a proposed building. The results of this budget request should be available from the Virginia General Assembly sometime in April of 1972.

LSD-ABA-

Rich Ashman, third year law student, was recently elected Vice-President of the National Student Bar Association.

Ashman was elected July 5 at the annual meeting in New York City over candidates from the University of Michigan and the University of Oklahoma.

The session was attended by over 300 delegates from 90 law schools

Ashman will administer the law school services fund of \$20,000 which is a matching fund program for local chapters working on various projects.

William & Mary was also honored by receiving the "Recognition Award" granted to schools with a student bar membership of 75%. The award was granted to only seven schools in the nation.

Additional representatives from Marshall-Wythe included Tom Revely, Ron Burgess and Allan Enderly-President of the local student bar.

FOR YOUR THOUGHT AND INFORMATION

This is an open column where the reader may express any of those fleeting thoughts of brilliance which we all have at one time or another. Address your thoughts or information to: Colonial Lawyer, Marshall-Wythe School of Law, College of William and Mary, Williamsburg, Virginia, 23185. Please be as concise as possible.

* * * * *

We have four law schools in Virginia. The following is a breakdown of population and number of courses available.

	Students	Courses	Seminars
Marshall-Wythe	400	46	6
Washington and Lee	200	53	0
University of Virginia	750	101	40
T. C. Williams (Richmond)	200	38	0

* * * * *

Effective July 1, 1971, Virginia's new constitution includes many changes which we hope to report on at a later date. Among the most needed was a reference to the right of the people to a clean environment. We quote from Article XI Sec. 1: "To the end that the people have clean air, pure water, and the use and enjoyment for the recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands and its historical sites and buildings. Further it shall be the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment, or destruction for the benefit, enjoyment and general welfare of the people of the Commonwealth.

* * * * *

Florida has recently passed a new set of divorce laws, often referred to as "No-Fault Divorce." Under this new system the court is only required to find the relationship "irretrievably broken." Also, Men's Liberation has struck a blow for freedom as the husband will receive equal consideration for custody of the children and alimony. Perhaps it is about time for Virginia to reconsider its divorce laws.

* * * * *

If you really want to stop prostitution, simply arrest both parties, after all, as my mother always said, "It takes two . . ."

* * * * *

Public utilities are supposed to exist for the benefit of the people, but somehow, after about the third rate increase, one begins to believe that the utility officials have justified an existence independent of the public. As a restraint that is due the public, the State Corporation Commission (who rules on the rate increase) should have access to the utilities financial records and make their results available to the public anytime they seek a rate increase.

"BY THE PEOPLE . . ."

Virginia Election Law

— E. Powell

The root of the governments by and with which the people of the United States live is the ballot. Year by year, by machine or paper ballot, the citizens of all the electoral units of the nation select those individuals who, at least in theory, will serve them in thousands of capacities, both small and great.

The process by which the government is chosen is delineated in each state by the legislatures. In its last session, the legislature of Virginia substantially revised and tightened the election law of that jurisdiction.

Virginia, like many of her sister states, has had to deal with both the elimination of election frauds and an increasing voting population, which is not only more numerous, but more mobile. The legislature has taken steps to correct the problems in both these areas.

One of the greatest invitations to abuse in any election is the casting of absentee ballots. "Black satchelling" these ballots has been a known practice in some areas of the state. The worker with the black satchel approaches the voter, provides him with an application for an absentee ballot, or the ballot itself, sees how it is voted, and then makes sure it is returned. If the worker is buying votes, it is his greatest insurance that he gets what he pays for. If he simply wishes to insure that "his people" are doing right by old State Senator Whatever, he achieved that goal as well. The black satchel destroys the secret ballot.

The new Virginia law makes real inroads on such practices. First, only those with a bona fide reason for being physically unable to reach the polls on election day may cast an absentee ballot by mail. This category includes the ill or physically handicapped, military personnel on active duty, business persons who are regularly employed outside the United States, such as the merchant marine, and students and their spouses who are away from their regular residence.

Those voters who are absent from the district on election day because of business or vacation or other personal reasons must appear in person at the office of the registrar and cast their ballots before that officer. This in person requirement not only simplifies the administrative procedure, but, if enforced, should help to eliminate problems of absentee vote fraud.

Tombstone voting, and its relatives, takes a serious blow with the institution of a mandatory automatic purge of the Virginia voting lists. As of December 31,

1974, and annually thereafter, the name of any voter who has not voted at least once during four consecutive calendar years will be purged by the general registrar. This annual automatic purge is badly needed in areas like Tidewater and Northern Virginia where the transient population is large. As families move to another state, they may re-register without notifying the Virginia registrar. Those "Deadwood" names remain on the lists, an open invitation to fraud. In a recent Charlottesville election, won by one vote, party members checking the rolls found that a woman, born in 1840, had voted in 1970. She did not come forward to have her picture taken for the news media.

Until this time, voter registration rolls have been held by local electoral boards and registrars, with little state supervision. Under the new law, by October 1, 1973, the State Board of Elections is to set up a computerized central registration system.

With this in mind, social security numbers are being collected throughout the state. The process of guaranteeing that no person is registered in each of several neighboring electoral units has been extremely inefficient, and a laborious process for election officials and voters alike. The computer system should ease the strain.

Virginia's new law also moves toward recognizing the mobile voter by reducing the residence requirements for registration. Under the old law, a citizen had to be a resident of the state for one year, the city or county for six months, and the precinct for thirty days. The new law specifies six months in the state, and thirty days in the precinct. There are also special provisions for presidential elections where the citizen leaves the state during the thirty days prior to the election. (The voter may return and vote only for presidential electors.)

An important change has been made for the military population. Under the old law, a military person did not have to appear to register to vote. He could appear at the polls, sign an affidavit of residence, and then cast his ballot. The new law requires all military personnel to register, although military casting absentee ballots may also register by mail.

Because it is far easier to tamper with paper ballots, citizens will be pleased to note that Virginia now requires most localities to acquire voting machines, with 1976 as the cut-off date for all precincts having more than 500 registered voters.

Students of election laws will notice many other small but important changes in Virginia's rules. Some improvements appear only in instructions issued for the State Board of Elections. This brief review can only note the major changes. However, the people of Virginia are to be commended for their efforts to bring their electoral process into the twentieth century. A major step has been taken.

THE WETLANDS:

Earth's Precious Reservoir of Life

How much do they weigh on Equities

balance of economics v. ecology

David Favre

Virginia has 5,432 miles of shoreline, which includes 196 miles of sand, 472 miles of residential or industrial development, 2,045 miles of dry shore, and 2,719 miles of marsh. While almost everyone is familiar with the sand beaches and dry shores, few understand the role that marshes play in the coastal environment. The purpose of this article is to give the reader a broad understanding of what the marsh and wetlands are, their value, and to introduce some of the legal problems involved with protecting the marsh.

In both conversion of sunlight to plant food and support of a vast variety of animal life, the marshland is one of the most productive environments found in nature. It also forms buffer zones between saltwater tides, freshwater, and dry land. Although there is some dispute as to what legally and biologically constitutes a wetland, it is generally agreed to be that land found between the average high and low water marks of any tidal action. While this is certainly the heart of the marsh, there are also lands above and below this elevation which are an integral part of the ecology.

The marsh is normally a large flat area which receives a continuous daily wash of nutrients and sediment from the sea (which acts to suppress "algae bloom," such as red tides) and the fresh water streams. In this bed of nutrients, many plants unique to marshland provide food, shelter, and nesting grounds for thousands of birds and wild animals. It has been estimated by the Virginia Institute of Marine Science that the production of the Virginia Marsh varies from three to ten tons per acre per year (wheat yields 1.5 tons and the best hay lands 4 tons). The largest value of these plants is after they have been broken down

into smaller, edible bits by the yeast and bacteria of the marsh. This forms a vast food base for insects, fish, shrimp, crab, oysters, clams, etc., which in turn form a food base for larger creatures, including man.

Value of the Wetlands

For many people, the value of the wetlands lies in their potential for a housing development or industrial site. In opposition to this school of thought there have been several attempts to give a monetary value to the marsh, but knowledge of the interaction of the living web is so primitive that estimates have varied from \$78 to \$525 per acre per year.

Some of the products that come directly from the marsh include oysters, clams, shrimp, a variety of waterfowl and the pelts of mink, otter, muskrat, and raccoon. In Virginia alone, several million dollars were spent last year by people participating in saltwater fishing and the hunting of waterfowl. It has been estimated that 80% of the saltwater fish, caught either commercially or by sportsmen, spend some critical part of their lives in the marsh environment, and, of course, without the marsh, the waterfowl could not exist.

Over and above the actual dollar return of these lands, however, we must realize that it is impossible to give a monetary value for much of the marsh. It is difficult, for example, to put a price on peace and quiet, marred only now and then by the call of exotic birds. Who can say what it is worth to watch a white egret, not in a zoo, but stalking through its native habitat? Also, how does one put a dollar value on the role the marsh plays in keeping the salt water away from high ground or its ability to absorb flood waters?

Legal Problems

Perhaps the largest problem in protecting Virginia's wetlands lies in determining who owns them. In many other states this poses no problem as the state has consistently claimed control of waterways up to the high tide mark. This is also true of the Federal government which claims regulatory powers over navigable waterways up to the high tide mark. But in the beginning of Virginia's history there were a number of land grants from both the London Company and the Crown which made vague reference to the shore boundary and, in 1819, the Virginia Legislature passed a statute making the boundary of privately owned lands at the average low tide mark. In 1904, the Virginia courts declared that riparian land owners had several "rights," including: A) a "right of way" from their property to navigable water, B) the right to build private piers or wharfs subject to state regulation, C) the right to claim, in fee, land formed by accretion or alluvium, and D) to make reasonable use of water flowing past their land.

All of this amounted in reality to no limitation of a property owners use of his land. Recently the state has required that before a person can commercially develop property in tidal areas, he must acquire a permit from the Marine Resources Committee. However, this committee is not empowered to save the wetlands, only to control pollution of the waters by that which is built on the destroyed wetlands.

If it is conceded that Virginia land owners have a property interest in the wetlands (it could be argued

Perhaps the largest problem in protecting Virginia's Wetlands lies in determining what constitutes a Wetland.

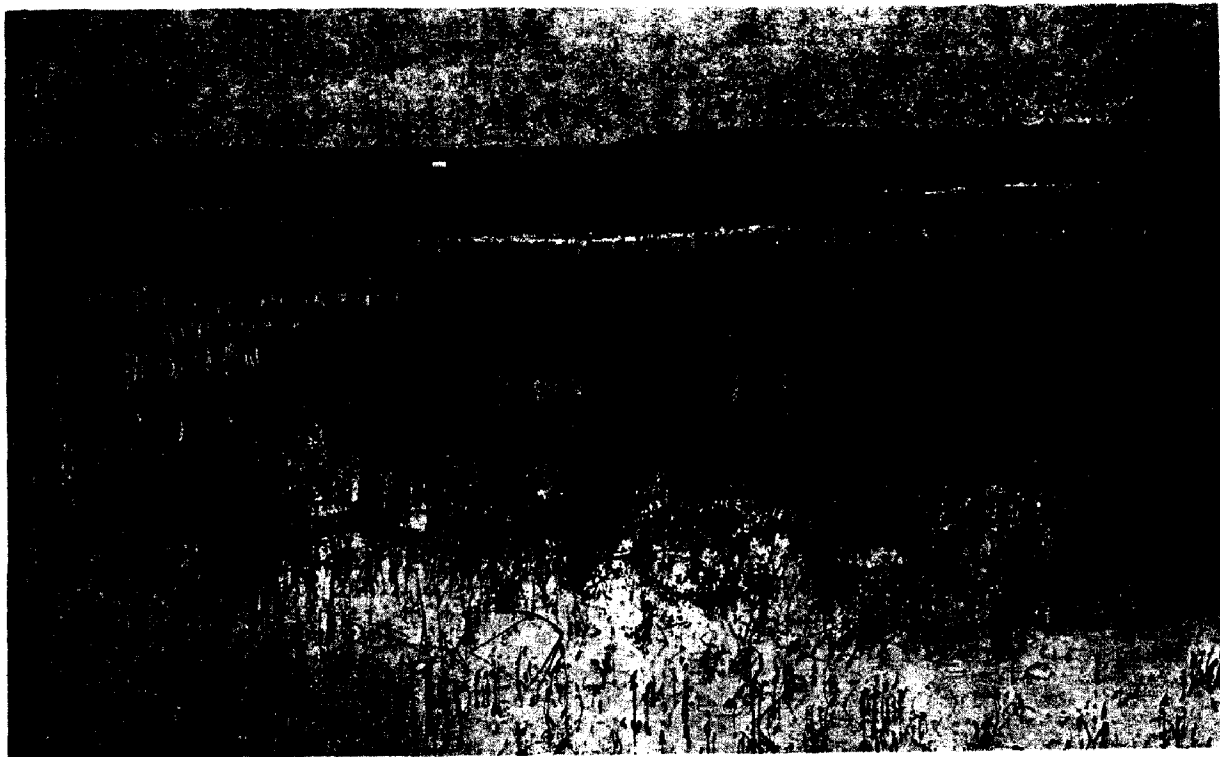
that their interest is that of a mere licensee, revocable at will by the legislature), then how can the state control the private use of them? Inherent in the concept of the State is that of Police power, which would include the power to regulate the use of land for the good of the public. This has been practiced for many years by the use of zoning, but even where land is zoned the owner is allowed some type of development upon it. However, the wetlands can tolerate no commercial development. They must remain as nature built them. Thus, if a certain area has been determined to be necessary for the ecological balance of the coastal estuary, the state will have to refuse the request of any owner therein for any type of commercial or private development; even a simple road may seriously harm a marsh area.

Now the question arises: does this constitute the taking of land by the state without just compensation? Since this is a strong possibility and most will admit that the brunt of burden of a wetlands statute will be born by the individual land owner, it would only seem fair that the state be capable of giving financial relief to the riparian owner. To accomplish this there are several possibilities: A) the agency charged with protection of the wetlands could also have the power to eminent domain, B) the state agency could be allowed to purchase easements of wetlands where purchase of the land is prohibitive, and C) there could be a reduction of property tax for those owners willing to retain their land in its natural state.

Conclusion

At this time, Virginia is the only state on the eastern seaboard without any type of protection for the wetlands. The Corps of Engineers is currently doing a much better job of protecting our wetlands than we are. The necessity exists. May the next session of the Legislature see a statute passed which will allow us to do the job properly.

There were three basic sources for this article, all of which I would highly recommend to anyone interested in the subject: CHESAPEAKE BAY IN LEGAL PERSPECTIVE, by Professor Garrett Power of the University of Maryland Law School (Dept. of the Interior, March, 1970), LIFE AND DEATH OF THE SALT MARSH, by John and Mildred Teal, Ballantine paperback, and finally, COASTAL WETLANDS OF VIRGINIA, a report put out by the Virginia Institute of Marine Science, (December, 1969).



New Wine In Old Bottles

CURRICULUM REVIEW

—BRIAN BROMBERGER

The growth and expansion of the Marshall-Wythe School of Law has brought with it many of the difficulties which confront other law schools throughout the world, not the least of which is how and what to teach. These difficulties arise because the aims, ambitions and backgrounds of the students become more varied as their numbers increase and because there is the desire on behalf of most legal academics to meet these aims and ambitions within the framework of the law school. At the same time it must be noted that within the law teaching profession, there are variations in ideas as to the function of a law school. There are those who see a law school as an institution for the training of people for the practice of law and there are those who believe that the function of the law school is multi-purposed and any curriculum must be designed to meet many requirements. The following takes the second view as given and is only designed to suggest some problems and ideas in an admitted incomplete manner, which I believe arise out of this concept.

If there is to be an analysis or evaluation or projection of any law school curriculum, it is necessary to begin with the initial premise that nothing is sacrosanct; not the three-year law school, not the first-year curriculum, not the course divisions or the casebooks that we, as teachers, know and respect. If a projection for the future is to be meaningful, new and old teachers alike must be prepared to face the fact that what we have been teaching and what we would like to teach may not, in fact, be terribly significant in an ideal scheme of legal education. This means that we must be prepared to spend a considerable amount of time deciding why we teach the courses we do and in the manner we do.

Why do we teach torts, or contracts, or property as separate courses, and why in the first year? Why do we teach consideration in contracts, or *Adams v Lindsell*? At each of these levels of abstraction, we must justify what we are teaching to ourselves, to our colleagues and to our students.

It may turn out that most of what we presently do will merit retention, but if this occurs it will be by coincidence and if any curriculum study is to be

worthwhile, we, as teachers, must be prepared to sacrifice some very familiar life patterns.

The fundamental question is: Who are we trying to educate? The substantial changes which have occurred at law schools across the country makes the answer to this question almost impossible. We have only the remotest idea of what kinds of jobs our future graduates will hold down during their professional careers. We do know that the change in the composition of this law school will mean that the interests and career plans of the students will be far more diverse than they were twenty years ago. It is our job then, to reassess what we are trying to teach our graduates to be. It is possible at this stage to introduce some categories. There will be the general practitioner who we are training to be able to handle a typical small office with its wide range of typical problems presented by typical individual clients. There will be the specialist practitioner, who will move into a larger firm and spend most of his time drafting wills, creating and dissolving charitable corporations, negotiating labor contracts or transferring real property. There will be the policymaker in business and legislature. There will be the scholars who are interested in the workings of the legal process as a means of solving society's problems and analyzing its structure and development. Lastly (for the purpose of this paper), we are simply training people to be better able to understand events because of their exposure to problems of government and lawmaking in all its forms.

It is the prototype of the type of person we are trying to turn out from law school that must determine the content of the law course which we offer.

I would suggest that no matter into which group an individual student placed himself, there would be some common thread in his legal education. Each student must be given an introduction to the legal process, the various institutions created by society to resolve its disputes, and should also be given training in "thinking like a lawyer." This would include respect for facts, ability to analyze and synthesize cases and an habitual skepticism toward undocumented assertions and generalizations. It is suggested that this can be quite adequately carried out in the

first year of law school and from thereon the paths of our prototypes would diverge, but nevertheless, it must be remembered that the law school is training lawyers. The determination of what makes a lawyer discernibly different from the political scientist will largely dictate the way in which these divergent paths are trodden. It has been suggested that a lawyer possesses a particular attitude toward the handling of facts given to him by others and if we can discover any other attributes which we want to cultivate, we can understand better what it is we want to teach and how we should do it.

WHY THE THREE YEAR LAW SCHOOL?

Almost fifty years ago the American Association of Law Schools wrote the three year law school into 'law' and made it the basis of its system of accreditation. The A.A.L.S. also required that each student must have the equivalent of two years of college prior to his admission into law school. It is worth noting that until well into the 1930's, most law schools were accepting students who had only obtained a high school diploma. In this context the three year law school takes on an entirely different hue. Today, of course, things are vastly different. Students come to law school with four years of college training and many come with advanced academic degrees. The construction of the three year format cannot be justified by the same reasons that existed fifty years ago. If we try to justify the three year program on the basis of the introduction of new fields of law, then

“ . . . New and old teachers alike must be prepared to face the fact that what we have been teaching and what we would like to teach may not, in fact, be terribly significant in an ideal scheme of legal education.”

new questions become apparent. Why must we teach every law student these recently evolved subjects and, if these subjects are evolving so rapidly, is it realistic to believe that that which we teach now will be of value in five years time? It may be that the present justification for the three year course is purely pragmatic. The third year helps finance the enterprise; if we abandon it we would lose our A.A.L.S. accreditation, and our student bar admission in practically every state would be in jeopardy.

WHY THE PRESENT FIRST YEAR STRUCTURE?

Langdell believed that the subject matter of our familiar first year curriculum was basic to the science of law. Now, more than seventy-five years later, we have substantially the same curriculum. [It should be noted here that the introduction of the Adminis-



Professor Bromberger is a new addition to the Marshall-Wythe Faculty. Having taught previously in Australia where he was born, he has been in the U. S. only three years, one of which was as a professor at the University of Pennsylvania.

trative Law and Legislation course in 1971 at this law school shows a moving away from this philosophy.]

It is suggested however, that the subject matter is really only the vehicle which carries the purposes of the first year program. During his first year the student should be made familiar with legal institutions — their purposes, methods, limitation and development. It has been long accepted that an intensive consideration of one institution, the judiciary, was preferable to that of a rounded picture of them all — judicial, legislative and executive. The inadequacy of the former is especially true today when more and more law is being created by the legislative and executive-administrative branches of government. The first year should include skill training. Traditionally, the emphasis has been upon the skills of case analysis, but should we not at least try to introduce other lawyer-like skills? We can only justify our exclusive diet of case analysis, if it is indeed the most fundamental, and takes two semester, in all first year courses to complete. This assumption is at best doubtful. Would it not be more economical to use a part of the first year program, maybe two or three courses, for this purpose thus creating time for a concentration in other skills. It is not suggested that the other courses should totally ignore it, but rather de-emphasize it and thus give a more accurate picture of what it really means to “think like a lawyer.” Training in lawyer-like skills and acquaintance with different legal institutions can be carried out by selecting from an enormous number of courses. What makes a particular subject matter especially appropriate for inclusion in a first year curriculum? The subject matter is especially appropriate for instruction in a particular skill or institution, (e. g. in civil procedure, the historical emergence of the equity court and equitable remedies.) The sub-

(Continued on Page 12)

SCHOOL INTEGRATION:

RECONSTRUCTION REVISITED, OR A MATTER OF BLACK AND WHITE

—NATALIE C. GILLETTE

The current legal struggle over public school integration began with *Brown* seventeen years ago. The Supreme Court found that "separate educational facilities are inherently unequal."¹ They said that since the state undertakes to provide education for all children it must provide it to all on equal terms. Even though the "tangible" factors may be equal, segregation of blacks "solely because of their race generates a feeling of inferiority . . . that may affect their hearts and minds in a way unlikely ever to be undone," and that the "sense of inferiority affects the motivation of the child to learn."²

As the subsequent history has shown, the *Brown* decision left many questions unanswered. The only mention of *de jure*, as opposed to *de facto*, segregation came in a quote from the lower court, which had said that segregation "with the sanction of law" was of greater psychological harm than that without.³ The Supreme Court itself spoke only of the inherent unconstitutionality of segregation and the necessity for its elimination with "all deliberate speed."

Most of the other difficulties that have plagued school integration were foreshadowed in *Brown* as well. The lower courts were ordered to appraise school board plans and to retain jurisdiction until a workable plan was put into effect. The burden to show good faith compliance was put on defendant school boards. The courts in their appraisals of plans were to consider the physical condition of the school plant, the transportation system, personnel, revision of attendance zones and school districts, and local laws and regulations. The unconstitutional discrimination was to cease; but the law had embarked on one more treacherous quagmire of definition, and the Pandora's box of methods was opened wide.



Busing

Recent cases are in agreement on one vital point. The time for deliberate speed has passed; integration is required now.⁴ Most other questions, including how to accomplish desegregation, remain in conflict. The one criterion consistently applied has been simply, "Does it work?"⁵ but some courts have refused to make this their prime consideration.⁶

... "Despite the current furor over busing, the methods of integration raise far less important legal questions than the definition of what, exactly, is unconstitutional..."

The most controversial method urged has been busing. Some courts have refused to order busing to achieve integration even when no other method was possible.⁷ The anti-busing provision of the Civil Rights Act of 1964⁸ has been largely ignored. One court recently construed that statute as refusing any new power to the courts, but not as precluding their ordering desegregation plans which happen to include busing.⁹ Other courts have ordered busing plans without reference to the statute, including the Eastern District of Virginia.¹⁰

The Supreme Court's unanimous decision in *Swann*¹¹ supports these orders. The *Swann* decision's strong call for elimination of all vestiges of state-imposed segregation in public education plus its statement that busing is not unreasonable can be construed as a mandate that busing be ordered when necessary to eliminate vestigial segregation.

While Nixon's recent statements opposing busing may reduce the vigor of H.E.W.'s insistence on busing plans, the courts are less likely to bow to the President's wishes. Even if Nixon acceded to the demonstrators' demands to order an end to busing for integration purposes, which is highly unlikely, black parents would doubtless bring new court actions, and

courts would make the same kinds of orders they have been making. Faced with a choice between contempt of court and disobedience of Nixon, school boards would obey court orders, since the President could not enforce his order effectively and the courts can. Nixon's views and Governor Wallace's proposed legislation in Alabama may delay integration by busing, but are not likely to stop it. A constitutional amendment could of course, but seems unlikely to be adopted. In any event, integration and busing need not, in most cases, rise or fall together. Redrawing school districts, for example, can have the same effect

De Jure and De Facto

Despite the current furor over busing, the methods of integration raise far less important legal questions than the definition of what, exactly, is unconstitutional. No one yet has answered the question clearly for *de facto* segregation. If all-black schools are inherently unequal, is public support of an all-black school discriminatory state action in itself? If not,

"... is it not time for the law to admit that an all-white school can be perfectly constitutional but that an all-black school denies equal protection of the laws..."

what activities of state and local governments — such as residential zoning, placement of public assistance housing, and site choices for schools — are to be considered legal causes of segregated schools?

The Supreme Court relied on psychological evidence in finding that segregated schools are inherently unequal.²³ Psychologists, despite the Court's suggestion that *de jure* is worse than *de facto* segregation, agree that segregation impairs self-esteem and motivation to learn no matter what its cause.²⁴ Some courts have adopted that finding.²⁵ Most often, however, the law insists on finding some state action beyond the fact of all-black schools.²⁶

In a recent Virginia case, the court saw differing requirements directed to formerly *de jure* segregated schools and those segregated only *de facto*: there is a negative mandate to the latter to end "effective exclusion" of blacks from white schools, while the former have an affirmative duty to correct the segregation caused by earlier statutes.²⁷ The suggestion seems to be that where state action causing segregation was avert, the state must act to integrate the resulting all-black schools, but where it was and is more subtle, the state must only cease its discriminatory policies. The idea seems at best to be very odd. One could easily argue that the result would be an unlawful discrimination against the southern states, and our country's reconstruction policy is, hopefully, a thing of the distant past.

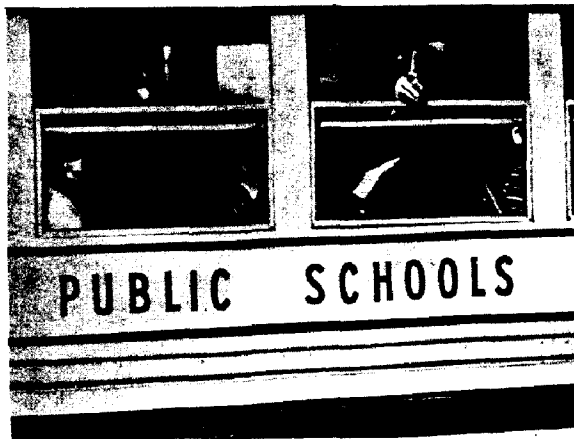
The Supreme Court's *Swann* decision does not settle the question.²⁸ The opinion does clearly state that one-race schools are not *per se* unconstitutional, but it is not at all clear what constitutes state action. Deliberately maintained "dual school systems" may require "awkward, inconvenient and even bizarre" remedies, but once the damage is undone there may well be no further need for legal measures to enforce integration. On the other hand, the Court expressly declined to decide whether or not other state action than that of school boards can create unconstitutional segregation. If school board action is state action, as the latter clearly implies, then the Court has not said that any states where segregation was once required by law are now obliged to integrate the schools, despite the equally clear implication to the contrary in the former statement.

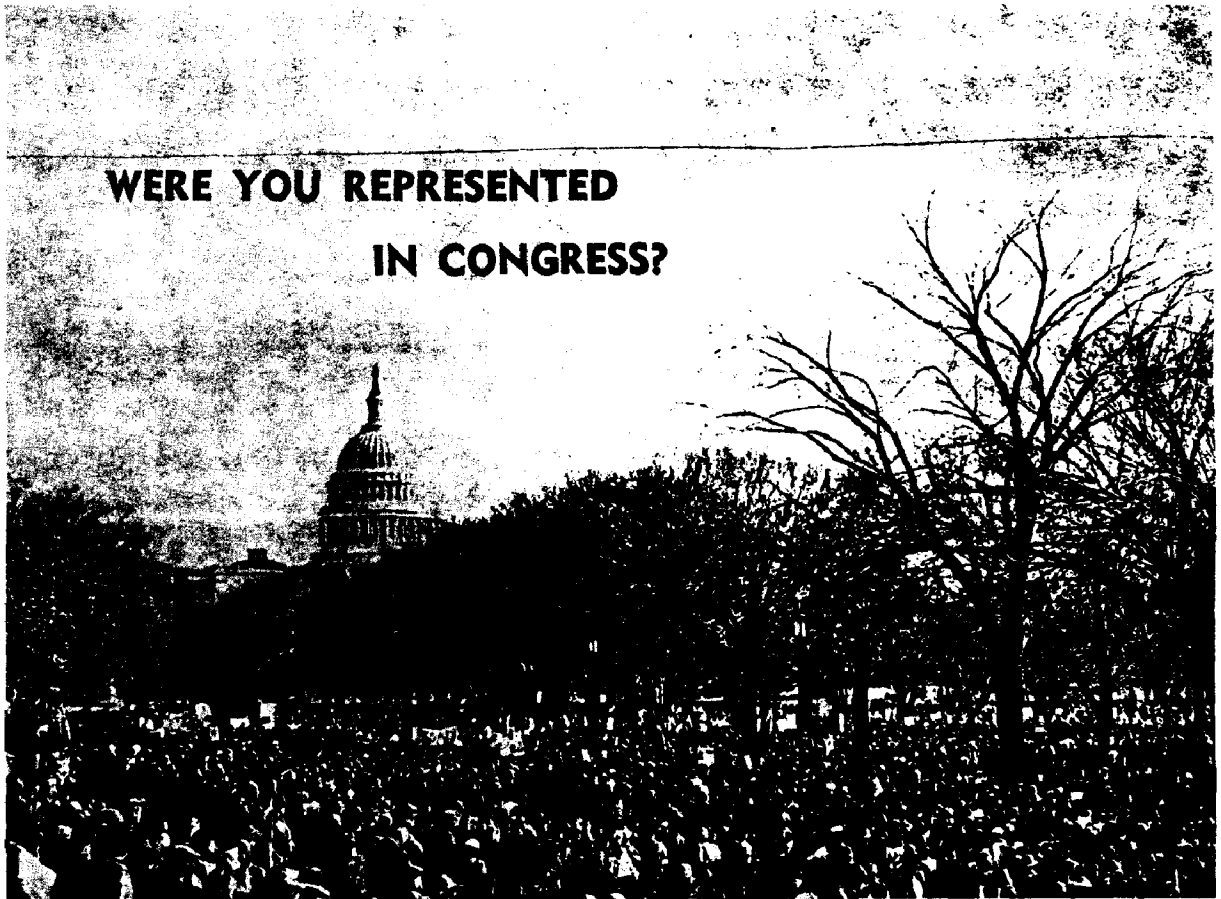
The executive branch of our government, in the form of the Department of Health, Education, and Welfare, has attempted to fill the gap from another direction.²⁹ So has Congress.³⁰ Both provided that no federal financial aid would be given to any program or activity that discriminates on the basis of race. Both clearly apply to schools everywhere in the country, but they are still not as much help as might be expected. Neither the statute, which the courts, of course, must follow, nor the non-binding guidelines define discrimination, but, as usual, leave that task to the courts, and the courts are far from any consensus.

In Congress last spring, Senator Ribicoff proposed establishment of a time-table and suggested methods for metropolitan integration,³¹ but he labelled his proposal a "policy," and, even if it is passed, it is unlikely to be more definitive than current law.

The school boards have not done well at taking the initiative required of them by *Brown*.³² Judicial review of each case on its own merits presents many difficulties. When school board plans are inadequate, the court must retain jurisdiction and rule on the next plan the board devises, a process which can continue for years, and, when a case is appealed, it is sometimes too late to enforce a specific ruling for a specific school year. At least one court has concluded, despite the Civil Rights Act of 1964 and the H.E.W.

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WERE YOU REPRESENTED IN CONGRESS?

This is meant to be a continuing column where the results of those November elections show up in their final form, the recorded votes of the House and Senate. This is just a sampling of all the votes taken, but hopefully enough to aid you in deciding if your elected officials are representing your point of view. These examples were selected from the votes taken between January and the August recess of this year.

	1	2	3	4	5	6	7	8	9	10	11	12
SENATE												
Byrd	*	Y	N	Y	Y	Y	N	N	N	N	Y	N
Spong	Y	N	N	Y	Y	Y	Y	Y	Y	N	Y	N
HOUSE												
Abbitt	*	N	N	N	Y	N	N	N	N			
Daniel	Y	N	N	N	Y	N	N	N	N			
Downing	Y	N	N	N	Y	Y	N	N	N			
Marsh	Y											
Satterfield	Y	N	N	N	Y	N	N	N	N			
Broyhill	Y	Y	N	N	Y	N	Y	Y	Y			
Poff	*	Y	N	N	Y	*	Y	Y	Y			
Scott	Y	N	Y	N	Y	Y	N	Y	N			
Wampler	Y	Y	N	N	N	Y	Y	N	Y			
Whitehurst	Y	N	N	N	Y	Y	N	N	Y			
Robinson		N	N	N	Y	N	N	N	N			

Y — a vote for
 N — a vote against
 * — not present

BOOK REVIEW -

"WOODMAN SPARE THAT TREE . . ."

—by E. Powell

Defending the Environment — A Strategy for Citizen Action. Joseph L. Sax. Knopf, N.Y. 1971, h.b. \$6.95.

After you have read all the books on the news stand that say all those things about pesticides and sewage, litter and eutrophication, and you begin to watch the world deteriorate around you from your bicycle seat—this book is where the action is. The title is deceptive; the book is more a suggestion of a remedy than strategy, more analysis of the reasons for citizen impotence than a setting forth of things to do while you wait for the bulldozers.

The author, Joseph Sax, is a Professor of Law at the University of Michigan, who is working to revise the law of environmental protection. Specifically, he has written a law which establishes court actions for citizens by which plans for buildings, highways, airports, etc. can be remanded to the legislature, enjoined, or subjected to a moratorium by court order.

Sax is not alone in his mistrust of administrative agencies, but he may be alone in his approach to that mistrust. No agency, by Sax's standards, can truly defend "the public interest." Agencies are cumbersome, subject to political pressures, victims of the 'insider perspective.' Agencies make strings of excep-

tions to rules until the rules themselves have disappeared.

Sax sees the courts as the only place sufficiently objective to truly defend the environment, and the initiative of the private citizen the best repository of the "public trust." It would be hard not to agree.

The case is made in the opening pages of the book by a detailed report of the fight to save a part of the Potomac estuary called Hunting Creek. Before the reader's eyes, Senator's aides, Congressmen, and Governor's of Virginia wind a dance around bureaucrats watching their own interests and the media. A famous wildlife reporter and a little old lady on the telephone, hearings, the whole gamut of pro and anti forces pick and ramble through years of decision. It would be unfair to announce the winning side in this review, and perhaps it would be impossible.

The State of Michigan has adopted Sax's law. Its passage has been noted approvingly by such giant's of the media as the *Wall Street Journal*, and *The New Yorker*. It seems that other legislatures should carefully consider the citizen's remedies in their states, and the passage of the same or similar legislation.

The case is well-made, the book is readable, if somewhat repetitious. It should be on the reading list of all ecology buffs.

Senate

1. Voting Rights Amendment — to lower voting age to 18; adopted 64-17.
2. Nomination of G. Harrold Carswell; rejected 45-51.
3. McGovern-Hatfield Amendment — limiting the number of troops in Viet Nam after April 1, 1971; rejected 39-55.
4. Amendment deleting funds for the SST from budget; adopted 52-41.
5. Vote to table the "Home Rule" amendment for Washington, D.C.; adopted 68-23.
6. Resolution proposing the Constitutional Amendment to lower the voting age to 18; adopted 94-0.
7. Amendment to extend the draft for one year instead of two; rejected 43-49.
8. Amendment to Draft Bill declaring that it should be the U.S. policy to leave Viet Nam at the earliest possible date—within 9 months of enactment, subject to release of all POWs; adopted 61-38.
9. Emergency Public Service Employment Act, \$2.25 Billion; adopted 75-11.
10. Amendment deleting the space shuttle program and other reductions in NASA budget; rejected 22-64.
11. Amendment to limit the subsidies of farmers to \$20,000, except for wool or sugar; rejected 29-56.
12. Amendment to increase funds for school lunch program by \$16.9 Billion; adopted 56-28.

(Continued on Page 12)

Curriculum

(Continued from Page 7)

ject matter is such that it presents certain concepts which are so fundamental that an educated lawyer must have an acquaintance with them (e.g. proximate cause, reasonable man). The subject matter affords a suitable starting point for more advanced courses in later years. The subject matter is exciting or easy to grasp and acts as a source to an otherwise strange and difficult and sometimes dull bill of fare.

With these facts in mind, various aspects of various courses lose their significance. Can we explain the usual presence in contracts of public reward offers, offers which lapse or are subconsciously revoked or cross in the mail, or the supposed Constable which turns out to be a tenth grader's examination project, on the basis that they provide the student with a better way of learning to "think like a lawyer" than would a dozen other conceivable first year courses. It is quite possible that this approach would result in the first year curriculum looking very little like the way it does at the moment. Some courses which have traditionally been second and third year electives might leap to the fore as being eminently suitable for a first year course. An example of this could be a course in Family Law.

FAMILY LAW

The Family Law course would uniquely expose the student to a range of problems otherwise wholly ignored in the typical first-year curriculum. First, it offers the opportunity to examine the relationship between the individual and the state in an area of special sensitivity and interest: the individual as he relates to those within the family unit. The problems are thus quite distinct from the usual problems of government regulation in the more commonly explored examples of the accused criminal or the interstate business. Second, the law is developing afresh at the intersection of family law and constitutional law. The course provides an excellent vehicle for extrapolating the doctrines of due process, equal protection and the like — into such problems as illegitimacy, privacy, custody and welfare. Third, the course is also a natural vehicle for the introduction of learning from the behavioral sciences, not only psychiatry but also sociology, criminology and economics. Fourth, and related, the types of written materials with which the students will deal can more readily diverge from the usual judicial fare, so as to include, for example, transcripts of proceedings and interviews, evaluations by psychiatrists, source material in the behavioral sciences. Fifth, the course affords an opportunity for a special kind of skill-training which the law school has notoriously neglected (at least as required learning): interviewing and counseling. It appears undeniable that not only are these activities ones in which the lawyer will be engaged, but they are also in themselves worthy of investigation and analysis as part of the process of learning about the legal profession and the legal system. Sixth, the student is forced to examine certain basic assumptions about the role of lawyers and the viability of the adversary system in solving what is classified as a "legal" problem but which obviously has broader social and scientific implications. Seventh, the course offers an unusual opportunity to explore problems of legal ethics. Eighth, the subject matter of the course is much more likely

than most traditional courses to evoke an emotional response on the part of the student, since many of the problems have moral overtones and many indeed are problems which actually have touched the lives of our students. It is valuable for the student to have these emotional responses confronted and channelized within the broader framework of reason and of legal institutions.

A course in family law has some drawbacks. I doubt that the subject matter itself is so fundamental and pervasive that it can be said to be an indispensable part of every lawyer's intellectual training. There is also a risk in offering such a course in the first year—where the great emphasis is otherwise upon rigorous case analysis — that students will take less seriously any course in which that type of analysis plays a relatively small role. While that risk cannot be eliminated altogether, it is likely to be minimized by the existence of other first-year courses which depart somewhat from an exclusive emphasis on case materials. This is not intended to be a plea for the introduction of Family Law into the first year curriculum (although it may indeed be suitable). Family Law is only used here to show the need for continued and continual reappraisal of the offerings of a typical law school so that it provides a legal education that is both sound and relevant.

(Continued from Page 11)

House

1. Vote to table the motion instructing the House Conference to accept the Senate's rejection of SST funds; adopted 216-203.
2. Amendment to delete SST funds; adopted 216-203.
3. Amendment extending draft for 1 year instead of 2; rejected 198-200.
4. Amendment to continue the present two year alternative service for Conscientious Objectors instead of the proposed three year term; rejected 132-242.
5. Revival of SST funds for building of prototype; adopted 216-203.
6. Resolution to stop the railroad strike with a 13.5% pay increase; passed 264-93.
7. Welfare Social Security Bill, increasing benefits and establishing a national family assistance program for incapacitated or unemployable adults; passed 288-132.
8. Amendment setting \$20,000 limitation on subsidy payments to farmers, except sugar and wool; adopted 214-198.
9. Bill providing an administrative assistant for Chief Justice of U.S.; passed 263-139.

Integration

(Continued from Page 9)

guidelines, that more help is needed from the executive and legislative branches of the federal government; "the courts acting alone have failed."²³ It is little wonder, for no one has defined what they are required to do.

Black and White

There is one distinction which is openly made by scientists, but which the law has shied away from. Psychologists tell us that all-black schools are injurious to the children who attend them. The law finds that separate facilities are inherently unequal. The scientists tell us that the white child's education loses nothing by his attending an all-white school.²⁴ The courts carefully refer to one-race schools and find no inequality *per se* in such schools.

Is it not time for the law to admit that an all-white school can be perfectly constitutional but that an all-black school denies equal protection of the laws? The law adopted the findings of psychology in 1954; let the law now finish the job it has undertaken by admitting that one-sided harm — unequal protection — demands remedies only for those harmed. Once the law officially recognizes the difference between "one-race" and "all-black," a definition of what has been declared unconstitutional is relatively easy. Until then, definition is impossible.

Every child cannot attend an integrated school. There are not enough black children to go around; there are too many all-white communities in America. It is not impossible, however, to require that every

black child attend an integrated school, and that is all that the facts of inequality demand.

Conclusions

There are too many racially mixed school systems in this country for the courts or the federal executive agencies to pass on the sufficiency of every plan for integration that is proposed or put into effect by each school board. The courts have borne the burden essentially alone, and they have succeeded amazingly well. They cannot finish the job alone. The fourteenth amendment is carrying just about all the judicial gloss it will support in this area. Cutting off federal aid, the only genuine weapon available to the executive branch of our government, is a negative and uncertain way to achieve integration. Only Congressional action can solve the problem efficiently.

Congress need not draft a statute telling the school boards how to achieve integration. The possible methods are well-known, much discussed, and well adjudicated. If the courts' mandates to integrate now are to have full meaning and effect, Congress must pass a clearly specific law requiring nationwide elimination of identifiably black schools and imposing effective penalties for school boards that violate the requirements.

The primary problem would be getting such a law passed, but a coalition of northern and western liberals and southern legislators, who object to the focus on segregated public schools only in the South, might accomplish it. It is well worth a try, for the all-black school, with its demoralizing effects and its unconstitutional inequality, must go.

Footnotes

¹Brown v. Board of Education, 347 U.S. 483, 495 (1954).

²*Id.* at 494.

³*Id.*

⁴Brown v. Board of Education, 349 U.S. 294 (1955).

⁵Green v. County School Board, 391 U.S. 430, 438 (1968). See also *Bivins v. Board of Education*, 424 F. 2d 97 (5th Cir. 1970); *Ellis v. Board of Public Instruction*, 423 F. 2d 203 (5th Cir. 1970); *Jenkins v. School Board*, 421 F. 2d 1339 (5th Cir. 1969); *Charles v. School Board*, 421 F. 2d 656 (5th Cir. 1969).

⁶e.g., *Green v. County School Board*, 391 U.S. 430, 440 (1968); *United States v. Board of Education*, 372 F. 2d 44 (5th Cir.), cert. denied 389 U.S. 840, rehearing denied 389 U.S. 965 (1968).

⁷Scott v. Board of Education, 317 F. Supp. 453, 474 (M.D.N.C. 1970); *Beckett v. School Board*, 308 F. Supp. 1274, 1279 (E.D. Va. 1969).

⁸*Id.*

⁹42 U.S.C.A. § 2000c-6(a) (1970).

¹⁰*Harvest v. Board of Public Instruction*, 312 F. Supp. 269, 272-3 (M.D. Fla.), *aff'd. per curiam* 425 F. 2d 1224 (5th Cir. 1970).

¹¹*Bradley v. School Board*. (E.D.V. 1971).

¹²*Swann v. Board of Education*, 39 U.S.L.W. 4437 (1971).

¹³*Brown v. Board of Education*, 347 U.S. 483, 495 (1954).

¹⁴Beck, Adams, deVilliers, & Williams, *Segregation-Integration: Some Psychological Realities*, 28 *American Journal of Ortho-*

psychiatry 12, 14 (1958); Coles, *Northern Children under Desegregation*, 31 *Psychiatry* 1, 3 (1968); S. Coopersmith, *The Antecedents of Self Esteem* 128 (1967); Drinan, *Racially Balanced Schools: Psychological and Legal Aspects*, 11 *Catholic Lawyer* 16, 19 (1965); Wise, *Self Reports by Negro and White Adolescents to the Draw-a-Person*, 28 *Perceptual and Motor Skills* 193 (1969).

¹⁵*Keyes v. School District No. One*, 313 F. Supp. 61, 313 F. Supp. 90 (D. Colo. 1970); *Spangler v. Board of Education*, 311 F. Supp. 501 (C.D. Col. 1970).

¹⁶e.g., *Swann v. Board of Education*, 39 U.S.L.W. 4437, 4442 (1971); *Borresi v. Browne*, 175 S.E. 2d 649 (Ga. 1970).

¹⁷*Beckett v. School Board*, 308 F. Supp. 1274, 1276 (E.D. Va. 1969).

¹⁸*Swann v. Board of Education*, 39 U.S.L.W. 4437 (1971).

¹⁹45 C.F.R. § 80 (1970).

²⁰42 U.S.C.A. § 2000d (1970).

²¹The Wall Street Journal, April 21, 1971, at 2, Col. 4.

²²*Swann v. Board of Education*, 39 U.S.L.W. 4437, 4441 (1971); *Green v. County School Board*, 391 U.S. 430, 441-2 (1968); Rose, *School Desegregation: A Sociologist's View*, 2 *Law & Soc. Rev.* 125, 136-7 (1967).

²³*United States v. Board of Education*, 372 F. 2d 836, 847 (1966), 396 F. 2d 44 (5th Cir.), cert. denied 389 U.S. 840, rehearing denied 389 U.S. 965 (1968).

²⁴Coles, *supra* note 14, at 15.

COURT APPOINTED COUNSEL IN VIRGINIA:

Genuine Aid to the Indigent?

Les Bailey

On June 23, 1971 United States District Judge Marvin E. Frankel ordered Norman Thomas released from New York's Green Haven State Prison subject to being re-tried by the state within thirty days. Represented by a string of at least five Legal Aid Society lawyers, Thomas suffered what Judge Frankel called "the most brutal and horrifying kind of isolation, effectively walled off for months from any genuine assistance by a facade of representation." According to Judge Frankel, despite several hand written pleas by Thomas to the state court asking for freedom by writ of habeas corpus and for assignment of different lawyers, Thomas' pretrial ordeal was highlighted by the failure of Legal Aid Lawyers to either visit him or to call witnesses which he requested. (New York Times, June 24, 1971.)

Thomas' ordeal prompts one to ponder the practical meaning of a basic Constitutional right of an accused "... to have the assistance of counsel for his defense ... in all criminal prosecutions ...". (U.S. Const. amend. VI.) Reflections upon this right in the context of the increasing need for competent legal representation for indigent defendants in criminal prosecutions encouraged a series of interviews with members of the Williamsburg and York County Bars. This article attempts to briefly examine Virginia's response to the need for adequate representation for indigent criminal defendants in the light of a limited number of interviews, pertinent statutes, and case law.

Legal Aid Society, Public Defender, Court Appointed Counsel: these three characterize the basic approaches to providing counsel in this country for those facing criminal charges who are financially unable to retain private counsel. (Manson, *The Indigent in Virginia*, 51 Va. L. Rev. 163(1965). The Legal Aid Society is used in some of the larger cities such as Norfolk with its Tidewater Legal Aid Society, and the Public Defender System is authorized in certain counties with very high population density, but apparently this authorization has not been employed. The Legal Aid Society is a private organization funded predominantly from private sources, whereas a Public Defender System is an official organ of government staffed by lawyers whose salary is paid from public funds. The Court Appointed or "... assigned counsel system consists ... of the appointment of

individual attorneys to represent indigent (criminal) defendants on a case-by-case basis." (Id. at 176) "... Virginia and the vast majority of states have relied on the assigned (court appointed) counsel system to provide representation for indigents." (Id. at 175). Although the Court Appointed Counsel system perhaps lacks the efficiency and specialized expertise of the Public Defender system, it more than compensates by its virtues of simplicity, minimum organization, individual treatment for each client, and lack of potential suspicion possible where the public defender works for the government.

Until 1963 the Sixth Amendment was not interpreted as compelling the states to provide counsel in non-capital cases for those unable to afford private counsel. That year in *Gideon v. Wainwright* the United States Supreme Court held that in all cases in which a felony is charged the state must provide counsel if the defendant is financially incapable of providing his own.

As early as 1940 the Virginia Supreme Court of Appeals held that "... courts of record having criminal jurisdiction possess the inherent authority, independent of statute, to appoint counsel to defend paupers ... charged with crime." (*Watkins v. Commonwealth*, 174 Va. 518 at 522, (1940)). The Virginia Code is now explicit in requiring that in all cases involving felony charges the defendant be represented at "every stage of the proceeding ... before any court ..." (including preliminary hearings before courts not of record to determine whether there is probable cause prerequisite to certifying the case to a grand jury). The Code further provides that, once appointed, counsel "... shall represent defendant until relieved (by the court appointing him) or replaced in a manner prescribed by law." (Va. Code sec. 19.1-241.1 (1966)).

So zealous has the Virginia high court been in implementing *Gideon* that in 1965 it held that "... failure to appoint counsel to assist an indigent defendant in making an appeal from conviction is a denial of the equal protection of the laws and due process guaranteed him under the Federal Constitution and the Virginia Bill of Rights." (*Cobaniss v. Cunningham*, 206 Va. 330, (1965)), and in 1968 it held that a defendant's confession to a felony obtained without advising him of his right to a court appointed counsel prior to questioning was not admissible in evidence. (*Cardwell v. Commonwealth*, 219 Va. 68, (1968)).

The Code of Virginia provides that all who are charged with a felony must first "be brought before" a judge of a court not of record where the judge must inform the accused of his right to counsel and bail amount, after which the accused is given a reasonable time to hire his own lawyer or execute an affidavit that he is too poor to afford a lawyer. (Va. Code secs. 19.1-241.2, 241.3 (1966)). Prior to executing the affidavit of indigency the accused will face an oral examination by the judge who will use the information thereby obtained and "other competent evidence" to determine whether defendant is indigent "within the contemplation of law" (a rather vaguely defined standard). If the court finds the accused indigent, it then requires him to execute a statement under oath that he "... is without means to employ counsel of

(his) own choosing a thorough investigation (into the accused's financial status) is seldom . . . conducted . . . (but) his statement (of indigency) is sometimes checked with information known to or easily obtainable by the commonwealth attorney, the arresting officer, or any other official connected with the case." (Manson, 51 Va. L. Rev. 163 at 165.)

Attorneys are customarily appointed in this area orally by the judge from a list of attorneys known by him to be willing to serve. Attorneys are not required by statute to accept appointment, but it is generally felt that a lawyer's position as an officer of the court obligates him to accept such appointments as a matter of judicial ethics. Continuances will be given if the court appointed counsel needs unexpected additional time to properly prepare for trial. (Va. Code sec. 19.1-241.4 (1964)). Counsel is usually selected in this area on the basis of the compatibility of his known attitudes with the nature of the charge and the age of the defendant as well as upon the basis of the kind and amount of his trial experience. Thus when possible, no attorney, say, who is known to have a "hard-nosed" attitude towards drug offenders would be assigned to defend a minor accused of trafficking in narcotics. The importance of establishing rapport between minor defendants and their parents and the court appointed counsel cannot be over emphasized.

A major problem with the system of appointed counsel is inadequate pay for services rendered. Counsel is authorized compensation for representing one charged with a felony at a preliminary hearing in a court not of record in an amount set by the judge

thereof, but not to exceed \$75.00. (Va. Code sec. 19.1-241.5 (1968)). This inadequate limit is somewhat alleviated where, in the usual case, counsel continues his services in a court of record. When the statutory maximum punishment authorized for the charge is death or confinement in the penitentiary for in excess of twenty years, the court may allow counsel up to \$400.00 and for the defense in case of a lesser felony up to \$200.00. The court will also direct payment of reasonable expenses incurred by counsel appropriate to the circumstances with the defendant being liable to reimburse all amounts disbursed for his defense to the Commonwealth if he is convicted. (Va. Code sec. 14.1-184).

The shocking inadequacy of representation that plagued the New York Thomas case would be unlikely to occur in this area. By local practice the judge asks counsel in open court prior to conclusion of the case how many times and how long he has met with the accused as well as how much time counsel has spent in preparing the defense. The judge then asks the accused the same first two questions as well as whether counsel has advised the accused of accused's right to waive preliminary hearing, to remain silent, and to call witnesses. The accused is then asked whether he is satisfied with current counsel and whether there is any reason why the case cannot proceed. The answers to all of these questions are filed to be readily available should the accused later ask that his conviction be overturned by writ of habeas corpus on the ground of inadequate representation of counsel.



Alumni News

The **Colonial Lawyer** is pleased to introduce the addition of Alumni News with this issue. With the improvements and growth at Marshall-Wythe, there has been an increase in alumni interest. To satisfy such encouraging interest and to supplement the periodic coverage in Alumni Briefs, this column will be expanded in future **Colonial Lawyer** issues.

Class of '52

Boyd, Davis and Payne is the new firm name for **Robert F. Boyd**. His address is Suite 1240, Virginia National Bank Building, One Commercial Place, Norfolk, Virginia 23510.

Wilson O. Edmonds' new mailing address is P. O. Box 328, Oak Ridge, Tennessee 37830.

Class of '61

John M. Court is now serving as Assistant County Solicitor for Ann Arundel County, Maryland, while continuing his private practice in Maryland and Virginia.

Class of '62

W. Kandall Lipscomb is legal counsel for and one of the founders and directors of "The Colonial Bank" in Providence Forge, Virginia.

Class of '64

Richard E. Crouch is associated with the firm of Wells and Hodgson with offices at 2001 Jefferson Davis Highway, Arlington, Virginia.

Hugh Scott Hester's new address is P. O. Box 355, Reidsville, North Carolina 27320.

Class of '65

L. Barry Hill is practicing law in Sudbury, Massachusetts. He is serving his third term as Treasurer of Sudbury Water District and also is acting as President of the Sudbury Rotary Club.

Class of '66

Lloyd C. Sullenberger is now a member of the firm of Shackelford and Robertson, Attorneys at Law.

Class of '67

The new office address for **William C. Ateak** is Baltimore Law Reform Unit, 412 North Bond Street, Baltimore, Maryland 21231.

Class of '68

Robert A. Handel is a partner in the firm of Kamberg, Bermant and Handel, located at 31 Elm Street,

Springfield, Massachusetts. Bob is also President of Legal Computer Services, Inc., in Springfield.

Sal J. Jesuele is a partner in the firm of Oliva, Dawdell and Jesuele in Fort Lee, New Jersey. Sal is a former member of the Fort Lee Board of Adjustment and Appeals and in addition to coaching the Fort Lee Junior Football League, is presently a trustee for the Fort Lee Board of Education and a member of the Fort Lee Environmental Protection Committee.

Russell A. Kimes, Jr., is a Captain and Assistant Staff Judge Advocate at Plattsburg AFB. His present address is 908B Nevada Circle, Plattsburg AFB, New York 12903.

Class of '69

James O. Kemper, Jr., is Captain in the Judge Advocate General's Corps at P. O. Box 695, Selfridge AFB, Michigan 48405. Jim will go to a new duty station in Vietnam in October.

Robert A. Lawman has opened his law office in First and Merchant's Bank Building in Radford, Virginia.

Another class member in the Judge Advocate General's Corps is **Christopher Sutton** who is on duty with the 164th Aviation Group in South Vietnam.

Class of '70

Anthony Gaeta, Jr., presently Assistant Transportation School Brigade Legal Officer at Fort Eustis, Virginia, will join the New York City law firm of Simpson, Thacker and Bartlett in August, 1972.

Walter B. Golden III is now an associate with Thomas J. Rathrock, Attorney and Counsellor at Law, with offices at 9701 Main Street, P. O. Box 325, Fairfax, Virginia 22030.

Richard G. Poinsett's new address is 14508 Lanica Circle, Chantilly, Virginia 22021.

John J. Sabourin, Jr., now lives at 10317 Compton Road, Apt. 603, Corpus Christi, Texas 78418.

William L. Scott, Jr., is now associated with Swayze, Parris, Cowlus and Tydings at 4085 Chain Bridge Road, Fairfax, Virginia 22030.

Class of '71

Nicholas J. DeRoma is living now at 256-D Williamsburg East Apartments, Rt. 143, Williamsburg, Virginia 23185.

There are certainly other address changes, new firm associations, civic achievements, and elected positions not mentioned here that would interest your fellow alumni. Please let us know at:

The Colonial Lawyer
Thomas W. Wright, Alumni News Editor
Marshall-Wythe School of Law
College of William and Mary
Williamsburg, Virginia 23185

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