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AMICUS CURIAE



Marshall-Wythe School of Law College of William & Mary

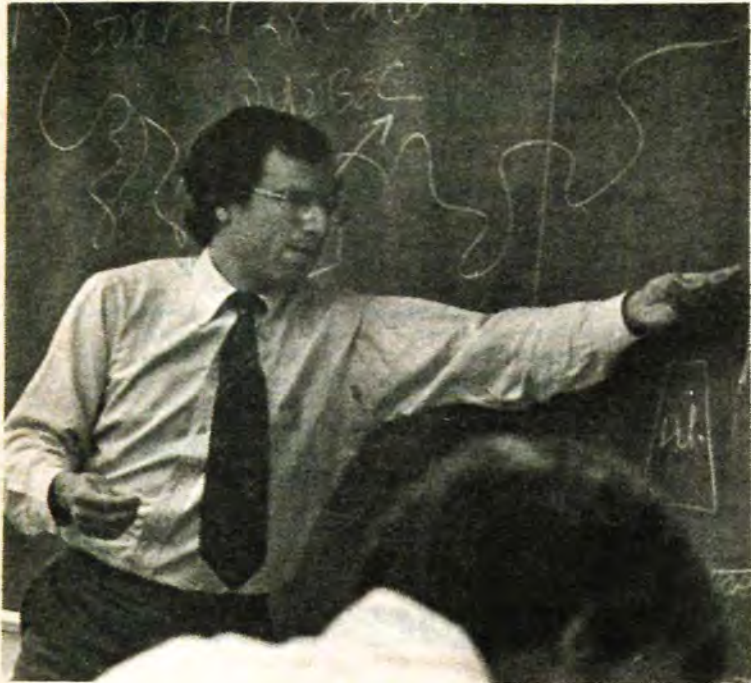
Vol. X No. 4

Williamsburg, Virginia

Published Fortnightly

October 12, 1978

Prof. Schauer Whets The Mental Appetite



by David B. Kirby

While in front of a class he moves with such animation that at least one student of his has referred to him as a chipmunk, constantly pacing left and right, toward and away from the class. But it is a technique that works. His students leave the classroom aware not only of Frederick F. Schauer's teaching methods but also of the substance of his arguments.

"Self confidence," he said when asked of the attributes of a good law professor. A person needs to know the law but, perhaps more importantly, he needs to know that he knows it. He cannot be hesitant to let that knowledge show.

Schauer, Visiting Associate Professor of Law at Marshall-Wythe, said that his years as a practicing attorney with a Boston law firm at both the trial and appellate levels added much to his self confidence. This practice helped him hone his ability to think on his feet.

But the ability is one that Schauer, in his self-confident way, said he has always had. In fact, his acknowledged verbal ability was one of the things that drew Schauer into law, he said.

The other, he said with a laugh, was organic chemistry. Schauer began his studies at Dartmouth College in Hanover, New Hampshire, with the intention of becoming a doctor. It was during his second year in

college when faced with subjects such as organic chemistry that he began leaning away from the sciences and toward other interests in political theory. This led to a government degree in 1967 and, a year later, to a M. B. A. from the same school.

Schauer said he initially decided to study for the M. B. A. degree in order to spend one more year at Dartmouth and—again said with a smile—to put one additional year between grades such as the one he received in organic chemistry and the inevitable winnowing process of law school admissions committees. His second degree, though, "has turned out to be more valuable than I thought it would be," he said. The exposure he had to statistics and probability theory has "helped me visualize" abstract ideas, even if they cannot be quantitatively measured.

He has used the logic of statistics and probability theory in discussions in several of his law review and other articles, he said.

In 1972 Schauer received his J. D. from the Harvard School of Law where, among other honors, he was a finalist, oralist, and team captain in the Ames Moot Court Competition and the Note Editor of the Harvard Journal on Legislation.

After two years of practice, Schauer has served since 1974 at the West Virginia University

College of Law, first as an Assistant Professor and now as an Associate Professor of Law. In addition, he was a Visiting Scholar and Member of the Faculty of Law at Cambridge University during the 1977-78 academic year.

The year at Cambridge gave Schauer "time to think" without the necessity of committee assignments or everyday classroom teaching. It also provided him with interdisciplinary contacts that proved helpful for the work on his latest book.

Of his practice, Schauer said it was "very interesting" but "there were too many clients and not enough time to do a good job on anything." It was primarily this consideration that led him back to law schools to teach.

As a practicing attorney, Schauer did much work with first amendment freedom of expression cases, and interest he has continued to follow in many of his writings. In fact, "it was defending dirty movies" that thrust him into the first amendment area, he said.

His first case led to an acquittal and allowed the movie *Deep Throat* to be shown in Burlington, Vermont.

Other cases he handled dealt with picketing in shopping centers, academic freedom, and the "chilling effect" doctrine
please see page 7

Virginia's Laws Spark Litigation

Reprint from the Wall Street Journal

by Carol Falk

WASHINGTON — Virginia "has the unique problem of being ideologically in the 16th Century and geographically across the river from the activist lawyers in Washington, D.C.," asserts one of those activist attorneys.

Although the lawyer may be exaggerating a bit on the antiquity of its ideology, Virginia is a conservative state that is in the unenviable position of being an all-too-handy target for lawyers who are seeking to win landmark cases. As a result, Virginia consistently winds up with more than its share of major cases before the Supreme Court. Decisions in many of those cases have upset traditional practices, not only in Virginia, but also throughout the country.

Virginia may prefer its reputation as "mother of Presidents," but "I refer to it as 'Virginia, mother of lawsuits,'" the Washington attorney says. For example, cases based on challenges arising in Virginia presented the Supreme Court with the opportunities over the last few years to rule that:

—Minimum-fee schedules for lawyers' services violate federal antitrust law. The high court thus rejected the idea that the "learned professions" enjoy automatic anti-trust immunity.

—Advertising, including the advertising of prescription-drug prices, is protected by the First Amendment's free-speech guarantee. (A subsequent Virginia case challenging that state's ban on advertising by lawyers was on the way to the Supreme Court when the

Justices decided, in a case from Arizona, that such a total prohibition on lawyer advertising is unconstitutional.)

—Racial discrimination by private schools is prohibited by a federal civil-rights law that bars race bias in the making and enforcing of private contracts.

—A newspaper can't be fined for publishing the name of a judge it learns is being investigated by the state's judicial-discipline body.

Winning a Few

Virginia doesn't always lose to the challengers, of course. Two years ago, without hearing oral argument, the Supreme Court upheld Virginia's sodomy law, by summarily affirming a lower-court decision.

The idea of challenging Virginia law goes back a good while, says A.E. Dick Howard, a law professor at the University of Virginia. In 1816, the Supreme Court established in a case from Virginia its right to review actions of state courts. The Virginia high court had "thumbed its nose at the Supreme Court," arguing that the latter didn't have jurisdiction over rulings by the state court, Prof. Howard says.

Ever since, there has been a "constant interplay between Virginia's assertion of the right to do things differently and some response by the federal judiciary," Prof. Howard observes.

J. Marshall Coleman, Virginia's attorney general, agrees that his state doesn't take challenges to its laws lightly. "The philosophy of this office has been a very fastidious view
please see page 7

Spong Appointed To Faculty At 1979 Salzburg Seminar

Dean William Spong has been asked to join the teaching staff for the 1979 Salzburg Seminar in American Studies.

Spong will take part in a three week session on American Law and Legal Institutions to be held next summer at the Seminar's Austrian facility at Schloss Leopoldskron in Salzburg, Austria.

The Salzburg Seminar was begun in 1947 as a means of acquainting promising young people of postwar Europe with American Institutions and problems.

Sessions last from two to three weeks and are held annually between February and October. Topics for the sessions include issues of economic, political, social, artistic, scientific, and legal import in the United States.

From 30 to 50 men and women of prominence or promise from all over Europe are invited as fellows. More than 9,000 former fellows now comprise the Seminar's alumni.

Justice William H. Rehnquist of the U.S. Supreme Court, and faculty members from Chicago, Michigan and Pennsylvania law schools join Spong on the faculty for this session.



Post Conviction

Anyone planning to take the class for credit next term, please sign P-CAP Board on 2nd floor by Tues. Oct. 17.

The Campus Memorandum

by Richard Sherman

This issue I am going to confine my remarks to an issue of major concern to law students during the next two years: parking. The vast majority of us must commute via auto to class everyday, and all of us have been late to class on occasion when all the spaces close by were filled. Parking for day students around old campus is clearly inadequate. Currently unrestricted college parking is available in the lot behind the Bryan Complex across from Cary Field, behind the Presbyterian Church off Prince George Street, in a lot adjacent to Thiemes and King and Queen Apts. between Scotland St. and Richmond Rd., and behind the Campus Center and in the maintenance area behind the Steam Plant farther behind the Campus Center, and at William and Mary Hall.

Several suggestions have been made to me by President Giguere and others to alleviate the problem as follows, in a tentative order of preference:

1. Obtain College approval for the city to change the parking on Richmond Rd. adjacent to Monroe Dorm from no time limit to four hour time limit (25 spaces);

2. Again ask the Baptist Church to open up around 30 spaces in their lot to student parking, similar to the arrangement with the Presbyterian Church (they have not been receptive to the idea in the past);

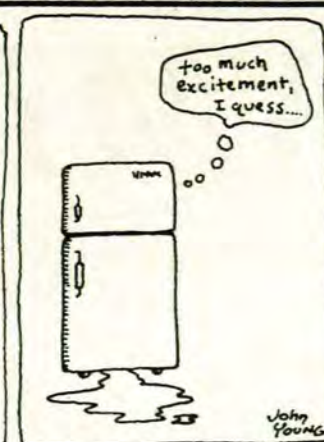
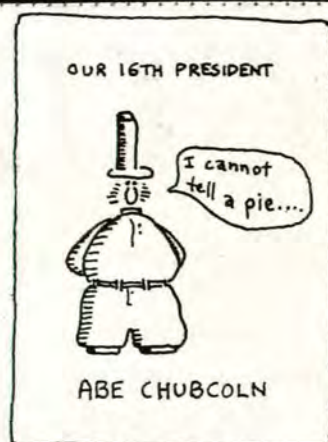
3. Have the College change the parking in the Bryan Complex lot from unrestricted to Day Student only parking and have resident students park at William and Mary Hall (this is sure to generate no little controversy); also Day Student only parking is currently available across from the Bryan lot, right in front of Cary Field, unrestricted parking is also available on the one way road between Cary Field and the Alumni House, and in the lot across from the Health Center;

4. Ask Colonial Williamsburg to open up part of the lot across S. Boundary St. from Hunt Dorm and Circle K to student parking.

The parking problem will be entirely alleviated in a year and one half, when the new law school is completed. But until such time, if any of you have any ideas or preferences on the above suggestions, I would love to hear from you.

Don't forget, this weekend is Homecoming, with lots of Alums floating around. "The OUTLAWS" will be in concert Friday evening at the Hall. The Homecoming dance, with "Staircase", will be at the Hall Saturday night (tickets \$5.50 per couple in advance). The S.A. Films will be Sunday night.

Students are reminded that the Southeastern Law Placement Recruiting Week-end is the week-end of October 20, 21 and 22. There will be final sign-ups on Thursday or Friday, October 12 or 13.



Just Hearsay

Tonight at 7:30 in the Moot Courtroom, Sa'ad El-Amin will speak on "Judicial Conservatism versus The Rising Expectations of Oppressed Minorities." This lecture is sponsored by BALSA, the Black American Law Students Association and is open to all.

HOMECOMING IS HERE. Welcome all you alums out there in our reading audience. Just a reminder that a subscription to the Amicus Curiae for the remainder of the year can be yours for a mere \$5.00. Fill out the form on this page and mail it immediately to our office. This is a limited offer so hurry and order your subscription today, while the supply lasts.

For those of you who negligently failed to purchase your tickets to the Homecoming reception on Tuesday or Wednesday, they will also be available at the door of the Campus Center Ballroom as long as the supply lasts on Saturday. Doors open post-game or 4:30, which ever occurs first. Tickets are \$1.75, a great bargain for an unlimited supply of beverages and delicious epicurean delicacies, brought to us by our Student Bar Association's Alumni Director, Lee Osborne.

The Homecoming Parade begins at 10:00 a.m. Saturday on Duke of Gloucester Street to be followed by the big football game at 2:00 against James Madison University. Coming off a questionable loss and a tie, the Indians will hopefully be hungry for a win.

 For those of you taking the February Virginia bar exam you will be ecstatic to discover that the application materials have arrived and may be picked up at the Dean's office. Also for your information, the Campus Police are usually very nice about taking your fingerprints as long as you don't catch them at an inconvenient time.

Any of you lucky people who may be departing these hallowed halls in December, please be sure to pay your \$10 diploma fee at the Cashier's Office or they will withhold that treasured document.

 Mrs. Murtaugh has asked that everyone definitely journeying to Atlanta next weekend for the job consortium leave their name with her. She also advises to watch the placement board closely for further developments as subsequent interviews may develop.

It's upsetting to learn that there have already been three no-shows for interviews this early in the season. It hurts not only that individual but also effects all other interviewees and the school's chance for future on-campus interviews. Please check the board daily for interview schedules so don't miss your opportunity for that \$30,000 job you've been waiting for.

 The William and Mary Theatre is currently presenting Rodgers and Hammerstein's musical, Carousel, at Phi Beta Kappa Hall. If you're unable to attend tonight's premiere performance at 8:15, it will be presented again both evenings this weekend and Thursday, Friday and Saturday next week. All seats are reserved and you can call 253-4272 or 253-4469 for further details.

 "200 years behind the bar." The reorder of the PDP t-shirts has arrived and they will be on sale again at the Homecoming Reception and next week until the supply is exhausted. For those of you who placed advance orders, the t-shirts would be picked up as soon as possible. A small quantity of shirts with only the Marshall-Wythe medallion on the front and nothing at all on the back is also available. \$4.50 for non-PDP's; \$4.25 for dues-paying members.

 By the way, Birthday Salutations on Friday the 13th should be addressed to the Amicus' very own aspiring disputatious intellectual and sometimes Amicus business manager and law review member, R. "Brucie" McNew. Here's hoping that black cats not cross his path and the bourbon flows freely as he passes the landmark quarter-of-a-century mark.

 News Flash direct from A.T. The P.D.P. party on the 28th will be the first annual Marshall-Wythe American Octoberfest. Confidential details are still being negotiated and could not be released. More next issue.

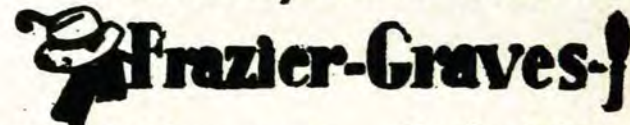
 Next Friday's T.G.I.F. is scheduled to be sponsored by the International Law Society. No one was available for comment but it is scheduled to run from 4 until 8 at the Grad Student Center for a minimal fee.

Men's Clothing For Fall and Winter

Our Famous Brands Include

- Freeman Suits
- Palm Beach Suits
- Varsitytown Suits
- Bostonian Shoes
- Clark Shoes
- Eagle & Arrow Shirts
- McGregor Sportwear
- Converse Tennis Shoes
- Swank Jewelry
- Buxton Belts
- W&M Ties
- W&M Blazer Buttons
- After Six Formal
- Wool & Knit Pants
- Pleetway Pajamas
- Interwoven Socks
- Buxton Billfolds
- London Fog Coats
- All Kinds of Sport Coats

We invite you to visit us



Duke Of Gloucester St. Merchants Square

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

Amicus Subscriptions

The Amicus Curiae is now accepting subscriptions for the remainder of the 1978-1979 academic year. The price for a subscription is \$5.00.






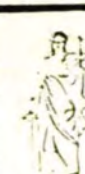


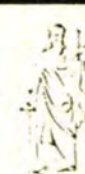





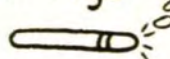
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Check enclosed _____ Bill me _____

REVIEW

DA G		CIVIL PRO	Classnotes	-#260-	CIVIL PRO	Casebook	-#260-	JUSTICE CARD ?	CIVIL PRO	Federal Rules	-#280-	You are hereby placed on ★ ACADEMIC PROBATION		 JUSTICE CARD LAW REVIEW A MARSHALL-WYTHE GAME											
 JUSTICE CARD LAW REVIEW A MARSHALL-WYTHE GAME														TORTS	Classnotes	-#300-	JUSTICE CARD 		TORTS	Casebook	-#300-	 JUSTICE CARD LAW REVIEW A MARSHALL-WYTHE GAME			
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														MOOT COURT	Elements of Style	-#350-			 JUSTICE CARD LAW REVIEW A MARSHALL-WYTHE GAME						
														GOLDEN OPPORTUNITY Roll dice again if you land here											
														MOOT COURT	Intro to Oral Advocacy	-#400-									
														Collect \$200.00 As you PASS GO ALLOWANCE TIME											
														LEGAL WRITING Dunahoo's Notes -#30-											
														JUSTICE CARD 											
														LEGAL WRITING Harvard Citator -#60-											
														TUITION RAISE 10% of assets or \$200											
														JURAL E S D- 0-											
														LAW REVIEW											
														Collect \$1,000.00 and a 3 piece suit You are hereby expelled from this game for HONOR CODE VIOLATION											
														Nice try, but no Cigar  Collect \$200 anyway											

TAKE A "WALCK" TO PROSSER

Pay owner twice rental
value. If unowned you may buy.

Meet an undergraduate
at the Pub
Advance to
DATING GAME!

Advance to Legal
Fraternities -
gamble your toga away
and pay \$150 dues.

You inherit an estate in fee
simple determinative conditional
on a springing executory interest
with a possibility of reverter
and a probability of a headache.
Pay Mr. Madison \$100 to define
it.

Great Atlantic makes an
error in your favor. Collect
\$150 security deposit back.
You're so happy you advance
to study break.

Performing in Contracts
you find that Gilberts &
Sullivan aren't always in
harmony. Advance to
Corbin for help.

Elected SBA
Representative

Pay each player \$50
and add it to your resumé

Attend a "Disco Party" at
Lake Matoaka.

Lose a turn for
wasting your time.

Buy a Con Law textbook.
Trade it for a Gilberts
and receive 2 grade points
on the class of your choice
for your display of wisdom.

The LAW REVIEW GAME is reprinted here with the kind permission of Danny Weckstein, a 1978 graduate of Marshall-Wythe. Thanks to Carol Hill for relettering and updating the game.

Congratulations! The first month and a half of law school for the 1978-79 year are now history. If you are first year, you are to be doubly praised. You have now met the unknown enemy, legality, and are well on your way to conquering it. You no longer worry about your first class, your first brief, or your first class recitation. In fact you are getting pretty confident about the whole thing. You are getting less and less worried about passing, and in the back of your mind is the notion of good grades, and yes, (say it softly), an invitation to Law Review.

Law Review is certainly a worthy goal. Every student has a chance to make it, but it is an elusive goal for many. The staff of the Amicus wishes everyone good luck towards achieving this, but to keep grades from being an all consuming obsession we have chosen to look at the lighter side of Marshall-Wythe and the drive to success. LAW REVIEW® is the result. So, if you are tired of studying and looking for something to do, give this game a try. It may inspire you to return to the books, but more likely it will just help the time go by.

BRIEF IDEA OF THE GAME:

LAW REVIEW® is designed to duplicate the life of a student in his quest to reach the academic peaks. The object of the game is to acquire course aids, usually books, hornbooks, or notes, so profitably that you become both the wisest and wealthiest student. This wealth and wisdom can be thought of as earning power in your later years in practice as an attorney. Thus, the one who acquires the most wealth at the end of the game, is the winner.

Starting from "Go," the players move tokens around the Board according to the throw of dice. When a player's token lands on a space which represents a transferable asset or study aid, he may buy it from the Bank if it is not previously owned. If he does not desire this aid (for example, the text in Contracts is almost valueless when compared to the Gilberts'), it will then be auctioned to the highest bidder (see U.C.C. 2-328). The object of owning these study aids and assets is to collect Rents from opponents stopping there to utilize them. Thus a player landing on another's study aid, for example upon his Civil Procedure notes, must pay the rental costs for he surely needs Civil Procedure notes if he is to become a candidate for Law Review. The rental values of these study aids are greatly increased by the building up of Grade Points or the achieving of the honored Book Award. To raise money, properties and such may be returned to the College Bookstore at half-price. Justice Cards give the draw of a card, and instructions thereon must be followed (equity will enforce if necessary). Sometimes a player may even land in Academic Probation. The game is one of shrewd and amusing trades and excitement as well as calculated grade grabbing and back stabbing.

RULES

EQUIPMENT: To play the game, one needs only the center section of this issue of the Amicus and a standard Monopoly game. The Board (which is on the reverse side of the center section from these rules) may be cut out and the rows of Justice Cards on either side of it should be cut apart and used in the game. Tokens, dice, and money, are used from the Monopoly set. The Monopoly title deeds are also utilized with the rental values, mortgage values, and building costs of each applied to the corresponding (spatially) properties in the LAW REVIEW® game. More Justice Cards

may be created by using cut-to-size index cards with each player deciding what instructions they will impose upon the course of the game. You are now ready to play.

The basic rules of LAW REVIEW® are provided by these instructions, but if these statutory provisions do not adequately deal with the question of law that may arise, feel free to analogize (as every good law student must often do) from non-binding precedent, i.e., the rules of Monopoly.

PROCEDURE: Place the Board on a table placing the Justice Cards face down on the spaces provided. Each player is given one token which will represent him and have the power of attorney over his funds as it matriculates around the board. Each player is given a corpus of \$1500 in various denominations (see Monopoly rules). One of the players is elected Dean of the Law School, and he is in charge of the various properties, study aids, grade points, book awards, as well as holding the money in trust for the Bank to be distributed as the rules of the game require.

TO START THE GAME: Each player rolls the dice, and the one with the highest number goes first. He places his token on "Go" and again throws the dice, this time moving the required number of spaces and brings his token to rest at the proper place. After his turn is completed, the player to his left takes his turn. The token is left on the same space until the player's next turn to move it is realized. Two or more tokens may occupy the same space, and the tort of invasion of privacy is not recognized in the Board's jurisdiction.

According to the space upon which a player's token rests, he may be entitled to buy or lease properties (in fee simple absolute with a remainder in the equitable owner of the game), or if the property is previously owned, he must pay the owner the rent called for on the Title Deed. If the player lands on certain properties which are seized of non-transferable interests, he may be required to pay rent, go on academic probation, follow the directives of a justice card, or collect his Allowance.

If a player throws doubles he moves his token as usual the sum of the two dice and the space thus reached takes its usual effect (i.e. the player is subject to any rights, immunities, privileges, or duties that may be his under the law of the land) and must settle these matters immediately. Retaining the dice, he throws them again and moves forward to this space to again settle matters. If, however, he throws three doubles in succession, there is an "irrebuttable presumption" that he has cheated and he is sent directly to Academic Probation.

THE LAWS OF THE VARIOUS SPACES: Each space will force the player into some course of action. We will now consider the binding legal effect of landing on some of them.

GO SPACE: During the Game, the players will encircle the board many times. Each time the player's token passes or lands on GO, he is entitled to collect his monthly rental from home (Veterans must collect funds from the G.I. Bill and scholarships will be given to deserving students). This stipend is in the amount of \$200.00 and is non-taxable as income as a "necessary and proper" business expense. Should a player pass GO, land on a Justice Card, and move to a space which causes him to pass GO again (movement always follows the direction of the arrows) he may collect \$400. This is extremely rare and may be regarded as a windfall, and not as unjust enrichment.

JUSTICE CARD SPACE: Landing on these spaces entitles the player to draw the Justice Card on the top of the pile and

commands him to (appearing before not a special-appellate player under the jurisdiction. After following the must return the card is a "get off of academic" which may be alienable.

ACADEMIC PROBATION: token lands on "You Are Hereby Probation," by the Academic Probation Cards. A player may Academic Probation space. A player Probation by three doubles on any of his Pay \$50 to the Bank Academic Probation quit school and leave third attempt at rolling on Academic Probation \$50 and leave that space pay this money, he is removed from the game carry on all normal Academic Probation, trade property, collect Grade points or receive

STUDY BREAK: Play in limbo. They receive no rights.

TUITION RAISE: Play assessed \$200 or 10 percent of assets, whichever amount.

GOLDEN OPPORTUNITY: a veritable treasure player who lands here opportunity to move off "path" and take the in piness, i.e., Law Review Golden Opportunity space rolls the dice, and follows which they prescribe. Should one, he is removed from Code Violation (please rolls a one with a pair of expelled for cheating) roll a two, he has made Although this does not give that player an advantage from the bank (non-taxable) places him head and shoulders above the rest of the players in the game. who reaches this space laurels, but must continue grade points and money cess as an attorney.

Should a player roll a simply moves the property and may collect his rent reaches the outer track only if one lands exactly Opportunity space is he inner track to Law Review Thus luck also plays a role in reaching this space.

LANDING ON UNOWNED: When a player lands on (property to which no title as evidenced by a deed from the bank. He may either by roll of dice or by he elects to buy, he pays the Bank, and he receives along with all rights thereto. Adverse possession a player of a property to the Title Deed. Should

flow its instructions
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pace a player again
ows the movements
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note that anyone who
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. Should the player
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end the game, it does
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view and happiness.
oll (pardon the pun)

NED PROPERTY:
a unowned property
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reach this property
ne draw of a card. If
s the proper sum to
ves the Title Deed
nd duties incident
ion will not deprive
which he possesses
eplayer choose not

to purchase the property, an auction is held
and the property goes to the highest bidder.
Any player, including the one who landed on
the property, may bid, and the price starts
at zero.

When a player lands on owned property,
he may be forced to pay the proper RENT.
Any court in equity will require this even
though the owner of the property may not
have "clean hands." No rent may be
collected on a property that has been
mortgaged. Higher rent must be paid on
improved properties.

ADVANTAGES FOR OWNERS: It is ad-
vantageous for a player to own all
properties in one class (i.e. all three Civil
Procedure aids: notes, text, and Federal
Rules) for this allows the owner to charge
double the listed rent to any player landing
on that space. Likewise owning all of the
Necessities (TGIF, Intramurals, Legal
Fraternities, and the Dating Game) will
incur double rent upon trespassers as will
owning both of the Edibles (George's and
the Deli). When a player owns an entire
class group, he may improve those
properties.

IMPROVED PROPERTIES: Ownership of
complete groups allows the player to im-
prove them by the acquisition of
GRADEPOINTS or the BOOK AWARD.
Grade Points (which are equivalent of
Monopoly houses) can be purchased ac-
cording to which row the property is located
on (Row 1-\$50; Row 2-\$100; Row 3-\$150; Row
4-\$200) and increase the amount of rent
which can be charged accordingly. The
rationale is that a student with Con. Law
notes who has four grade points must have
great notes, and you must consequently pay
more for the privilege of using them. The
same rationale holds for the possessor of the
BOOK AWARD (hotels). Four grade points
must be erected on each lot before the book
award can be obtained. No more than one
more grade point can be placed on any lot
above the number to be found on lots of the
same class group.

MORTGAGES: Properties may be mort-
gaged through the bank at any time for half
the purchase value. Grade points and Book
Awards are not mortgaged but are resold to
the Dean at half the purchase price. No
rental may be collected on mortgaged
properties. In order to unmortgage a
property, the player must pay off the

security interest to the Bank with the
mortgage price plus ten percent. Grade
Points and Book Awards cost FULL price.

SELLING OR TRADING PROPERTY:
Undeveloped properties, Necessities, and
Edibles may be sold or traded to any Player
for any amount which the shrewd owner can
obtain. The U.C.C. does not control, and
there is no such thing as an "un-
conscionable" bargain with another player
who "travels in small circles." No
properties with grade points and book
awards can be sold to other players. These
must first be resold to the Bank at half
price.

BANKRUPTCY: A player is bankrupt when
he owes more than he can pay to either
another player or to the Bank. If his debt is
to another player, he must turn over to that
player all his assets and retire from the
game. However he must first turn over
Grade Points or Book Awards to the Bank
and obtain the half price fee, give this to the
player who has brought him to this crisis.
Title XIII wage-earner plans are not ap-
plicable to this game.

Should a player owe the Bank more than
he can pay, he must turn over all assets to
the Bank. In this case, the Bank im-
mediately sells by auction all property so
taken except the Grade Points and Book
Awards (which are nontransferrable and
must naturally be earned by each player
individually). The bankrupt player im-
mediately retires from the game and
ponders life, graduate education school, the
armed forces, and Lady Luck. **THE LAST
PLAYER LEFT IN THE GAME WINS** and
becomes **LAW REVIEW EDITOR**.

MISCELLANEOUS: Money can be loaned
to a player only by the Bank and then only
by mortgaging property. No player may
borrow from or lend money to another
player.

Well, that's the game of **LAW
REVIEW®**. Any similarities in names or
effects to any classes, professors, practices,
or procedures or the real Marshall-Wythe
are expressly denied and declared null and
void. Likewise all express and implied
warranties of enjoyment are disclaimed. I
do hope that you enjoy the game of **LAW
REVIEW®** and wish you luck in the real
thing.

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Ask how you can earn while
you learn — as a Northwestern Mutual
college agent. You work part-time,
attend classes full-time. A limited
number of internships are still available.

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Get off academic
probation free. (Your
uncle in Richmond really
does have pull)

You may retain this card or
sell it if you wish.

Attend the Thursday
night poker game;
Lose your shirt
and \$15

YOU BLEW IT

Go directly to academic
probation. Do not pass GO,
Do NOT collect allowance.

A tourist runs over your
foot on DOG St. Settle
for \$2,000. Pay your
attorney; collect \$100 as
your share.

Pay \$200 for getting
caught with a Coke
in the Library at
11:55 p.m.

Advance token to George's.
Say hello to Mary, order the
special, "taste your beans",
and roll the dice, paying
the owner 10 times the
amount shown. If unowned
you may buy.

Your intramural team
finally wins a game.
Spend 2 turns at TGIF
celebrating

Read some obscenity
cases and take a cold
"Schauer."

If you've wasted your time
playing this game, you'll
never be Editor.

Lose 2 gradepoints and
get back to the Library!

Schauer, Cont'd

Continued from page 1
that is applied to first amendment issues.

Currently, Schauer said, "the danger is getting smaller and smaller" of prosecution for first amendment issues. In recent years the Supreme Court has come down strongly on the side of "positive rights" for the press, especially newspapers. Schauer says this positive right is the right to say or print whatever is desired.

The Supreme Court has not been as concerned with what Schauer calls "peripheral first amendment values," he said. These issues—including questions such as those raised by the jailing of New York Times reporter Myron A. Farber—involve the press's ability to gather the news it intends to print. Schauer said he is not certain that these "rights" should be expanded.

To do so "would grant a first amendment right for the press to do anything," he said. He said, for instance, that he should not have the "right" to publish an article in *National Geographic* about a part of the world he has never visited.

In addition, "there are other institutions that do good things" besides the press, Schauer said. He said that people concerned with constitutional issues have to look at values other than just press freedom.

Despite this belief, Schauer has written two books and an impressive number of law review and other articles, most dealing with first amendment rights. Now, though, his interests are falling away from specific first amendment problems and centering more on the theories behind these problems.

He is now working with his latest book length manuscript entitled *The Philosophy of Free*

Speech, which is a general treatise on the theory of free speech.

Although he had enjoyed "a bit more of a scholarly practice than most people get," Schauer said that teaching law had been "in the back of my mind" at all times. He wanted a chance to tackle more of the philosophical aspects of the law than he was able to reach in practice.

It is this attitude, too, that he tries to instill in his students. "Law changes so much" that learning a method of thinking is more important than learning particular cases, he said. "If you think there's an answer to everything you're in trouble." Wythe at this particular time almost by accident. He said that he had known Doug Rendleman, Professor of Law here, previously and that they had talked of his doing "something sometime in the future" here. He was offered the position after Dean William B. Spong, Jr., interviewed him in Cambridge, he said.

Schauer will say nothing about his staying at Marshall-Wythe past this year as a visiting professor other than that it is a "possibility." Neither he nor the school has made a firm commitment about the future.

To see his chipmunk-like animation as he banters with students after class, though, is to know that Schauer is excited about something. It could be that he is happy to be discussing the theories or history behind the law.

Or, as he put it, it could be that he is pleased that he is teaching at a small school. This allows him the chance to meet with students and scholars in many disciplines and to live across the street from the school, within easy reach of all that Marshall-Wythe and William and Mary have to offer.

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Virginia's Laws, Cont'd

Continued from page 1

of the office's constitutional responsibility," he says. If a law passed by the legislature was challenged, he explains, "by gosh, it was going to be fought right to the U.S. Supreme Court." Mr. Coleman, who took office in January, adds, though, that he might have recommended against prosecuting the newspaper that printed the name of a judge who was under state scrutiny.

One reason for the plethora of legal challenges is that Virginia has its share of what some people consider to be odd or antiquated laws. Although the cases don't always reach the Supreme Court, many of those laws encounter opposition at one level or another.

Currently, Bonnie Cord, a lawyer who has practiced in the District of Columbia for three years, is contesting a ruling by a Virginia judge that she isn't morally fit to take the Virginia bar exam because she is living with a man to whom she isn't married.

And a while back, the American Civil Liberties Union of Virginia succeeded in persuading a local judge to overturn a city ordinance in a southern Virginia town that said people who didn't pay their ambulance bills could be arrested.

Legendary Liquor Laws

The state's liquor laws are legendary. The state Alcoholic Beverage Control Commission received widespread publicity not long ago when it refused to allow the sale in Virginia of Billy Beer, named for President Carter's brother. The commission explained that its policy prohibits its approval of any beer endorsed by a living famous person.

Until July 1, when the state legislature ordered a change, customers weren't allowed to drink standing up in Virginia bars. Despite such liberalization of some aspects of the liquor laws, Virginia youngsters who want T-shirts sporting beer ads are reduced to smuggling them in from a neighboring state because Virginia doesn't permit the sale of children's-size apparel with such decorations.

A lot of states, of course, have laws that are subject to challenge; what they don't have is Virginia's proximity to those willing to challenge them, or its proximity to the ultimate forum—the Supreme Court.

"An appeal to the Supreme Court is expensive in any event," says Bernard Cohen, a lawyer who in 1967 successfully challenged a Virginia law prohibiting miscegenation. But it is easier to take a case to the Supreme Court "if you can take the subway or drive your car in" than if you have to travel from afar, says Mr. Cohen, who practices in northern Virginia,

across the river from Washington.

Stephen Bricker, staff counsel for the ACLU of Virginia, says that many national public-interest law groups have offices in Washington and that "just inevitably the errors of Virginia are much more likely to be litigated than the errors of Arkansas, Michigan or Oregon."

A Lawyer Battling the Bar

Indeed, the Supreme Court decision striking down fixed minimum fees for lawyers' services had its origins when Lewis Goldfarb, a Federal Trade Commission lawyer, and his wife decided to buy a house in a Virginia suburb. He says he "became outraged" when he learned that lawyers' fees for title examination were set by the local bar association at 1 percent of the purchase price and that no lawyer would charge less.

Alan Morrison, director of the Ralph Nader-associated Public Citizen Litigation Group here, represented Mr. Goldfarb in that suit. Subsequently, he brought a lawsuit challenging the Virginia bar's rule that a lawyer had to be involved in title-search transactions for home buyers. The antitrust suit was brought on behalf of a title-insurance company that wanted to deal directly with home buyers.

Although the suit is still pending, with the bar having won the latest round, the Supreme Court of Virginia has recently issued new rules that drastically cut back on the right of the bar itself to issue opinions saying that non-lawyers were engaged in the unauthorized practice of law. In the future, only the state Supreme Court can issue that kind of ruling.

The prominence of Virginia cases before the U.S. Supreme Court also undoubtedly has to do

with ideology. Virginia is generally a conservative state, rich in traditions that it gives up only reluctantly. "Recalcitrance, independence and stubbornness" account for some of the cases, acknowledges Mr. Coleman, the state attorney general. He hastens to add that it "goes back to the healthy exchange and conflict inherent in the federal system."

Many of Virginia's traditions, like those of other Southern states, have involved race. Judge Leon Higginbotham of the federal appeals court in Philadelphia declares in his book "In the Matter of Color" that Virginia "pioneered a legal process that assured blacks a uniquely degraded status."

A Safer State?

But the University of Virginia's Prof. Howard observes that this tendency to be a rather "legalistic state" may have made it safer to bring test cases on civil rights in Virginia than in some other Southern states; "You might win or lose, but you weren't likely to have your head blown off," he says. He adds that Virginia's fairly large, stable, black middle class provided "more resources and more willingness to bring test cases."

Indeed, besides the 1967 Supreme Court ruling that struck down the state's law against miscegenation, a case from Virginia was among those that led the Supreme Court to outlaw racial segregation in the public schools in 1956. And in 1963, the state lost an attempt to charge the National Association for the Advancement of Colored People with unlawfully stirring up litigation and soliciting clients; that ruling cleared the way for still more civil-rights suits. The case, in combination with a subsequent one from Virginia, also paved the way for the development of group legal services.

Virginia officials say things have changed since those days. While there isn't any sign that the activist attorneys will soon run out of Virginia laws and regulations to challenge, Warren Stambaugh, a member of the Virginia house of delegates from Arlington, reports that the state is "modernizing herself a little bit." He concludes: "We are slowly beginning to come into this century—even the latter half."

Homecoming Reception

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Who Are These People?



Congratulations are in order for the winners of the First Year SBA Elections: Mike Holm, Sandy Boek and Paul Frampton.

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Basham Captures Tennis Crown; Stabler Wins Women's

by Jon Margolies

The third annual law school tennis tournament ended last Friday with winners from each class. The Men's A category was decided in a match between number one seed, Jay Basham, and number four seed, Jay Ireland. In an exciting duel witnessed by this writer, Basham vindicated his top ranking and gave the third year class its only winner. The second year class was represented twice, Walter Williams winning Men's B and Kathy Dring-Bill Hopkins team sweeping to victory in Mixed Doubles. Women's singles was captured by tournament co-director Sally Stabler. The first year class saved its pride with Rick Hull's triumph in Men's C.

Awards were handed out at the tennis tournament party Friday night at Lake Matoaka. A hardy and spirited crowd turned out, enjoying the abundance of beer, munchies and music which had been provided. The party was especially timely for Phillies fans who (with the aid of a Stabler Sony) saw their team win the third game of the National League playoffs. The night's festivities were capped by Bill Hopkins who, in accepting his award, declared: "I've never been at the top before but now that I am, it'll be hell to knock me off".



Basham eschews appropriate court attire but goes on to win his case.



Is this that famous Stabler winning form?!



Jay Ireland, with a long Heritage of privacy, makes a rare public appearance to become the runner-up in the Men's A.



Pick 'Em 'N Win

Amidst cries of "fix," "scandal," "Watergate," and "fire," first-year law student Bryce Morris won the second bi-weekly "Pick 'Em 'N Win" contest, thus becoming the first two-time winner in the history of Marshall-Wythe.

Bryce, it probably isn't any of our business, but shouldn't you be spending a little more time on

your legal writing assignments and less time following the line scores? After all, the sports editors drink beer too. One more win and Bryce will have to be barred from all future contests and games sponsored by the Amicus.

Now get out of here Bryce, will you?

October 14

Southern Cal. vs Arizona St.
Dartmouth vs Yale
VMI vs Richmond
Texas A&M vs Houston
Stanford vs Washington
Pittsburg vs Notre Dame
Kentucky vs Mississippi

Tiebreaker

W&M vs James Madison

October 21

Arkansas vs Texas
Alabama vs Tenn.
W&M vs Navy
Penn vs Lafayette
N. Carolina vs N.C. State
Oklahoma vs Iowa St.
LSU vs Kentucky

Total Points

Knutes, Doggie Style Push Forth Towards IM Grid Playoffs

BY: Bear Blackstone

Because the sports editors of this rag continue to ignore intramurals, which is their proper area of coverage, I am writing this article so that the law school community may know what and how law students are doing. Perhaps in later issues these buffoons will stop printing their own mindless and uneducated opinions on national sporting events and report on law school activities.

Seven teams from M-W are participating in I.M. touch football this year and are deserving of coverage. Maybe this report will make more sense than an article rating Virginia football teams that has U.Va. anywhere other than the cellar, where they belong.

In capsule form, let's review the seasons of all seven of our teams, in order of their ranking:

1. The **KNUTES**. This third year team is an allstar powerhouse. Coach Fred Becker's crew is undefeated and is a good bet to make the championship game, probably against perennial champs Kappa Sig. Standout players include Williamsburg Ward Eason, Fat T. Moorman, Mike "Brass" Nuchols, Jay "Iron Hands" Neal, Mike "Lameduck" Soberick, and Bob Liptak, who is probably the league's M.V.P.

2. The **MONGREL DOGS**. This group is aptly named as it draws players from all three classes.

Coach Rich "Little Bo" Schafrann's team seems assured of a play-off spot. They must be considered as serious contenders, as their only loss was dealt out by the Knutes in a close game. Francis Bagby, Larry Murray, and little Mac McCullough are among the celebrities on this team.

3. **I.T.P.** This talented and intense group of rookies should just miss the play-offs this year. With a name that somebody understands and a year's experience, next year could be theirs. An impotent offense has only to develop some punch and this team could make waves. Key players include Jim Irving, Chris Corbett, Steve Mahan, and Ron Taylor.

4. The **LEFTOVERS**. Easily the best-dressed team in the league, this bunch of misfits has had suprising success. Raw luck has been the key to this teams' season. Coach Ken Geroe points to lack of talent and fair-weather fans as this season's most notable differances from last year's powerful Vader's Raiders. Geroe claims he is still a coaching genius. Lending credibility to his claim is a roster that includes Kevin "Bruiser" Brunick, Bob "The Knob" Rapaport, old men Bob Rae and Rick Britt, and P.A.D. boss Jim Hixon.

5. **DOGGIE STYLE**. This team likes to come from behind. Stirring comebacks have been

necessary frequently because of the team's tendency to fall hopelessly behind. Chiefly responsible for this and other bad habits is Coach Andy Thurman, who is slower than words can describe. Despite interference from Thurman, Brain "Mad Bomber" Buckley, Gary Marshall, Jay Basham and Walt Palmer have had outstanding seasons.

6. **DEVO**. This second year team has another one of those names that nobody understands. Considering the year these guys had it's probably just as well. Doug MacPherson, Jeff Milam, and Phil "Glass Jaw" Schuler pace this sorry crew.

7. **DOCTORS AT LAW**. With a name like this these guys deserve to finish last. Actually this is a normally revolting First Year name and we can only hope that the rookies will all use more creativity in naming future teams. Tom Scarr had a fine season. The other guys on this team approached football like it was a Legal Writing assignment from the dreaded Mr. Drake.

Our teams participated in what I.M. officials termed the toughest Independent Division and, by and large, were successful. More importantly, most participants enjoyed themselves.

Play-offs run from Oct 17-19. Game times and fields will be posted.

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