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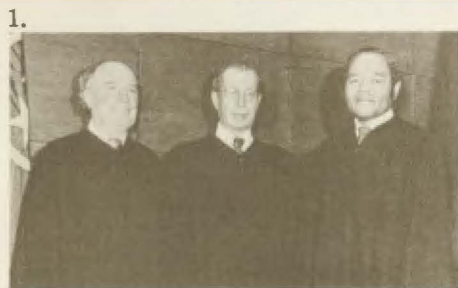
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ALUMNI HEADNOTES

The University of Tennessee College of Law

FALL
1976

Editor: Curtis L. Wells, Assistant Dean



1. Federal judges Wright, Haynsworth, and McCree. 2. Judges Wright, Haynsworth and McCree with moot court competition winners Bob McConnell, Bob Brumley, Phil Klipsch (deceased) and Stan Kweller. 3. Law College's newly remodeled moot courtroom.



QUARTERLY HIGHLIGHTS

Law Day Prize Moot Court Competition Finals featured Federal Circuit Judges Clement Haynsworth, J. Skelly Wright and Wade McCree (see pictures).

Newly restored Moot Courtroom (see pictures) was reopened for use in time for Law Day activities.

Monrad Paulsen, formerly Dean of the University of Virginia Law School, gave the second annual Alumni Distinguished Lectureship in Jurisprudence during April. His lecture was entitled "Fundamental Principles of American Criminal Procedure" (see picture).

Two new courses in the Law College curriculum were taught for the first time in the spring quarter—Intellectual Property (covering patents, trade secrets and copyright) with Mr. Ed Luedeka of the Knoxville and Chicago Bars, and Trial Practice Seminar, to be continued next year with two members of the regular faculty supplemented by distinguished practitioners from this area.

Professor Clive Parry, Distinguished Visiting Professor of Law from Cambridge University during the winter and spring quarters, gave a public lecture on the International Law of the Sea Confer-

ence and spoke at a Faculty Forum on comparison in English and American legal education. (see picture)

The June Commencement Hooding Ceremony speaker was the Honorable John L. Bowers, United States Attorney for the Eastern District of Tennessee. He spoke with visible impact on the practical and philosophical in the contemporary practice of law (see picture).

Sterling Professor of Law Myres S. McDougal was this summer's week-long Jurist-in-Residence, following Hon. Roger Traynor who was with us in the summer of 1975. Professor McDougal, who has been President both of the Association of American Law Schools and the American Society of International Law, gave three major public lectures covering international law subjects as well as an extended development of "law, science and policy," a jurisprudence which he and Professor Harold Lasswell at Yale have authored over the last thirty years. Theirs is the most significant and systematic legal thinking since Roscoe Pound or the legal realists.

Professor Jerome Shuman (of Georgetown University) visited for the summer quarter and taught the course in Antitrust as well as the course in Legal Accounting. He also gave a SBA sponsored talk on how to invest (intelligently) in the stock market.

TOWARD THE STUDY OF OUR PROFESSION'S PAST: A BEGINNING EFFORT

All too few lawyers and even fewer law students have a meaningful and accurate sense of their chosen profession's history. To add this dimension to their professional repertoire, fifteen students at the College of Law have taken a seminar entitled "The Origins and Contemporary Status of the Modern Legal Profession." The seminar was offered by Associate Professor Carl Pierce and is based on research done by Professor Pierce last year while he was a Fellow in Law and Humanities at Harvard University.

The seminar traced the historical development of the American legal profession from the early seventeenth century, which has been labeled a period of "law without lawyers," to our current century, a period which has provoked one historian to entitle his recently published book about the legal profession *Unequal Justice*. Also examined were the growth of the bar and its place in the class structure of the eighteenth century colonies, the role of lawyers in the American Revolution, the upsurge of anti-professional sentiment in the Federalist period, the conflict between professional ideals and egalitarian aspirations in Jacksonian America, the relationship between the bar and the busi-

continued on p. 5

Dear College of Law Alumni:

In early May we sent out a questionnaire in order to bring our alumni records and mailing list up to date.

Your collective response was overwhelming, and our records may be more complete now than at any time in our history.

Truly gratifying was your assistance

in providing us with current addresses and information on alumni with whom we had lost mailing contact.

We thank you for your assistance and trust that this joint effort will strengthen the bonds between the college and its alumni.

Curtis L. Wells
Editor

Would you take a moment to look over the following list of graduates and to supply us with information as to their whereabouts. It is presumed that many of our graduates from the earlier classes are now deceased, but we would like to have official notice to that effect.

UT COLLEGE OF LAW ALUMNI ADDRESS UNKNOWN

1891 Clift, Wallace	1915 Adler, Leon Collins, Arthur	1947 Blankinship, J. Elbert Ingram, Clifford McKinley	1960 Wright, Robert A.
1893 Faulkner, John Lynch	1916 Seagle, Raymond H.	1948 Loy, Lawrence C. Franklin, Lawrence Collins Goodman, Clarence Emory, Jr. Richardson, William B. Ross, William Rudolph, Matt Henry Vincent, Howard	1964 Buck, David P. McGowan, James J., Jr. Willis, Glynn Robert
1894 Ragland, Eugene	1917 Binstock, Louis Russell, Graper Harris	1949 Baker, Richard Harold Copelan, Joseph Benjamin	1965 Lee, Kenneth Edward Willis, William Tyler Wilson, Donald Goodwin
1899 Anderson, Walton S. Baxter, Joshua G. Cogar, Albert E. Richelson, Rev. John T.	1919 Wilson, William Wallace	1950 Anderson, Hugh W. Barrott, Carl Nelson Goddard, Lawrence Clifton Hart, Robert Edwin Morton, Henry H., Jr. Robinson, William Horbert	1966 Gentry, Louis Francis Sheffield, Wilham M. Ragland, Joe Mac
1900 Frazier, Joseph Wheeler Otts, Earnest Vaughn	1920 Anderson, Issac H., Jr., Beecher, Edward C. Stanfield, Halmond Kinsland	1951 Glasgow, Richard Joseph Glazek, Edward Marion Jones, Carroll Lee Mathis, John Alvin Wagner, Curtis Lee	1967 Bowyer, Harry C. Hicks, Thomas Lynn Kardin, Peter David Rollyson, James H.
1901 Morgan, Glenn Colby Pierce, Joseph Audley Smith, Eugene Tyrell	1923 Shaeffer, George Butt	1952 Finkelstein, Zane E. Kesler, William Jr. Watkins, George Clarke, Jr.	1968 Atwell, George C. Bailie, Gilbert H. Cowan, Thomas Ewing II Dills, Michael H. Myers, Larry Edwin Olsen, Polly A. Pupatelli, Peter Paul Robertson, Gerald V. Soloman, Charles E., Jr. Wasko, Robert J. Wilson, Johnny Kay Sheeley, Marilyn Leslie
1903 Grim, Joseph Jr.	1924 Powell, Douglas Swanner, Thomas Wright	1954 Pazarecki, Edward Peter Seabrook, Wilbur R.	1969 Blackford, Michael James Cooper, Suzanne May Helm, Jack Dickey Jaynes, Willis P., Jr. Jones, Harold Ray Larkin, Gerard Clement, Jr. Martone, Alexander L., Jr. Moratzka, Timothy D. Mullaney, Stanley J.
1904 Johnson, Powell	1925 Faris, Eben C. Hale, Clarence Sevier	1955 Coombs, George T. Craig, Wallace Snell McConkey, James H.	1970 Cominguez, Mauricio Green, John Leslie Hughes, Charles Wilson Potts, Linda Shimshi, Ezra Zuzga, Stanley E.
1906 Bochman, Jonathan W., Jr.	1926 Files, Thomas Russell Yates, Joseph D.	1956 Gardner, Alfred, Jr. House, Paul Compton Scott, Glen R.	1971 Burgart, Michele G.M. Robertson, William L.
1907 Hays, John Jackson	1929 Chambers, Shelby Lee Robert, Wallace Austin, Jr.,	1957 Bennett, Edward Gill Bley, Robert F. Bright, Fred Jr. Chadwell, Claude C. Holsclaw, William Graham Gombert, Richard Eugene	1972 Bittner, Barbara F. Williams, Marshall Ray
1908 Anderson, David H. Bellmont, Leo Theodore Pedigo, William Hank	1932 Farrar, James Granville		
1910 Dodson, Paul S.	1935 Frantz, Laurent Brown		
1911 Maples, Samuel Wynne	1936 Hatfield, Greenway, Jr.,		
1912 Winifrey, Charles H.	1937 Hannings, Robert B.		
1913 Boal, Frank K.	1938 Millard, Sam Taylor, Jr.,		
1914 Alford, Warren Grady Anderson, Ernest Lynn Avery, William Mitchell Barrow, Robert Lawner Bridges, Russell Reid Brown, Stephen Treadwell Byers, Roy Dewitt Byler, Charles Elbert Carter, Cap James Clark, Erbie Bethel Clements, Peyton Clifton Colbert, William David Copeland, William David Cottongim, Jay Gould Crabb, James Vester	1940 Arnold, John Wyatt Carr, James Stuart		
	1941 Keepfer, Mary Louise Lawrence, Marie M. McDaniels, Mary Louise		
	1944 Geesen, Jack Sherman		
	1946 Spencer, Mary Breshnahan		

COMING EVENTS— FROM THE DEAN'S DESK...



New Alumni Directory. How often have you wanted to locate someone you knew in law school or find a fellow Tennessee graduate in another city for referral of some client assistance? Hopefully very often. In part on the expectation that many of our alumni would find it useful in these and many other ways, the College is bringing up to date and publishing a list of all living law alumni. These was last done in 1967, and in the meantime hundreds of new alumni have joined your ranks and others have moved or changed positions. All of you should have received at least one communication about this by now, and some of your responses have been helpful and in some instances humorous. For instance, when our letter asked for help in locating one Clure Morton ('34), Tyree Harris ('43) wrote back pointing out that there is such a person sitting on the federal bench in Nashville! Our apologies to Judge Morton (and others similarly situated and no less respected by your College of Law) whose specific mailing address and preference (as between home and office) and the like we did not have. (Ed's note: Moreover we know now who is paying attention and reading the lists!) It is expected that the new directory will reach you this fall or early winter.

Law Review Index. The *Tennessee Law Review*, most of you will be glad to know, is hard at work on a new ten-year index (actually a 13-year-one). The project is destined for early 1977 publication.

Librarian Search. Mr. Richard Surles, who served as our law librarian from 1971 until this summer, has assumed a similar post at the University of Oregon. Rick really gave our library development outstanding leadership during those five years, not only building up the collection but re-organizing it and substantially augmenting reader services in staff, equipment and processes. Now the library stands at the beginning of a new, perhaps more sophisticated phase. And the faculty, library staff and Dean are hard at work finding new leadership equal to the challenge of the next decade in library use and development. The search has been going on all summer, and several outstanding headlaw librarians from universities all over the country have agreed to visit the campus and be considered for the post. It is hoped a replacement will be on board by January first. In the meantime, Dennis Hyatt, formerly reference librarian, is serving as acting librarian.

ABA Re-inspection. Every seven years or so ABA-approved law schools go through a re-inspection to insure compliance with the standards of the profession in legal education. The University of Tennessee was notified this summer that during the next academic year it would be time for such a re-inspection of this law school. Sometime during the spring, in all probability, a group of lawyers, legal educators, and judges will visit the campus for several days and look closely at all aspects of our operation. In the meantime, the faculty and I will conduct a self-study to assist the work of the visiting team. It is a good opportunity, although a demanding one, for the school to reassess its goals, resources and quality with the help of critical but interested and responsible representatives of the profession-at-large. A preliminary examination of some of the standards will be conducted with the help of our Alumni Advisory Council, hopefully at its regular meeting in the fall.



Kurtz

Rivkin

Shuman

NEW FACULTY

WALTER C. KURTZ recently joined the staff of the Legal Clinic as Senior Trial Attorney in the Criminal Division. Before coming to UT, Walter was Director of Legal Services of Nashville and Lecturer of Law at Vanderbilt Law School. He is a graduate of The Citadel and Vanderbilt University School of Law.

DEAN HILL RIVKIN, Assistant Professor of Law, also will be working in the Legal Clinic in the Civil Division. Dean received his A.B. from Hamilton College in 1968 and graduated from Vanderbilt Law School in 1971. He has just completed a year at Harvard Law School as a teaching fellow. Previously he worked with the Appalachian Research and Defense Fund of Kentucky, Lexington Kentucky, as a Reginald Heber Smith Community Lawyer Fellow and later as Directing Attorney. Dean is married and has one child.

JEROME SHUMAN has been visiting the faculty of UT during the summer quarter. He will return this fall to Georgetown University School of Law. This summer he has been teaching Legal Accounting and Antitrust. Mr. Shuman graduated from Howard and Yale University.

ALUMNI NOTES

GEORGE T. LEWIS, JR. ('36) announces the formation of his new firm, Lewis, McKee and Hall, in Memphis. He is also Vice President, Associate General Counsel and Director of World Service Life Insurance Company. His son, George T. Lewis, III, will enter UT Law School this September.

WILLIAM M. STEPHENS ('50) is now Staff Attorney for the Tennessee Commission on Aging. He is presently developing a state-wide program to provide legal services for the indigent aged. Formerly, Mr. Stephens directed a paralegal teaching program at Gaston College in Dallas, North Carolina.

JAMES E. BECKNER ('65) has been named Criminal Court judge in the 20th Judicial Circuit of Hawkins, Greene and Hamblen Counties.

LEWIS C. FOSTER, JR. ('67) has joined the firm of Egerton, McAfee, Armistead & Davis, P.C. in Knoxville.

CHARLES A. WAGNER III ('68) has been named Associate Chief Counsel in charge of litigation and claims for TVA in Knoxville.

HERBERT S. MONCIER ('70) is establishing a private law practice in Knoxville. Mr. Moncier has been Assistant Attorney General in Knoxville since September, 1974.

ROBERT H. YANKELEVITZ ('70) announces the opening of an office at 60 East 42nd Street, New York, N.Y.

JOHN KOCISIS ('72) was elected to the position of representative to the Pennsylvania State Committee on April 27, 1976. He is in the firm of Dowd & Kocsis, Sayre, Pennsylvania.

ROBERT W. JENKINS ('75) has opened his own office in Gatlinburg, Tennessee.

JOHN D. McMAHAN ('75) is now associated with the firm Thomas, Leitner, Mann, Warner & Ownes, Chattanooga, Tennessee.

ROBERT P. RULE, JR. ('75) has become an associate member of the firm of Stewart, Estes & Donnell, Nashville, Tennessee.

A. BURTON ENGLISH ('76) has joined his father, Alfred L. English, in his law practice in Shelbyville, Tennessee.

We regret to announce the deaths of JUDGE J. MAYES ('26) of Rogersville, Criminal Court judge for the 20th Judicial Circuit; CHARLES NORMAN RADER ('69) attorney in Knoxville; and J. EDWARD HYDER ('48), attorney in Hawkins County, Tennessee.

OF LIONS, SNAKES & PEOPLE



During your student days at the College of Law you were no doubt interested in and most certainly affected by changes in the curriculum. Perhaps you were in residence when a number of new courses were added or when mandatory requirements were eased in favor of a greater number of elective courses. The specific changes in curriculum tend to blur with the passage of time. But there is one issue which remains ever present and which is debated over and over again by students, practitioners and law faculty.

The issue is really quite complex and yet, it is more often than not, characterized in a rather simple dichotomous manner—Theory v. Practice. An in-depth examination of the myriad aspects of this issue would occupy several issues of a law review or related scholarly journals. However, because of the limitations of time and space and because most of us enjoy simply dichotomous issues, we have attempted to place the issue succinctly before you.

This particular "polarized" treatment of the issue began as a result of a letter from Professor Jerry Phillips to Professor Fred Thomforde (who was on leave in 1975 at Southern Illinois University) in which Professor Phillips raised several questions as to the desirability of curriculum changes, particularly those involving more practice-oriented courses.

In return, Professor Phillips received the following letter from Professor Thomforde and therein lies the "tail".

THE LION-TAMING SCHOOL

Once upon a time there was a young man in search of a meaningful future. After much consideration he decided to become a lion-tamer—no small ambition. Before entering the three-ring circus (or even a one-ring operation for that matter) he was required, so he learned, to successfully complete a prescribed course of study at one of several lion-taming schools. Before admitting him, however, each of the schools required that he be able to play poker, there being some correlation between good poker faces and successful lion-tamers.¹ At any rate, our friend was finally admitted to one of these establishments. It was heavy stuff—right from the start—when the new students gathered in a room decorated to resemble a center ring. The walls were tastefully encumbered with pictures of now-departed lion-tamers of the past, including a

¹Schools were learning, however, that some did poorly on the test because they were generally happy, and that others tended to cry when dealt a poor hand. Special tutorials were highly successful in teaching both groups to keep a straight face, even when holding a straight flush.

clown or two. The faculty were introduced and it became apparent that our friend had chosen well. Practically every one of them had gone to a really good lion-taming school, most have written about lions, and several had even spent an entire year working for a circus where they got to feed real lions, while others spent their summers at the zoo taking pictures of lions. My goodness, thought our friend, could he ever hope to become like one of these?

He worked hard, as you've probably guessed already, and soon was recognized as the brightest student in his class. He knew what colors lions were, what they liked to eat, where they came from, how long they slept, that they were ferocious, etc. On occasion, the Dean even invited real lion-tamers to the school for a day to talk to the students. But, alas, uneasiness began to fill our friend's soul. Though he was doing well, he had never seen a lion, much less tried to get one to jump through a ring of fire.² It is true, however, that he had seen Gina, Tony and Burt imitate trapeze artists in a movie, but he longed for the taste, or should we say touch, of a real lion.

Forthwith, he and some other students petitioned the faculty to at least house some old lions (and maybe some old lion-tamers) at the school so the students could feed them. The Dean was amused. "Really," he said, "there's so much to learn as it is. Trust us. Besides, have you considered the expense of keeping real lions around the school, not to mention the smell?"³ "Besides," said the Dean, "you are all required to participate in the first year Mute Lion-Taming Competition⁴—what more do you want?" So the students, being close to graduation, dropped the whole idea.

Our friend graduated at the top of his class and had many good offers to be an apprentice with lion-tamers at the really big circuses, but chose instead to accept a job with a small, but poor, circus in the Midwest whose old tamer had passed away. Some faculty cautioned him against taking the job, but he went anyhow. The little circus, he thought, needed him.

And so they did. He arrived in the afternoon and was told he'd have to perform that night. He went to his room and reviewed his notes on whip selection, chair handling and nocturnal personality quirks of the big cats. In what seemed like a moment, our friend was being introduced to the crowd in the center ring. "My

²He was, you see, from a small town that was unable to afford its own zoo, and too far from any city visited by the Ringling Brothers.

³They were not sure whether the Dean was referring to the smell of old lions, or old lion-tamers. Probably both.

⁴In the "Mute Lion Competition," one of the students dresses up like a lion and the other students (and some faculty) get to hit him with felt whips and make him jump over chairs, etc.

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God," he thought, "I've yet to see my first lion!" at which time the lions came into the cage. The words of his Dean at orientation flashed to mind: "Look to your left, look to right; in a few years, two of you will have been eaten." "But not me," he thought, "I was first in my class." But then he remembered the Dean's words at graduation: "You have learned many things about lions here, and we are proud of you. But there are many things we cannot teach you. These things you will have to learn through experience." Our friend snapped out of his reveries, for it was on with the show. He held up his chair, cracked his whip and had the ultimate experience.

[Undaunted, Professor Phillips replied in kind.]

THE PARABLE OF THE PHARISEE AND THE SADDUCEE



Once upon a time there was a Pharisee who had heard that every great person must have a well-developed moral philosophy at the center of his being. Believing the most likely place to find such a philosophy would be in established religion, he accordingly began attending the church services of the various denominations in search of a faith. Alas! He came away empty-handed. Indeed, he heard very little in the churches which he thought was even remotely relevant to moral philosophy.

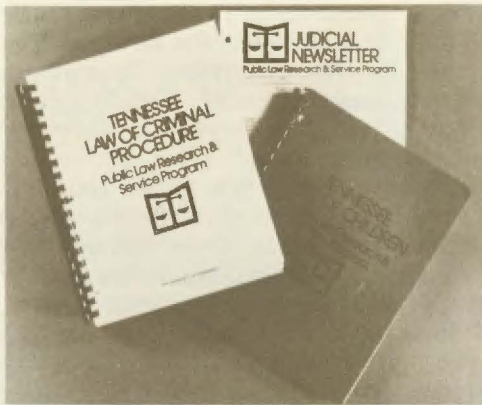
He was on the verge of giving up when his good friend the Sadducee invited him to attend the Holiness Church which, the Sadducee said, was "a swinging place." Thinking he had nothing to lose, the Pharisee went along with his friend.

When they arrived, the meeting was in full swing. People were shouting and singing, clapping, swooning and speaking in tongues. Moreover, at the front of the church the Preacher and a few of the leading Elders were handling a half-dozen or so of the largest rattlesnakes ever seen by man.

The Pharisee's eyes sparkled as he said to his companion, "Man, this is where the action is! This is for me!" He started toward the front, but the Sadducee stopped him saying, "Hold on! You've got to have faith before you can do that." Ignoring this warning the Pharisee continued on his way: "How can you learn except by doing?" he quipped.

Up in front, the Pharisee took in hand the largest rattler he could find, and it promptly bit him. The Preacher, who was shouting and singing, turned to the Pharisee and said, "Keep the faith, Baby! Here drink this down." He handed a fruit jar filled with strychnine to the Pharisee, who drank it and straightway fell over dead.

Moral: If you have faith the size of a grain of mustard seed, you can drink strychnine; but if you don't, you can't.



THE JUDICIAL SYSTEM EDUCATION PROGRAM of the College of Law has developed three texts on Tennessee law under a grant from the Tennessee Law Enforcement Planning Agency. The texts, which are being distributed to Tennessee judges, public defenders and court clerks are entitled: *Tennessee Law of Children*, *Tennessee Law of Crimes*, and *Tennessee Law of Criminal Procedure*.

The *Tennessee Law of Children* contains three complete parts: Juvenile Court Procedure, Guardianship, and Legitimation and Paternity. The text will eventually be expanded into the complete law of children in Tennessee. The text contains 11 complete chapters, 260 pages, including relevant parts of Tennessee statutes, public acts, the U.S. Constitution and the Tennessee Constitution. The text, which is in its second printing, sells for \$13.00.

The *Tennessee Law of Criminal Procedure* is a complete text, examining Tennessee procedure from arrest through extraordinary writs. The text contains 21 chapters, 500 pages, including relevant parts of Tennessee statutes, public acts, the U.S. Constitution, and the Tennessee Constitution. The text, which is in its second printing, sells for \$16.50.

A third text, which will be available September 1, is the *Tennessee Law of Crimes*. This text is organized around a comprehensive outline of statutory and common law crimes. Over 60 of the most frequently prosecuted crimes have currently been written. The text contains an element by element examination of the crimes, incorporating relevant decisions, statutes, public acts, attorney general opinions and the U.S. and Tennessee Constitutions. The text sells for \$15.00

A 10% discount on the price of each text will be given to state and public employees. For orders of 5 or more, a 20% discount will be given.

To order the texts, send your check, payable to the University of Tennessee to:

Administrator, Judicial System
Education Program
College of Law,
University of Tennessee
1505 W. Cumberland Avenue
Knoxville, TN 37916
Phone: (615) 974-6691

THE LEGAL ETHICS CORNER

by Grayfred B. Gray
Assistant Professor

Answers on Page 6

This quiz deals with common problems which you may face in your practice. Each of the questions has a straight answer under the Code of Professional Responsibility which governs our conduct in Tennessee and relevant Opinions of Ethics Committees.

1. A client asked you to handle a piece of complicated tax litigation which you immediately referred to a lawyer who engages almost exclusively in tax practice. That lawyer has completed the representation satisfactorily and has been paid. He sent you a nice letter of thanks and enclosed a check for 25% of his fee as a referral fee. May you deposit it?

1. Yes 2. No 3. Don't know

2. May an attorney tape record his telephone calls or interviews without obtaining the consent of the other parties to the call or conversation or advising them that he is doing so?

1. Yes 2. No 3. Don't know

3. You have filed suit in General Sessions Court in a contract action. In your dealings with your client you find him exceedingly obnoxious and decide you longer want to represent him. May you terminate the representation if you return the fee he has paid you?

1. Yes 2. No 3. Don't know

PROFESSOR OVERTON RECEIVES AWARDS

For his many contributions to legal education, Dr. Elvin E. Overton was the recipient of two significant awards which were presented during the spring quarter.

The first award was made by the University of Tennessee. The award designated Dr. Overton as a Distinguished University Professor. This accolade is presented to a very select group of faculty each year and is further distinguished by a monetary stipend which accompanies the designation.

The second honor accorded Dr. Overton was the Knoxville Bar Association's Harold C. Warner Outstanding Professor Award.

The award, named in honor of former Dean Harold Warner, is presented annually by the Knoxville Bar to that legal educator who has contributed significantly to the advancement of legal knowledge and education.

The presentation was made by Bob Ritchie ('62), President of the Knoxville Bar Association, at a bar luncheon held in Knoxville on May 5. The award is further distinguished by the fact that it carries with it a stipend of \$1,000.

DEPARTURES

The College of Law regrets the departure this year of a number of its faculty. Zyg Plater has accepted a position as Associate Professor at Wayne State University Law School in Detroit.

Following Zyg to the north country will be Assistant Professor/Assistant Dean Don Cohen. Don will become Assistant Dean at the University of Michigan Law School.

Rick Surles has accepted the position of Law Librarian and Professor of Law at the University of Oregon in Eugene.

Jerry Wilkerson will return to California to assume a post at the University of California at Davis.

Bailey "Chip" Kuklin has accepted an Associate Professorship at Brooklyn Law School.

We certainly wish all of them good luck in their new endeavors and bid farewell to some lovely ladies—Meg, Barbara, Judy, Corky, and Susan.

continued from p. 1

ness community in the Gilded Age, and the growth of legal education from 1870 to the present. Finally, the class considered the role played by the legal profession in the rapid social change that has marked the last seventy years.

Thematic discussion focused on the self-image of the legal profession and its place in the larger American society. For example, the students considered the relationship between lawyers and ministers in the colonial period, between lawyers and politicians in Jacksonian America, and between lawyers and businessmen in the age of enterprise. In pursuing these themes, the seminar attempted to demonstrate and evaluate the historical differentiation of the lawyer from other occupations and the efforts made by the legal profession to justify its privileged position in a society committed to democratic and egalitarian ideals. A related thematic strand involved a consideration of differences within the profession itself about the attributes and values of "the lawyer."

This seminar marks what Professor Pierce hopes will be just the beginning of studies at the College of Law about the history of the legal profession, with particular emphasis on the bar in Tennessee. Interest in the profession's history has been sparked by the recent publication of Jerold Auerbach's *Unequal Justice: Lawyers and Social Change in Modern America* (Oxford University Press: 1976) and Maxwell Bloomfield's *American Lawyers in a Changing Society 1776-1876* (Harvard University Press: 1976), and Professor Pierce thinks that an increasing number of practicing attorneys and law students might find both enjoyable and profitable a few hours excursion into the past of the profession in which they make or hope to make their living.



FALL 1976

Volume 5, Issue 1
 The University of Tennessee College of Law,
 1505 W. Cumberland, Knoxville, Tennessee 37916

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NEW NORM ON FIRST YEAR GRADING

By Dean Ken Penegar

Grading is something students always complain about in law school and something faculty can rarely agree upon. It is rare indeed, then, when a faculty can set out to find some common approach in this area. But that is what this faculty did this year after studying the matter off and on for four years. What the faculty agreed to do was have a common expectation about what an "average" grade is in first year subjects (which as many alumni may not know are taught in multiple sections to keep the size down to about 66 per section). Based on the experience of our faculty and our students of recent years this mid-point appears to be around 2.4 to 2.6. So it was on this zone of grades which we settled. But, and this is very important, each faculty member decides not only the distribution of the grades around this zone but also whether in fact the class really performed up to "average" expectations. If it did not in the opinion of the teacher alone, then he or she may so indicate to the Dean and depart from the norm as seems appropriate. This brief explanation is offered to expand the points made or implied in Professor Phillips' comment in an adjoining column on this page.

LAW SCHOOL GRADING

by Professor Jerry Phillips

The law school faculty recently decided by a vote of 14-13, with the Chair voting and the Secretary abstaining, to impose a mandatory average of 2.4-2.6 for all grades in first year classes. The rationale for imposing the requirement is that first-year courses are required and students assigned to classes without choice, and that their grade should not be affected by such an arbitrary factor as the "luck of the draw."

Opponents of the proposal contend 6.

that the average itself is arbitrary and capricious, that it was arrived at on no reasonable basis, and that it constitutes a severe invasion into the vital judgmental processes of the individual teacher. The net effect of the proposal will probably be to raise first-year grades, and the proponents justify this effect by concluding that our students are better today than they used to be (present readers excepted of course). The opponents see the effect as one more dismal example of grade inflation, which they view as part of an overall conspiracy to debase educational values.

If the new system works, moves will undoubtedly be made to extend it to upper-class courses on the theory that what is good for fresh persons must surely also be good for the others. Teachers will probably demand that their student evaluations be done on a mandatory average basis. One local attorney, on hearing about the adoption of the grade proposal, stated he was going to use it as precedent to convince the judges he should win at least an average number of his cases. Apparently he has not been doing that to date.

If the new system does not work, then presumably it will be junked at some future date. The rub here, however, is in determining whether or not the system works.

BOBBYE SPEARS APPOINTED FIRST WOMAN REGIONAL SOLICITOR OF LABOR



Bobbie Dorris Spears ('61) was recently appointed a regional solicitor for the U.S. Labor Department, the first woman ever to be appointed to that position. From her office in Atlanta, Georgia, she will direct the department's activities in Georgia, Florida, South Carolina, Ala-

bama and Mississippi. A native of Watertown, Tennessee, Mrs. Spears received her B.S. from Tennessee Polytechnic Institute in Cookeville, Tennessee in 1954 and her LL.B. from University of Tennessee College of Law in 1961. In 1962, she began working for the Labor Department as a legal assistant in their Nashville office. She was transferred to Washington in 1969 and rose to the position of associate solicitor of the Division of General Legal Service, Office of the Solicitor.

Mrs. Spears has won several precedent-setting lawsuits filed under the Federal Equal Pay Act. *Wirtz v. Square D. Co.* resulted in a \$750,000 settlement for 1600 women. In a case involving the Fairmont Supply Co. three women were awarded \$23,000 in back pay. She has also received special recognition for her services as a member of the U.S. delegation to meetings of the International Labor Organization during 1974, 1975 and 1976.

Answers to Ethics Quiz

1. No. A fee cannot be divided without the client's knowledge and consent to your employment by the tax lawyer. DR2-107 (A) (1). Even if the client does consent to such employment and division of fees, the division must be in proportion to the services performed and responsibility assumed. DR2-107 (A) (2). See New York State Bar Opinion 134 and 317.

2. No. With a narrow exception for certain law enforcement activities, lawyers may not record conversations without the consent or prior knowledge of all parties to the conversation. DR1-102 (A) (4); American Bar Association Formal Opinion 337.

3. No. The personal obnoxiousness of your client is not as such a basis for withdrawal from representation. DR2-110 (B) and (C). In a case in which you do have grounds for withdrawal after filing suit, you must also obtain court permission, if that is required by its rules. DR2-110(A) (1).