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Spring 1981

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University of Tennessee College of Law

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Spring 1981

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University of Tennessee School of Law

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# ALUMNI HEADNOTES

Spring 1981/The University of Tennessee College of Law/Julia P. Hardin, Editor

## Thomforde Honored By Young Professorship

Professor Fredrich H. Thomforde, Jr. has been named the "Young Professor of Law" for the University of Tennessee in recognition of his excellence in teaching.

This professorship and nine others were made possible by a \$1 million gift to the University from Knoxville attorney Lindsay Young, who graduated from the UT College of Law in 1935. In announcing the selection of Professor Thomforde, Dean Kenneth L. Penegar noted that "Mr. Young's generous gift is intended to recognize and promote classroom teaching" and that Professor Thomforde represents the highest ideal of excellence in teaching.

During the seven years that Thomforde has been a member of the College of Law's faculty, the Student Bar Association has voted him most outstanding professor three times. The Knoxville Bar Association presented him with the Dean Harold Warner Distinguished Teaching Award in 1977.

Professor Thomforde earned his B.A. and J.D. degrees from Valparaiso University and served as Assistant Professor and Associate Dean at Valparaiso before joining the faculty at UT. He received the J.S.D. from Columbia University in 1977.

Thomforde served as a trial attorney for the U.S. Securities and Exchange Commission and for F.S. Moseley and Co., Boston, Massachusetts. He has been published in numerous law reviews and journals and has served as speaker for several programs, primarily in the areas of administrative law, securities, corporations, and legal ethics.

Lindsay Young's gift is the largest outright gift in the University's history, providing for eight professorships in the humanities and one each in law and veterinary medicine. Interest from the investment of

*continued on page 2*



*Dean Penegar, Professor Thomforde, Lindsay Young, and Bernie Bernstein.*



**On the Way to  
\$1.25 Million Goal  
Law Campaign Reaches  
\$1,200,000 Mark**

The College of Law Alumni Advisory Council recently announced the completion of Phase I of the Tennessee Tomorrow Law Campaign, and as of publication, the campaign has received a total of \$1,205,460 in pledges toward a goal of \$1.25 million.

According to Herbert M. Bacon, Class of '50 and College of Law Alumni Advisory Council Chairman, the Tennessee Tomorrow Law Campaign is a three-year program seeking \$1.25 million in new endowment funds for the UT College of Law. The income from this endowment will be used to fund five areas of legal education: faculty salary supplements, law student

scholarships, faculty research stipends, library acquisitions and support, and special academic projects such as the nationally-recognized Moot Court Team.

College of Law alumni are being asked to pledge a gift to be paid over a three- to five-year period.

At the annual Advisory Council meeting held last October in Knoxville, Mr. Bacon and State Chairman Bernard E. Bernstein, '58, announced that leadership for Phase II of the campaign would be provided by Robert F. Worthington, Jr., '57, Knoxville; Charles M. Gore, '36, Bristol; Dorman L. Stout, '59, Kingsport; Charles C. Baker, Jr., '68, Nashville; and John K. Morgan, '55, Chattanooga.

"The outstanding response of many alumni thus far is testimony to the importance of this project," Bacon said. "It is gratifying to see that of the \$1,205,000 pledged, over \$600,000 has been paid in to date."

"We will spend the remaining time personally visiting with as many alumni as

*continued on page 5*

## **CONTENTS** **Special Articles**

- Thomforde Honored by  
Young Professorship-1**
- Tennessee Tomorrow Campaign-1**
- Scenes from the Past-3**
- The Dawn of LEXIS-3**
- The Switch to the Semester System-3**
- Judge Wilson Speaks  
at Law Review Banquet-5**
- "A Sermon For The Lawyers," Carl Pierce-6**
- Judge Daughtrey Addresses  
December Grads-7**
- Two Formerly "Acting" Positions Made  
Permanent Appointments-8**
- Regular Features**
- Message from the Acting Dean-2**
- Alumni News-2**
- Faculty Activities-4**
- Career Planning and Placement-7**
- Newsworthy Events in  
the Public Law Institute-8**

## Thomforde—continued from page 1

the funds will be used to provide salary supplements for professors chosen for the awards.

The number of quasi-endowed professorships in the College of Law is now up to four. Jerry Phillips holds the W.P. Toms Professorship, Joseph G. Cook was awarded the Willford Gragg Professorship, and Forrest Lacy was appointed earlier to the Alumni Distinguished Professorship.

### Message From The Acting Dean



You may have noticed that during recent months the College of Law has experienced both "good news" and "bad news" in the public press. Indeed, for a period of time, legal education appeared to achieve a new high in Tennessee for newsworthiness.

The "bad news" was a report that our accreditation status is in jeopardy. This is simply not true. Our accreditation by the American Bar Association was renewed in 1979 and that status has not since been questioned; nor can it be before 1984 when our next routine ABA reinspection will occur. A recent study made by the Tennessee Higher Education Commission included a review of our most recent accreditation experience and noted that the two final issues resolved to the satisfaction of the ABA concerned financial resources and minority student enrollment and that these continue to be problem areas for the College. Both matters are problems for most law schools, and there are no special grounds whatsoever for apprehension that we are in any present danger of losing our accreditation.

As a matter of fact, a portion of the "good news" and the best evidence of the quality of our program emerged from an Associated Press story following the report of the Tennessee Higher Education Commission. A survey of the last five testing periods showed that 94% of UT graduates taking the Tennessee State Bar Examination had passed it and that UT led the state's law schools by a good margin, with Vanderbilt ranking second at 85%. The Memphis State passing rate was 76% and that of the Nashville YMCA Law School was 49%. (The national average is about 75%.) The most phenomenal item in

The 1980 Alumni Advisory Council Meeting was held on October 31 and November 1. The members received a report on the status of the Tennessee Tomorrow Campaign, faculty and student activities, admissions, LEXIS, and the growth of the Placement Office. The meeting adjourned to the Faculty Club for a reception and dinner, followed the next day by the U.T. v. Virginia football game and an open house at the Law College.



The members of the Alumni Advisory Council are:

Herbert M. Bacon, Charles C. Baker, Jr., Bernard E. Bernstein, Sylvia Brown, Walter W. Bussart, Paul Campbell, Alan L. Cates, W. Frank Crawford, Thomas R. Dyer, Robert L. Echols, Robert A. Finley, Frank L. Flynn, Jr., Thomas E. Fox, J. Houston Gordon, Lewis R. Hagood, Albert C. Harvey, J. Fraser Humphreys, Jr., R. Leon Jordan, Dicken E. Kidwell, Lowry F. Kline, William M. Leech, Jr., John K. Morgan, Ray H. Moseley, William C. Myers, Jr., James R. Omer, W. Edward Parrott, Thomas R. Prewitt, Robert W. Ritchie, Richard L. Rose, M. Jane Snyder, Bobbye D. Spears, Dor-man L. Stout, William D. Vines III, Allan J. Wade, and Robert F. Worthington, Jr.

the survey of Tennessee results was the February, 1980 bar exam when 79 UT graduates took the exam and every one of them passed.

I believe that the success of our graduates is attributable both to their diligence and to the strength of the faculty, a talented group who hold to standards and attach the greatest possible importance to strong classroom teaching. However, we rank 15th among 23 southern state-supported law schools in average faculty salaries and are in real danger of becoming uncompetitive in faculty recruitment and retention.

Among the other good news is the advent of both LEXIS and the semester system and the progress of the Tennessee Tomorrow Campaign, all of which are reported on elsewhere in this issue. The campaign is our best hope that the College will be able to preserve its gains of recent years and continue to move forward. All of you can take real pride in your alma mater, a pride which, it is earnestly hoped, will move each of you to contribute substantially to it.

## Alumni News

### Class of '78

As of January 1, 1981, DENNIS GRANT WEBB has become a partner in the Knoxville firm of Gentry and Wagner.

### Class of '77

THOMAS CARTER has joined the staff of the Lawyers Co-operative Publishing Company as an Associate Editor in the ALR Department. He now makes his

home in Rochester, New York with his wife, Nancy, a nursing student at Monroe Community College.

### Class of '74

Knoxville attorney HOWARD H. VOGEL has been named President of the Tennessee Young Lawyers Conference of the Tennessee Bar Association for the year '80-'81.

### Class of '73

Attorney FRANK PINCHAK, former Editor-in-Chief of the *Tennessee Law Review*, is a partner in the Chattanooga law firm of Humphreys, Hutcheson and Moseley.

### Class of '62

ROBERT W. RITCHIE has been elected Second Vice President of the National Association of Criminal Defense Lawyers. The Knoxville attorney has been a member of the Board of Directors for the association since 1974 and has served as Secretary. He has been a member of the adjunct faculty of the UT College of Law since 1967.

### Class of '60

Johnson City attorney LEON JORDAN has been named Chancellor for Washington County, Tennessee.

We would like to make "Alumni News" a regular feature of the *Alumni Headnotes*. Please let us know about any notable changes in your or your colleagues' careers, honors, accomplishments, etc. Include the name and the year of graduation and mail to: Julia Hardin, UT College of Law, 1505 West Cumberland Ave., Knoxville, TN 37916.

# SCENES FROM THE PAST



The distinguished class of 1935, from left to right: Back row, Bob Young, Harry Laughlin, Harold Warner, Judge Jones, William Wicker, Henry Witham, L.A. Gaylon, Laurent Frantz; Middle row, Heiskell Weatherford, Ivan Privette, Phillip Wynn, Jack Phelan, William Asbury, Charles Jester, Jr.; Front row, Tom Dunlap, Lindsay Young, Earnest Taylor, Dick Carson, Bill Clark, Maurice Weaver, Frank Bryant.

## REMEMBER WHEN...?

### Do You Know Where They Are?

While compiling the Alumni Directory Supplement which includes graduates from March 1977 through March 1981, we were unable to locate the following people:

Larry A. Marshall	1978
Eric Leon Mayer	1978
Elton Jerald Ogg	1978
Thomas J. Rittenburg	1978
June Lee Boothby	1978
Nicholas J. Manning	1979
Patrice Diane Woeltjen	1979

Any assistance in locating these graduates would be very much appreciated.

### The Dawn of LEXIS

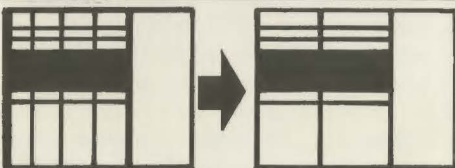
During the fall quarter of 1980, the law library acquired a part of the modern world of legal research: LEXIS.

A typical encounter with this wonder of revolutionary research goes something like this: the unsuspecting law student or faculty member approaches the huge terminal and display screen. After dialing in, a message appears on the screen, asking for a personal I.D. number before transmitting. Upon finding the card which contains this precious information, the operator types it in ever so carefully, hoping LEXIS will give up its secrets to the operator when the code is accepted. From there on, the success or failure of the search depends upon whether or not the computer is having a bad day and,

more importantly, whether or not one knows what one is doing.

This may sound a bit facetious, but knowing what words or connectors to use will make the difference between finding that one case that's exactly on point and searching for hours to no avail. The decisions loaded into the computer's memory are converted into computer-readable form. The computer then creates a concordance, an alphabetical list setting forth the location of the words in a particular text.

Once the operator learns the proper words and connectors to use, a recent slip opinion may appear on the screen with a fact situation so close to the case being researched that one is tempted to shout "Eureka! LEXIS is here."



### The Switch to the Semester System

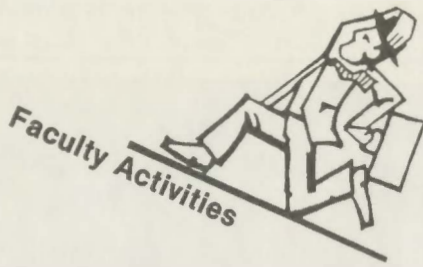
This fall, the University of Tennessee College of Law will cease operating on the quarter system observed by the University in general and transfer to the semester system. We will join more than 85 per cent

of the other law schools in the country presently on the semester system, and our students will be exposed to the number of weeks of instruction suggested by the American Bar Association.

The advantages of the semester system include better utilization of the casebooks, most of which are designed for semester-length courses, and more effective seminars, allowing sufficient time to thoroughly explore the subjects under discussion. Although the new system may result in some loss of the total number of

courses offered, this will be adequately compensated by the merger of two related courses into one, such as Evidence I and II, Sales and Secured Transactions, and Tax II and III.

The birth of the semester will take place at the time of registration on August 24, 1981. This early start of the fall semester has resulted in the advancement of the deadline for applications to February 1 of each year. There will be the equivalent of half a semester each summer, beginning with the summer of 1981.



NEIL COHEN: *The Rights of Prisoners* (Shepard's McGraw-Hill), co authored by Professors Cohen and Gobert, will be published in April, 1981. It is the first treatise in this area and will be supplemented yearly.

JOSEPH G. COOK: The manuscript for *Cases and Materials on Criminal Procedure* by Professor Cook and Professor Paul Marcus of the University of Illinois has been submitted to the publisher, Matthew Bender, and is scheduled for publication in early 1981. The authors have recently signed another contract with the publisher for a casebook in substantive criminal law.

GLENN COVEN: In the fall of 1980, Professor Coven was a visiting professor at the University of Pennsylvania, and a recent *California Law Review* includes his article on "The Alternative Minimum Tax," 68 *Calif. L. Rev.* 1093 (1980).

MICHAEL H. DAVIS: Among his many recent publications, Professor Davis lists "Products Liability, Intervening Conduct, and the Tennessee Products Liability Act of 1978, or Tombstones and Monuments" in the *Judicial Newsletter* (Fall, 1979) and Chapter 19, "Children and Torts," in the Public Law Institute and UT Research Corporation's *Tennessee Law of Children* (1980), and he has two articles being published in May of this year, "Critical Jurisprudence: The Legal Theory of Robert Burt's Taking Care of Strangers" in the *Wisconsin Law Review*, and "The Courtroom Mystique and Legal Education" in the *Arizona Law Review*. Professor Davis' other activities include membership in the Arts Committee of the Dulin Museum in Knoxville, on the Boards of Directors of Knoxville Volunteer Lawyers for the Arts, House Foundation for the Arts in New York City, and Temple Beth-El, Knoxville, and vice-presidency of Knoxville's Sidewalk Dance Theatre.

JIM GOBERT: Scheduled for publication in April of this year is a book he co-authored with Professor Cohen, entitled *The Rights of Prisoners* (Shepard's McGraw-Hill). Professor Gobert also recently completed

servicing a term as Chairperson of the Law and Medicine Section of the Association of American Law Schools.

GRAYFRED B. GRAY: At the 1981 AALS Annual Meeting in San Antonio, Texas, Professor Gray participated in a panel discussion on "Brainstorming for the Future: Reconsideration of Teaching Law Outside of Law School," and he was elected chairperson of the AALS Section on Teaching Law Outside of Law School. He attended the ABA-sponsored conference on law-related education in Aspen, Colorado last October and gave a one-day presentation on conducting mock trials to the PAD Eastern Regional Law-Related Education Conference in March. Professor Gray is deeply involved in the expanding Mock Trial Competition among nine schools in the Knoxville area in addition to the Memphis schools. The local and intra-county championships were held in April, the state-wide in May. The competition is sponsored locally by the Knoxville Barristers, PDP, the Pre-law Forum, and the Public Law Institute.

PATRICK HARDIN: "Changes at the Board, Changes in the Law" was the subject of Professor Hardin's address to the Louisiana State Bar Association in Baton Rouge, March, 1980. His paper on "The Supreme Court, October 1978 Term: The Conflict of Harmony and Invention" is published in the proceedings of the 26th Annual Institute on Labor Law by Matthew Bender & Co. (1980).

JAMES KIRBY: Acting Dean James C. Kirby, Jr. assisted the National Conference of Bar Examiners in a content validity study of the Multistate Bar Examination. He represented the Association of American Law Schools as a member of a team consisting of a law teacher, a state supreme court justice and a bar examiner who met at Key Biscayne, Florida and evaluated Constitutional Law questions to be used in bar examinations.

He also published an article in the *Tennessee Law Review* entitled "Expansive Judicial Review of Economic Regulation Under State Constitutions: The Case for Realism." A portion of the article is devoted to modern Tennessee cases in which Tennessee courts have used varying standards of review in testing economic regulations under the due process and equal protection provisions of the Tennessee Constitution.

FRED LECLERCQ: "The Constitutional Policy That Judges Be Learned in the Law" may be found at 47 *Tenn. L. Rev.* 689

(1980). He served as counsel to the National Association of Biology Teachers in the submission of an *amicus* brief in *Seagraves v. California*, in which the validity of teaching evolution in public schools has been challenged. As counsel to an ad hoc coalition of California churches opposed to the 1980 California Religious Corporations Law, Professor LeClercq prepared a constitutional analysis of the law for use in an effort to obtain amendment or repeal of the law, which was subsequently repealed in part and substantially amended in part. He participated in the Colloquium on School and School Library Book Censorship Litigation in Washington, D.C. in January, 1981, in addition to serving as a panelist in the U.T. College of Communications presentation, "Religious Issues in the 1980 Presidential Election" (October, 1980) and as a speaker to the National Convention of the National Association of Biology Teachers on the topic of "Biology Textbooks, Creationism, and the Law."

KENNETH L. PENEGAR: The title of a talk given by Dean Penegar to the Section on Clinical Education at the 1981 AALS Convention in San Antonio is "Clinical Education in its Prime."

JERRY PHILLIPS: Professor Phillips is working on a second edition of the Noel and Phillips casebook, *Cases and Materials on Products Liability*, to be published in the early part of 1982. On May 27-28, he will be speaking on workers' compensation and tort law at the National Legal Center for the Public Interest in Washington, D.C.

CARL PIERCE: Having recently completed a term of office as President of the UT-Knoxville Faculty Senate, Professor Pierce prepared an annual report on the economic and educational state of UTK. Named as a faculty representative to UT Athletic Board and as a member of the Legal Education Subcommittee of the ABA Section on Business, Banking and Corporation Law, he also prepared course materials for a new law school course entitled "Corporate Lawyering."

DEAN HILL RIVKIN: Professor Rivkin successfully represented small landowners before the Tennessee Supreme Court in defending the Tennessee Surface Owner Protection Act, *Doochin v. Rackley*, \_\_\_\_\_ S.W.2d. \_\_\_\_\_ (Tenn. 1981). He was successful in representing the ACLU, Tennessee Legal Services programs, and other public interest organizations in a federal court challenge to Ten-

nessee's Barratry statute, *ACLU v. State of Tennessee*, 496 F. Supp. 218 (M.D. Tenn. 1980). One of two clinical legal educators appointed to the ABA select committee on clinical legal education, Professor Rivkin was also appointed project director of the 1981 National Clinical Teachers Conference by Dean Albert Sacks, Chairman of the AALS. During the fall of 1980, he was a visiting professor at U.C.L.A. Law School.

**DAVID ROSETTENSTEIN:** Quite busy in the publications world, he has followed up the Tennessee General Sessions and Juvenile Court *Benchbooks*, soon to be republished by the Public Law Institute, with principal authorship of *Law for Social Service Workers* in 1980. The October, 1979 *Solicitors Journal* of England included "Cohabitants and the 1975 Inheritance Act," and the 1980 publication by Katz and Eekelaar, *Marriage and Cohabitation in Contemporary Societies*, contains Professor Rosettenstein's "Cohabitation and English Public Sector Occupational Pension Schemes."

**JOHN A. SEBERT:** His and Professor Robert Thompson's course-book in "Remedies" forthcoming, Professor Sebert has completed an article entitled "Remedies Under Article Two of the Uniform Commercial Code: An Agenda for Review."

**DOUG WICKHAM:** A member of the Executive Committee for the 1980 AALS Debtor-Creditor Section, Professor Wickham delivered a paper on the confirmation of Chapter 13 plans at the January, 1981 Convention. In October, 1980, he was appointed to the Panel of Bankruptcy Trustees for the Eastern District of Tennessee.

### Judge Wilson Speaks at Law Review Banquet

Before an audience of law professors and members of past and present *Tennessee Law Review* staffs, Judge Frank W. Wilson, Chief United States District Judge for the Eastern District of Tennessee, spoke of some areas of the legal profession requiring some improvement, but also gave recognition to the strengths of the profession. The event was the Fifth Annual Tennessee Law Review Banquet at Knoxville's Lord Lindsey restaurant on October 17, 1980.

Acting Dean James C. Kirby's introduction of Judge Wilson, who was a former student editor of the *Tennessee Law Review*, was accompanied by a standing ovation. Judge Wilson's record, as

JUDGE WILSON



evidenced by his recent selection by the *American Lawyer* as one of the ten best judges, supports his reputation as a respected and dedicated asset to the United States' legal system.

Remarking upon his two decades' experience on the Federal bench, Judge Wilson described it as an "active arena for the new and unusual." He noted the substantial growth in the number of laws and regulations, which may result in a situation where "everything is either required or prohibited" and where "legislators may be better judged by what they decline to enact rather than what they enact."

Judge Wilson corresponds with inmates, encouraging them to think about themselves, noting that some have completely changed as a result of their prison experience. "When they do," he said, "that makes it all worthwhile. . . . People can change if you're willing to work with them one on one."

Discussing areas of the legal profession needing improvements, Judge Wilson suggested that special standards or qualifications may be set for lawyers entering the federal bar. He encouraged the proper use of admissions, interrogatories, and client interviews, keeping in mind the need to conduct less costly, more efficient trials. A reduction in the use of discovery would assist in reducing the costs of and time involved in many cases.

"Dealing with facts," the decisive element in legal disputes, is a skill which lawyers could improve upon, in addition to that of cross-examination. "Skillful cross-examination," he observed, "remains one of the most effective tools of getting at the truth."

The legal profession has its strengths, however. Judge Wilson described this nation as one in which the Constitution is respected and upheld, where "no man is imprisoned by chains of poverty or . . . bigotry." He has faith in the victory of good over evil, and "in the forefront of this battle have always been those in the legal profession." Judge Wilson concluded his remarks with the conviction that "the American dream is still the world's best hope."

## WANTED!

The Law Library is in the process of gathering materials relative to the history of the College of Law. These materials will serve as the components of a special collection of Law College memorabilia.

If any of our alumni should happen to have copies of old issues of the *Alumni Headnotes*, bulletins, *Forums*, photographs, or anything else which calls to mind ol' George C. Taylor Law Center, please consider contributing the item(s) to the library's collection. Clear out your old files and records, and send the materials to us in care of Prof. David Brennan, Librarian, UT College of Law, 1505 West Cumberland Avenue, Knoxville, Tennessee 37916. Let past, present and future students and staff members share in your memories.

### REWARD: IMMEASURABLE

**\$1.25 Million**—continued from p. 1 possible across the state and asking them to make a pledge to the campaign," he continued. "It is essential to the future of the College of Law that we find new money to retain the excellent faculty at the school by keeping salaries and research stipends competitive, to continue to attract highly qualified students by offering scholarships and special academic projects, and to build the law library's acquisitions and support."

As a part of the Phase II activities, all alumni will receive an appeal on behalf of the campaign, which will officially close on June 30, 1981.

"The Tennessee Tomorrow Law Campaign will help the College move forward toward its goal of excellence in all areas of teaching," Bacon concluded. "We must meet the challenge before us through a successful completion of this vitally important project."

### Tennessee Tomorrow Law Campaign Summary of Phase I Giving

GIFT RANGE	# OF PLEDGES RECEIVED
\$100,000+	3
\$50,000-99,999	1
\$25,000-49,999	3
\$15,000-24,999	1
\$10,000-14,999	19
\$5,000-9,999	11
\$1,000-4,999	22
\$1-999	11
	<hr/> 71



## A Sermon for the Lawyers, 1710 by Carl A. Pierce

(Ed. Note: In recent years much has been said about the professional responsibilities of lawyers. Presently underway is a major revision of the American Bar Association's Code of Professional Responsibility. To keep these activities in perspective, Professor Pierce takes us back to the year 1710 and asks us to think about our professional responsibilities from the perspective of a god-fearing Puritan minister.)

In 1710, the well-known Puritan minister Cotton Mather published *BoniFacius—An Essay Upon the Good*. His purpose was to inspire his readers to "Answer the Great End of Life" and "glorify God" by doing good during their lifetimes. In *BoniFacius*, Mather devoted a separate chapter to "officials and lawyers" in which he set forth "Humble Proposals of Unexceptionable Methods, to do Good in the World." What, then, does the puritan ethic tell us about the obligations of a practicing lawyer?

Cotton Mather believed that lawyers enjoyed extensive opportunity to do good and that large evils would result from their failure to do so. After all, he reasoned, lawyers work with the law, the end of which is "to do good." The nature of legal work, by its very nature, "leads. . .to meditations on a Judgment to come." "Oh!" Mather continued, "that you would so realize and antedate that Judgment, as to do nothing, but what you may verily believe, will be approved upon it." With the opportunities of the lawyer to do good deeds, however, came the danger that he might pervert the law from its professed end. Thus Mather warned that "a lawyer that is a knave, deserves death, more than a band of robbers; for he profanes the sanctuary of the distressed, and betrays the liberties of the people." The importance of the law demanded the rectitude of the lawyer, afforded him the opportunity to do good, and required that his shortcomings be judged most severely.

Mather told the lawyers of 1710 that "in order to your being useful, Sirs, 'tis necessary that you be skillful." He admonished them to study statute law, common law, civil law, and particularly the law of restitution which provides the "necessary

and essential ingredient of that *repentance* which alone will find acceptance with Heaven." While "a lawyer should be a scholar," Mather insisted that the wisdom be used to do good consistent with "the *holy and just and good* laws of the infinite God." Consequently the lawyer must ". . .shun all those *indirect ways of making haste to be rich*, in which a man cannot be *innocent*," but rather "keep constantly a *court of chancery* in your own breast; and scorn and fear to do anything, but what your *conscience* will pronounce, consistent with, yea, concurring to *glory to God in the highest*." "You will abhor, Sir," Mather continued, "to appear in a *dirty cause*. If you discern, that your *client* has an *unjust cause*, you will faithfully advise him of it." Even when representing a just cause, the attorney should still do nothing prejudicial to "Truth and Right" and must "abominate the use of all unfair arts, to confound evidences, to browbeat *testimonies*, to suppress what may give light in the case." While much of this will sound familiar to a twentieth century lawyer, Mather was noticeably more willing than is the modern legal profession to require that each lawyer pre-judge the merits of his cases and abstain from representing "dirty" or "unjust" causes. Also the puritan minister's view of acceptable trial tactics seems at variance with our modern conceptions of zealous advocacy in an adversary system of justice.

Continuing his sermon, Mather went beyond negative injunctions. He applauded the behavior of the attorney who would "endeavor a *reconciliation* between. . . parties; preferring the *consolations* of a *peacemaker*, before all the fees that he might have got, by blowing up *differences*." "What a noble thing it would be," Mather added, "to find out oppressed widows, and orphans, and such as can appear no otherwise than, in forma pauperis; objects in whose oppression, might overcome right; and generously plead for their cause?" Apart from these high standards for the participation of lawyers in the prevention of disputes and injustice, the high minded minister also called upon the legal profession to reform the laws, to remedy "mischiefs annoying of mankind, against which no laws are yet provided." Finally Mather enjoined the lawyers to reduce and simplify the laws so that "the world may more sensibly and generally feel the benefit of them."

Having made clear his expectations of the legal profession, Mather was more hesitant to judge the lawyers of his day. He suggested that lawyers were good men who by virtue of their status, educa-

tion and inherent quality would embrace the "good" as soon as they were aware of it. "My proposals," Mather confidently declared, "cannot but promise themselves an obliging reception with you." Immediately thereafter, however, he expressed his hope that "'tis not come to so sad a pass, that an *honest lawyer*, may as of old, the *honest publican*, require a statue, merely on the score of *rarity*." Later, perhaps as a rhetorical device to inspire good lawyers to even higher ethical standards, Mather spoke of lawyers redeeming "your honorable profession from the wrong which *ill men* have done to the reputation of it" and declared that "the miscarriages of some individuals, must not bring a blemish, on a noble and useful profession." Mather's sermon, then, reflects America's age-old ambivalence about the rectitude of the legal profession. One can find in his rhetoric both implied indictments of knavish practitioners and grand aspirations for honorable men pursuing an honorable calling. The former has been emphasized throughout history by the antagonists of the legal profession and the latter by its defenders. The truth probably lies somewhere in between.

Cotton Mather asked a lot of the legal profession in 1710. He did so because he recognized the growing role played by lawyers in eighteenth century American society. Between 1690 and 1710, the number of lawyers and their social and political influence in the colonies had increased significantly. America's era of law without lawyers was over. In this setting Mather, as a clergyman, sought to admonish and inspire those men whose influence in colonial life was beginning to challenge that of the ministry. The standards he prescribed for the "secular priesthood" were quite high and not without religious overtones. At the same time, however, his lesson for the lawyers was part of a general message in *BoniFacius* to all colonists, including ministers, physicians, schoolmasters, and men of trade and commerce. All must do good in a period of rapid social change in which the traditional authority structure of the community, the church, was weakening. Taking into account differences in time, setting, and religious emphasis, Mather's sermon to the lawyers stands as one more variation upon the age old human ideal of "doing good." As Cotton Mather said, "It should be thought upon."

### Sources

Mather, Cotton. *BoniFacius*. Ed. David Levin. (Cambridge, Mass.: Harvard University Press. 1966.)



## Career Planning and Placement

The resources of the Career Planning and Placement Office included providing interviews during Fall 1980 with the following legal employers:

### TENNESSEE:

Armstrong, Allen, Braden, Goodman, McBride & Prewitt	Memphis
Arthur Andersen & Company	Nashville
Baker, Worthington, Crossley, Stansberry & Woolf	Knoxville
Bartholomew, Cleary, Stokes & Mudter, P.A.	Nashville
Bass, Berry & Sims	Nashville
Bernstein, Susano, Stair & Cohen	Nashville
Boult, Cummings, Connors & Berry	Nashville
Chambliss, Bahner, Crutchfield, Gaston & Irvine	Chattanooga
Dearborn & Ewing	Nashville
Egerton, McAfee, Armistead & Davis, P.C.	Knoxville
Frantz, McConnell & Seymour	Knoxville
Gullett, Sanford & Robinson	Nashville
Harris, Shelton, Dunlap & Cobb	Memphis
Harwell, Carr, Martin & Sloan	Nashville
Heiskell, Donelson, Adams, Williams & Kirsch	Memphis
Leitner, Warner, Owens, Moffitt, Williams & Dooley	Chattanooga
Lockridge, Dougherty & Becker	Knoxville
Manier, White, Herod, Hollabaugh & Smith, P.C.	Nashville
Marks, Marks & Carter	Clarksville
Martin, Tate, Morrow & Marston, P.C.	Memphis
Miller & Martin	Chattanooga
Murfree & Cope	Murfreesboro
Mutual Association for Professional Service (MAPS)	Knoxville
NLT Corporation	Nashville
Judge Stephen North	Nashville
Peat, Marwick, Mitchell & Co.	Nashville
Rosenfield, Borod, Kremer, P.C.	Memphis
Rural Legal Services of Tennessee	Oak Ridge
Southern Title Insurance	Knoxville
Stophel, Caldwell & Heggie	Chattanooga
Strang, Fletcher, Carriger, Walker, Hodge & Smith	Chattanooga
U.S. Marines	Nashville
Waller Landsen Dortch & Davis	Nashville
Waring, Cox, Sklar, Allen, Chafetz & Watson	Memphis
Weintraub, DeHart, Robinson, Coggin & Shields	Memphis
West Tennessee Legal Services	Jackson
Wildman, Harrold, Allen, Dixon & McDonnell	Memphis

### OUT-OF-STATE:

Aetna Life & Casualty Company	Hartford, CT
American Telephone & Telegraph	New York, NY
Atlanta Legal Aid Society	Atlanta, GA
Bracewell & Patterson	Houston, TX
Bradford, Williams, McKay, Kimbrell, Hamann, Jennings, & Kniskern, P.A.	Miami, FL
Brown, Todd & Heyburn	Louisville, KY
Butler, Snow, O'Mara, Stevens & Cannada	Jackson, MS
Calkins, Kramer, Grimshaw & Haring	Denver, CO
Carrington, Coleman, Sloman & Blumenthal	Dallas, TX
Crutcher, Hull, Ramsey & Jordan	Dallas, TX
Dennis, Cory, Webb, Carlock & Williams	Atlanta, GA
Department of Health & Human Services	Washington, D.C.
Dinsmore, Shohl, Coates & Deupree	Cincinnati, OH
East Arkansas Legal Services	West Memphis, AR
Eldridge, Goggans & Weiss, P.C.	Dallas, TX
Ernst & Whinney	Atlanta, GA
Exxon Company, U.S.A.	Houston, TX
Exxon Company, U.S.A., Tax Department	Houston, TX
Evans, Kitchel & Jenckes, P.C.	Phoenix, AZ
Federal Communications Commission	Washington, D.C.
Federal Energy Regulatory Commission	Washington, D.C.

Federal Trade Commission	Washington, D.C.
Fennemore, Craig, von Ammon & Udall	Phoenix, AZ
Ford, Harrison, Sullivan, Lowry & Sykes	Atlanta, GA
Fowler, White, Gillen, Boggs, Villareal & Banker	Tampa, FL
Fulbright & Jaworski	Houston, TX
Fuselier, Ott, McKee & Flowers	Jackson, MS
Gardere, Wynn & Jaffe	Dallas, TX
Gunster, Yoakley, Criser & Stewart	Palm Beach, FL
Hallman & Summers	Atlanta, GA
Haynes & Boone	Dallas, TX
Haynsworth, Baldwin & Miles, P.A.	Greenville, SC
Henkel & Lamon, P.C.	Atlanta, GA
Howard Univ. School of Law — REGINALD HEBER SMITH Fellowship	Washington, D.C.
Jenkins & Gilchrist	Houston, TX
Johnson, Swanson & Barbee	Dallas, TX
Johnston, Adams, May, Howard & Hill	Mobile, AL
Jones, Walker, Waechter, Poitevent, Carrere & Denegre	New Orleans, LA
Kullman, Lang, Inman & Bee	New Orleans, LA
Legal Services Corporation of Alabama, Inc.	Montgomery, AL
Leonard, Koehn, Rose & Hurt, P.C.	Dallas, TX
Lewis & Roca	Phoenix, AZ
Lowndes, Drosdick & Doster	Orlando, FL
Mahoney, Hadlow & Adams	Jacksonville, FL
Morrison & Foerster	San Francisco, CA
Ogletree, Deakins, Smoak, Stewart & Edwards	Atlanta, GA
Parker, Johnson & Cook	Atlanta, GA
Securities & Exchange Commission	Washington, D.C.
Shaw, Pittman, Potts & Trowbridge	Washington, D.C.
Sirote, Permutt, Friend, Friedman, Held & Apolinsky	Birmingham, AL
Smith, Cohen, Ringel, Kohler & Martin	Atlanta, GA
Smith, Currie & Hancock	Atlanta, GA
Smith, Hulse, Schwalbe & Nichols	Jacksonville, FL
Squire, Sanders & Dempsey	Cleveland, OH
Steptoe & Johnson	Washington, D.C.
Streich, Lang, Weeks & Cardon	Phoenix, AZ
Sutherland, Asbill & Brennan	Atlanta, GA
Thompson & Knight	Dallas, TX
U.S. Army (JAGC)	Ft. Campbell, KY
U.S. Department of Labor	Washington, D.C.
U.S. Steel, Tax Department	Pittsburgh, PA
Vinson & Elkins	Houston, TX
Vinson & Elkins	Washington, D.C.
Winstead, McGuire, Sechrest & Trimble	Dallas, TX
Womble, Carlyle, Sandridge & Rice	Winston-Salem, NC
Woods, Rogers, Muse, Walker & Thornton	Roanoke, VA

YOU ARE INVITED to interview at the University of Tennessee College of Law. The College of Law provides career counseling and placement services to meet the needs of the student who is looking for his/her first clerkship, the recent graduate who is beginning a legal career, and the alumnus who is seeking a career change. With this goal in mind, the ongoing activities include workshops in interviewing skills and resume writing, scheduling on-campus interviews, attending out-of-state hiring conferences, and coordinating all law-related employment opportunities, whether with law firms, corporations, insurance companies, or government agencies.

The on-campus interview has proven to be the most successful and fiscally sound method of recruitment for *small* and *large* firms. Although on-campus interviewing is scheduled throughout the year,

the fall is traditionally the time in which the attentions of law firms and law schools are especially focused on the recruitment process. Because of the change to the semester system, the 1981 on-campus interviewing season will begin September 1. We look forward to a mutually beneficial and successful recruiting season.

Sandra S. O'Rourke  
Director  
Office of Career Planning  
and Placement



Professor Durward Jones, Judge Daughtrey, and Dean Kirby.

## Judge Daughtrey Addresses December Graduates

Thirty-nine candidates received their academic hoods during the traditional ceremony on December 11, 1980, the night before the University's commencement ceremonies. The Address to the Graduates was delivered by the Honorable Martha Craig Daughtrey, Judge of the Court of Criminal Appeals for the State of Tennessee. The text of the Address will be published in an upcoming issue of the *Tennessee Law Review*.

Judge Daughtrey received her B.A. and J.D. degrees from Vanderbilt University where she also served as Lecturer and Assistant Professor of Law from 1971 through 1975. She has been an Assistant District Attorney and an Assistant United States Attorney, and she was engaged in private practice in Nashville, Tennessee.

In addition to several awards from various organizations as "Woman of the Year," Judge Daughtrey has been published in the *Tennessee Law Review*, has been an active member of the American Bar Association and the Tennessee Judicial Conference, and has served on various councils, committees, and boards.

The Invocation was given by Law Professor Durward S. Jones. Acting Dean James C. Kirby and Associate Dean Mary Jo Hoover performed the "hooding" honors.

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### Newsorthy Events in the Public Law Institute



HARDIN

*Tennessee Law of Children, Tennessee Law of Criminal Procedure, Tennessee Domestic Relations Law, and Tennessee Real Property Law*, with prices in the \$13 to \$20 range plus postage and handling, have recently been published by the Public Law Institute of the University of Tennessee College of Law through a grant from the University of Tennessee Research Corporation.

These four comprehensive analyses of Tennessee statutory and case law join a growing library of publications made available through this non-profit service organization located in the College of Law. Other publications include the *Tennessee Law of Crimes* and its *1980 Supplement*, *Street Law in Tennessee*, *Tennessee Traffic Law*, General Sessions and Juvenile Court *Benchbooks*, and the *Judicial Newsletter*.

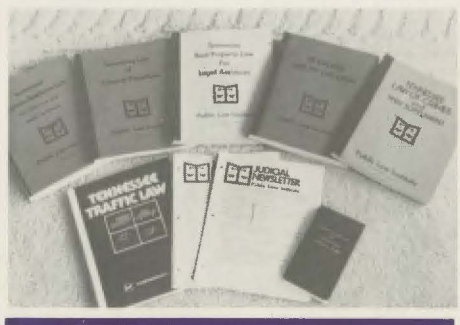
Until this year, the *Judicial Newsletter* was supplied to Tennessee judges through a grant from the Tennessee Law Enforcement Planning Agency. The demise of that program means that the 50 to 70-page publication must sustain itself entirely by subscriptions. A number of attorneys have subscribed for some time to this five-year-old quarterly report of developments in Tennessee case and statutory law. Each issue also contains from four to seven articles discussing changes, problems, and trends in substantive and procedural law. If you haven't already sub-

scribed, act now to receive the *Judicial Newsletter* at the current yearly rate of \$14.00

The Institute has experienced a structural change over the past few months. With the appointment of Julia P. Hardin, '78, as Acting Assistant Dean for Research, Development, and Administration for the College of Law in October, 1980, the administrative directorship of the Public Law Institute was included as a portion of the duties of that position. Professor Grayfred B. Gray is now Executive Director and faculty liaison.

In addition, three full-time attorneys are now co-ordinating the various projects in which the Public Law Institute is involved. Robert J. Kraemer, Jr., '79, remains in charge of Judicial Services, arranging seminars and institutes for judges and other court personnel across the state. Jamie L. Herman from Loyola University, '77, is Staff Attorney for the ever-expanding, state-wide Judicial Research Service. Harvey L. Goodman, '80, co-ordinates the Traffic Law Education project with the Governor's Highway Safety Commission.

For further information about the Public Law Institute's publications, contact: Publications Manager, Public Law Institute, UT College of Law, 1505 West Cumberland Avenue, Knoxville, TN 37916; (615) 974-6691.



BLACK



O'ROURKE

### Two Formerly "Acting" Positions Become Permanent Appointments

In February, it was announced that Jerry P. Black, Associate Professor of Law, has been appointed Director of the Legal Clinic, and the word "Acting" has also been removed from Sandra S. O'Rourke's title as Director of Career Planning and Placement.

Jerry Black came to UT as a Visiting Assistant Professor in 1975, stayed on as Assistant Professor from 1976 to 1978, when he became an Associate Professor. He received his J.D. from Vanderbilt University in 1968. After a year with Legal Services of Nashville, Jerry served as Director of Clinical Legal Education for Vanderbilt, the Administrator of Clinical Programs, and later as Assistant Professor of Law before coming to UT.

Sandy was a valued member of the Public Law Institute staff prior to her move to Career Planning and Placement, of which she was appointed Acting Director in January of 1980.

Both of these individuals have been associated with the College of Law for several years, and we hope you'll join us in wishing them all the best in their new positions.

