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ALUMNI HEADNOTES

Summer/Fall 1980/The University of Tennessee College of Law/Julia P. Hardin, Editor



PENEGAR



KIRBY

Penegar on Leave; Kirby Acting Dean

Dean Kenneth L. Penegar is taking a leave of absence for the 1980-81 academic year to serve as a visiting scholar at the Harvard University Law School. He will attend classes and seminars of his choice and engage in research and writing in legal ethics, international law, and legal process. In addition, he will teach courses in Professional Responsibility at the Boston University School of Law.

Sarah Penegar, the dean's wife, will complete a clinical internship at the Boston Children's Hospital and will be a clinical fellow in psychology at the Harvard Medical School during the same period of time. She is a candidate for the Ph.D. in clinical psychology at U.T. Knoxville.

Serving as acting dean will be Professor James C. Kirby, who joined the faculty in 1978. Professor Kirby is a member of the Tennessee Bar, having engaged in private practice in Nashville in 1954-55 and in 1957-61. He has served on the law faculties of Vanderbilt, Northwestern, Ohio State, and New York Universities, as Vice President and General Counsel of NYU, and as law dean at Ohio State. Professor Kirby holds the B.A. degree from Vanderbilt and the J.D. and LL.M. degrees from NYU.

Dean Penegar regards this year at Harvard as an opportunity for a valuable respite and a period of professional enrichment after having served for nine years without interruption as dean of the Law College. He will resume his duties at UTK in the summer of 1981.

Phillips Awarded W.P. Toms Professorship

On July 23, 1980, the University of Tennessee announced the awarding to the W.P. Toms Professorship, which will provide a substantial supplement to the recipient's University salary, to Jerry Phillips.

Mr. Toms, often called Buck Toms, was a 1907 graduate of the Law School who became a successful businessman in this area. The Chairman of the Board of Directors for the Toms Foundation is attorney William C. Wilson, class of 1933 of the College of Law.

In announcing the appointment of Jerry Phillips to the Toms Professorship, Dean Penegar noted, "Professor Phillips exemplifies the best in the academic lawyer. He is a careful yet prolific scholar. His work, particularly in the products liability area of torts, has made an outstanding contribution to the growth of the law in this area of the United States."

Professor Phillips is a 1956 graduate of Yale University where he also received his J.D. degree in 1961. He later attended Cambridge University where he received an additional baccalaureate degree and the honorary M.A. in 1964. After his graduation from law school, Jerry Phillips entered the general practice of law in Chattanooga, Tennessee with the firm of Miller and Martin. He joined the law faculty at the University in 1967 with his appointment as Assistant Professor of Law. He was appointed to Associate Professor in 1972 and to Full Professor in 1973.

Among his major works is a casebook entitled *Torts and Related Law*, which he published jointly with Dix Noel, a long-time colleague who died prior to the casebook's publication. It is a part of the Bobbs/Merrill Company's new casebook series. He also co-authored with Dix Noel a nutshell series book by the West Publishing Company entitled *Products Liability in a Nutshell*. After the nutshell book came a mammoth casebook

in products liability published by the West Company and used by numbers of law schools across the country.

Professor Phillips is currently at work on a revision of the Harper and James two-volume treatise on torts. He is an elected member of the prestigious American Law Institute and is widely sought after as a speaker for ABA and CLE activities in his field. Most recently, Jerry has developed a seminar on the subject of professional malpractice, and he will deliver a major paper to the ABA convention in August of 1980.

With the inauguration of the Toms Professorship, the number of quasi-endowed professorships in the College of Law has grown to three. Earlier appointments include the Alumni Distinguished Professorship held by Forrest Lacey and most recently the Williford Gragg Professorship established in 1979 and held by Joseph G. Cook.



Dean Kenneth Penegar, Professor Jerry Phillips, Mr. William Wilson, Chairman of the W.P. Toms Foundation, and Dr. Joseph Johnson, Executive Vice President of UT.

CONTENTS

We're on the Move:

Our Faculty-3

Our Students-4

Tennessee Tomorrow-2

Quarterly Highlights-8

Phillips Awarded Toms Professorship-1

Recognition and Rewards-8

Judge Wilson Honored-6

On Values & Time, Thomforde/Bernstein-4

Bankruptcy Act of 1841: A Curse
or a Blessing? Carl A. Pierce-6

Other People's Morals: A Lawyer's
Conscience, John C. Noonan, Jr.-2

Advocates and Awards



Pictured above are the three judges for the final round arguments of the Advocates' Appellate Prize Moot Court Competition, held on May 2 at the College of Law. From left to right are: Associate Justice William Rehnquist, U.S. Supreme Court; U.S. District Court Judge Robert Merhige of Richmond, Virginia; and Circuit Court Judge Nathaniel Jones, Sixth Circuit Court of Appeals, Cincinnati. The picture was taken at the awards presentation Friday evening.



Justice Rehnquist visits with a group of students and the Dean during the Moot Court Board Reception Thursday evening prior to the final round arguments of the Advocates' Appellate Moot Court Competition. The reception was held on the terrace at the Faculty Club. The student fully visible to the right of Justice Rehnquist is Phyllis Golden, a member of the Moot Court Board and in the second-year class. She was a participant in the Advocates' Prize Competition.



Shown above is the Honorable Robert Merhige, U.S. District Court Judge for the Eastern District of Virginia, presenting personal remarks to the students and faculty gathered for the Advocates' Prize presentation and other awards on the evening of Friday, May 2, 1980.



Tennessee Tomorrow

Campaign at Two-Thirds of Goal

With pledges or actual gifts received totaling over \$800,000, the Tennessee Tomorrow Law Fund Campaign stands at approximately two-thirds of its goal of \$1.25 million. Campaign leaders Bernie Bernstein of Knoxville, John Morgan of Chattanooga, and Alumni Advisory Council Chairman Herb Bacon of Morristown recently reflected on the success of the Campaign to date and declared that a successful conclusion of the Campaign was certainly within reach within the next year.

The Campaign has been going through a major gifts appeal for approximately two years. The more than \$800,000 pledged or received represents average gifts of \$5,000 to \$10,000 apiece, and in several instances, gifts or pledges have reached \$25,000, \$30,000, \$50,000 and \$100,000. It is anticipated that in the months ahead each and every living alumnus of the UT College of Law will be contacted by letter or telephone, and, hopefully, by other alumni, with a view to giving everyone an opportunity to make a pledge to this campaign.

Pledges are payable in a three to five year period.

Notable accomplishments are already in evidence as a result of the endowment drive. For instance, three professorships have been established to add a significant level of income to the University salaries of three distinguished members of the UT College of Law faculty. Others are expected to be created as the drive matures. Also, significant new scholarships have been established, such as the Judge Joe Hunter Me-

morial Scholarship established in the fall of 1979. Extra-curricular activities like the Moot Court Board programs of national competitions have also been established on a sound financial footing. Modest but valuable new awards for faculty research will be available in the summer of 1981.

These are several of the ways in which proceeds from the Tennessee Tomorrow Law Endowment are helping maintain the quality of the programs at the University of Tennessee College of Law. As the campaign entered one of its final phases, Dean Pene-gar declared, "We are gratified with the response to date in this splendid effort carried on principally through the leadership of our own alumni, and we are grateful not only for the substantial new funds, but also for the confidence, respect, and affection which lies behind these gifts in the minds and hearts of our alumni."

Books, Books, and More Books . . .

A 1980 Supplement to the 1976 edition of the *Tennessee Law of Crimes* is now available. Published by the Public Law Institute of the College of Law, the supplement updates the material covered in the original volume through April, 1980, analyzing significant changes in statutory law as well as U.S. and Tennessee Supreme Court decisions.

Other publications that are or will soon be available through the Public Law Institute: *Judicial Newsletter*, published quarterly; *Tennessee Traffic Law*, published in October, 1979; *Street Law In Tennessee*, published July, 1980; and *Tennessee Law of Criminal Procedure, Tennessee Law of Children, Tennessee Domestic Relations Law for Legal Assistants, and Tennessee Property Law for Legal Assistants*, scheduled for publication later in 1980.

For more information, write: PUBLICATIONS MANAGER, Public Law Institute, 1505 West Cumberland Avenue, Knoxville, TN 37916.

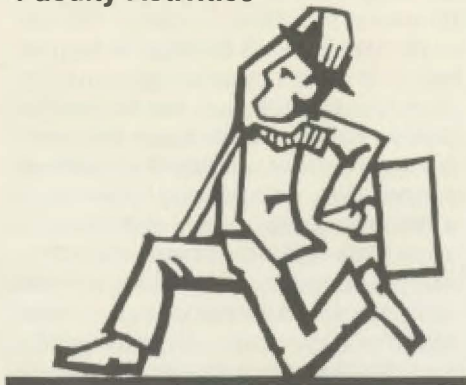
Other People's Morals: The Lawyer's Conscience

The following is an excerpt from the Sixth Annual Alumni Distinguished Lecture in Jurisprudence, delivered by Professor John C. Noonan, Jr. of the University of California at Berkeley School of Law. The lecture was delivered on Wednesday evening, April 2, 1980.

The person who has [stated] best the thesis I want to explore with you tonight is a Boston lawyer, Charles Curtis, who wrote on this topic some years ago in a book called *It's Your Law*, and he put it this way: Acting for others is in a different category of behavior than acting for yourself, and I think its ethics are different. The person for whom you are acting very reasonable expects you to treat him better than you do other people. A lawyer. . . insensibly finds himself treating his client better than others, and, therefore, others worse than his client. . . the question is whether you have a different ethics when you're acting for someone else. . .

(to be continued in future issues)

Faculty Activities



MARTY BLACK: During the 1979-80 academic year, she served as Chairperson of the University of Tennessee Knoxville Commission on Women, which reports directly to the Chancellor, Dr. Jack Reese. Professor Black also spoke to the College of Veterinary Medicine on the legal aspects of conducting a veterinary practice.

JOSEPH G. COOK: He was appointed to the Educational Publications Advisory Board of Matthew Bender, law book publishers. Professor Cook co-authored with Professor Paul Marcus, University of Illinois, a casebook entitled *Criminal Procedure*, and, with Professor John Sobieski, a four-volume work entitled *Civil Rights Actions*, both of which are scheduled for publication by Matthew Bender in the spring of 1981. Professor Cook addressed pre-law students at Birmingham Southern University on "The Limits of Punishment and the Supreme Court," in April, 1980.

GLENN E. COVEN: He recently published an article on taxation in the *Oregon Law Review* entitled "Liabilities in Excess of Basis: Focht, Section 357 (c) (3) and the Assignment of Income, 1979." He has accepted a visiting professorship for the fall quarter, 1980, at the University of Pennsylvania School of Law, Philadelphia.

GRAYFRED B. GRAY: He presented a two-hour class on Introduction to Law and Criminal Law to the College of Veterinary Medicine students in the spring. He spoke on the subject of confidentiality to the staff of the Birth Defects Evaluation Center at U.T. Memorial Research Center and Hospital. In addition, Professor Gray spoke to the students in the Department of Human Services at UTK under Dr. Robert Kronick on legal risks to which human services personnel are exposed. Professor Gray is spending the summer at Memphis as part of the teaching staff of the Admission by Performance Institute, a program jointly sponsored by the University of Tennessee College of Law and the Memphis State University School of Law.

PAT HARDIN: He published an article in the *Tennessee Law Review*, "Regulation of Public Collective Bargaining in Tennessee: The Education Professional Negotiations Act," 47 *Tenn.L.Rev.* 241 (1980), and another article, entitled "The Supreme Court, October, 1978 Term: The Conflict of Harmony and Invention," in *Labor Law Developments*, 1980, Proc. 26th Ann. Inst. on Labor Law (1980). Professor Hardin also investigated and prepared a written report of the 1978 strike by police and firefighters in Memphis, Tennessee, with Adler, Carson, Helsby, and Tener. This study was financed in part by Carnegie Corporation and the Symposium for city and union officials, sponsored by the U.S. Department of Labor.

MARY JO HOOVER: She edited an instruction manual for Tennessee Foster Care Review Boards under a Title 1-A Grant from the Tennessee Higher Education Commission, and served as a member of the Knoxville County Foster Care Review Board. She was promoted to Associate Dean for Admissions and Student Affairs effective July, 1980.

JACK JONES: Professor Jones has returned from leave at Drake University.

JOE KING: In May of 1980, he presented a two-hour lecture at the College of Veterinary Medicine entitled "Professional Civic Liability of Veterinarians." This was the third such presentation Professor King has been invited to make.

JAMES C. KIRBY, JR.: He continued to serve as a consultant to the Legal Education Institute, United States Civil Service Commission, and, in August of 1979, he served on the faculty of the Institute for New Government Attorneys, Washington, D.C., lecturing on the subject of "Ethical Considerations for the Government Attorney." He also served on the Executive Committee of the Section on Professional Responsibility, Association of American Law Schools. Professor Kirby has published two essays recently: "Federal Conflict of Interest Regulations and Their Relation to Official Compensation," a chapter in *The Rewards of Public Service* (Hartman and Weber, editors, The Brookings Institution); and "The Efficacy of Legislative Ethics Codes: The Congressional Experience," Working Paper Series on Legislative Ethics Number 4, issued by LEGIS/50-The Center for Legislative Improvement.

KENNETH L. PENEGAR: In September, 1979, Dean Penegar spoke to the Shelby County Bar (Memphis) on "Disqualification of Counsel for Conflicts of Interest."

He served on a special committee of the Association of American Law Schools on federal aid to legal education, 1979-80. He appeared in the U.S. Sixth Circuit Court of Appeals in February, 1980, for the plaintiffs in the third appeal of *Bradley v. Milliken* at the request of the Lawyer's Committee for Civil Rights Under Law. He also served on ABA-AALS Reinspection Team to the University of West Virginia College of Law in May, 1980. In January, 1980, Dean Penegar was appointed to an AALS Special Committee on Clinical Education in Law. In Phoenix, Arizona, he appeared in a panel discussion at the AALS Convention on international exchanges of teachers. In February, he led a workshop on the needs of law libraries for the ABA sponsored Annual Workshop for Deans held in Chicago.

JERRY PHILLIPS: He published an article entitled "Products Liability Synopsis" for the *Drake Law Review*, 1978-79, and "The Case For Comparative Fault in South Carolina," in the *South Carolina Law Review*, October, 1980, as well as "Architects and Engineers Professional Liability" in *The Forum*, 1980. Under the auspices of the Bobbs/Merrill Company, he has published a casebook entitled *Torts and Related Law, Cases and Material*. The late Professor Dix Noel collaborated with Professor Phillips on this work but died prior to its publication. Professor Phillips was invited to speak to the Insurance-Litigation Section of the American Bar Association at its Annual Convention in Honolulu in August of 1980. He also spoke to the Indiana Continuing Legal Education Program in September and at a Virginia Bar CLE Program at William and Mary University School of Law in October, 1979.

CARL A. PIERCE: He was Director of the 1979 Admission by Performance Institute held in Knoxville. He also became a member of the Academic Affairs Committee, UT Board of Trustees. Professor Pierce is also draftsman of the Report on Social Responsibilities of UT as an Institutional Investor, which is to be published in the fall of 1980.

DEAN HILL RIVKIN: He was elected co-chairperson of the section on clinical legal education of the Association of American Law Schools. He also received the Air Conservationist of the Year Award from the Tennessee Conservation League. Professor Rivkin made presentations on clinical legal education at the AALS Annual Meeting in Phoenix, Arizona, at the AALS Conference on the Teaching of Civil Procedure in June, 1980, and at the 1980 National Clinical Teachers' Conference in June, 1980. He also served as a consultant to the Federal Legal Serv-

ices Corporation, litigated and argued before the Tennessee Supreme Court a significant case involving the constitutionality of the Tennessee Surface Owner Protection Act, served on the faculty of the Harvard Law School Trial Advocacy Program in January, 1980, and gave a paper on "Environmental Enforcement Litigation" to the Vanderbilt Institute for Public Policy Studies in March of 1980. In addition, Professor Rivkin served as a AALS Reinspection Team member of the Vermont Law School in September, 1979, and as a consultant, U.S. Department of Education, Law School Clinical Experience Program Grants, in July of 1980.

BEVERLY ROWLETT: She completed and had accepted for publication a chapter entitled "Children and Property" in *The Law of Children*, which will be published by the Public Law Institute of the College of Law in the fall of 1980. She also completed "Survey of Tennessee Property Law," to be published in the fall in the *Tennessee Law Review*. Professor Rowlett has finished her LL.M. thesis for the University of Illinois, entitled "Aesthetic Regulations Under The Police Power: The New General Welfare And The Presumption of Constitutionality."

JOHN A. SEBERT: He entered into a contract with the Matthew Bender Company to prepare a coursebook in "remedies." It is to be co-authored with Professor Robert S. Thompson of the University of Southern California, and its scheduled publication date is 1981. During the summer of 1979, Professor Sebert participated by invitation in a six-week seminar at the University of California at Berkeley on American Legal Thought in the Twentieth Century. The program was sponsored and subsidized by the National Endowment for the Humanities for Law Teachers.

JOHN SOBIESKI: He published an article entitled "An Update of the New Tennessee Rules of Appellate Procedure," 46 *Tennessee Law Review* 727 (1979). He continued to serve as a reporter to the Tennessee Supreme Court Advisory Commission on Civil Rules. In this latter capacity, Professor Sobieski helped draft the 1980 amendments to the Appellate Rules of Civil Procedure. He also spoke at several CLE programs around the state on the Tennessee Rules of Appellate Procedure. Among these were several TV appearances in the Knoxville area on Public Broadcasting Television, sponsored by the Knoxville Bar Association.

FREDRICH THOMFORDE: He published an article entitled "Exceptions From SEC Registrations for Small Businesses" in 47

Tennessee Law Review 1 (1979), and "Investigations, Hearings and Sanctions Under the Proposed Canadian Securities Law, 18 *Osgoode Hall Law Journal* (1980). He also completed a book entitled *SEC Exemptions for Small Businesses* (Published by ALI-ABA, 1980). Professor Thomforde has also entered into a contract with the Matthew Bender Company for a coursebook on business organizations. 1981 is the tentative publication date. He made two CLE sets of appearances under the auspices of the Knoxville Bar Association. The first was entitled "Securities Law Problems for Small Businesses" done in four sessions between September and December of 1979. Another series was entitled "Administrative Hearings," and it was also done in four sessions and was televised over Public Broadcasting Television between April and July of 1980. It was sponsored by the Knoxville Bar Association.

DOUGLAS WICKHAM: He published an article entitled "7 or 13? Guiding Consumer Debtor Choice Under the Bankruptcy Reform Act" for the Fall Symposium Issue of the *North Carolina Law Review* (1980). Professor Wickham also gave testimony before the United States Judiciary Subcommittee concerning the proposed Sunshine Act for the United States Judicial Conference in March of 1980, and he served as Chairman of the AALS Debtor-Creditor Section during 1979.

DICK WIRTZ: He completed a set of teaching materials entitled "The Law of Industrial Property: Cases and Questions," covering the law of patents and trade secrets, in the fall of 1979. Professor Wirtz also served as a member of the Board of Contract Appeals, Tennessee Valley Authority.



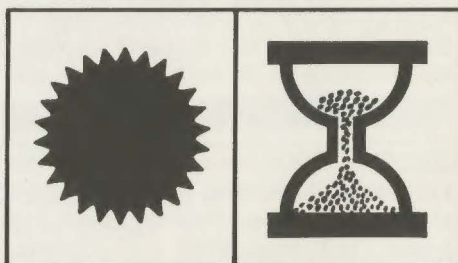
Law Students In National Competition

Three University of Tennessee College of Law students won all-expense-paid trips to Montreal, Canada this summer for the final round of the American Trial Lawyers Association Competition in Trial Moot Court.

For a number of years UT law student teams have distinguished themselves by their success in various national and regional appellate moot court competitions. With the advent this past year of a trial competition sponsored by the American Trial Lawyers Association, faculty and students got busy and entered a UT team. It consists of Loretta Simonetti, Brian Smith, and John

Schlechty. The faculty advisor is Professor Gary Anderson.

The UT team won its Regional Competition at Pittsburgh by defeating teams from Case Western, Delaware, and Rutgers. The problem consisted of a closely drawn contest between the infant plaintiff who suffered personal injury from scalding hot water and a defendant landlord who maintained the water heater. Brian Smith and Loretta Simonetti played the part of co-counsel and John Schlechty played the part of a principal witness. The four regional winners competed in July; our team finished a strong second. Congratulations! The team has earned valuable experience and brought distinction to themselves and to their school.



On Values and Time . . .

Among the speakers at hooding ceremonies during the past academic year were Professor Fred Thomforde and Bernard E. Bernstein, senior partner in the Knoxville law firm of Bernstein, Susano, Stair and Cohen.

Professor Thomforde addressed the graduates, their families, and friends on the subject of the role of law schools in shaping students' values. Mr. Bernstein spoke on the use of time after law school graduation. Excerpts from their remarks are printed below.

On Values . . .

Professor Fredrich Thomforde

A suggestion that law schools have an actual or potential role in shaping students' values is subject to objection on one of two grounds: either we cannot influence values, or even if we can, we should not.

Our constitutional form of government is a value-laden subject relating to how best to structure the relations between state and citizen. The choice of values implicit in the American Constitution is explicitly supported by legal education. No matter how supposedly objective or neutral our academic approach to the subject may be, the attitudes and values of students are affected, modified, and refined by study and instruction. We can and do influence not only abstract thinking about social values, but the students' substantive attitudes as well.

On the other hand, we sometimes avoid any attempt to influence a student's values.

Thus, for example, while the propriety of abortion is also a question of values, the average law school instructor does not use the classroom to persuade students that abortion is either good or bad, but rather explores the extent to which the Constitution arguably restrains the power of the state to regulate such conduct. We could attempt to influence the thinking of some students about the substantive merits of abortion, but we refrain, deeming such instruction to be either irrelevant or inappropriate.

When the discussion turns to professional values, however, we tend to assume that instruction is impossible, not simply inappropriate. We cannot teach these things, it is said, because traits such as honesty, integrity, or diligence have been formed in the student well in advance of law school enrollment. Although I will concede the proposition in its most general form, I firmly believe that these qualities can change—not only during the period of legal education, but well after. Moreover, the question in most cases is not whether we can create anew these values in a person who is devoid of morality, but whether we can nurture, refine, and encourage the good qualities that students already possess. Similarly, we must ask whether or not, or to what extent, we unintentionally discourage or destroy good qualities during the process of legal education . . .

Let me suggest three characteristics, attitudes, or values that I believe a lawyer should possess. I do not intend the list to be exclusive, but firmly believe that each is among the basics. They are: scholarship, service, and integrity.

At first, scholarship may seem to be value-neutral, almost by definition. I consider it a value, however, and a necessary attribute of the profession, not merely a responsibility or contribution of the law school as a segment of the profession. I do not refer to a narrow definition of scholarship that equates only law review articles and academic research with scholarship. I refer to the necessity of the lawyer's life being one of continuous self-learning and intellectual curiosity about the whole of man's existence; to the necessity of careful, painstaking, tedious, often boring, self-learning. Despite frequent, superficial, often nonsensical debates about the so-called theory-practice dichotomy, both the practice and study of law are intellectual endeavors by definition. Both endeavors require the use of concepts for the reasoned regulation of human conduct; concepts that are infrequently easy to know, to understand, or to apply; concepts that are general, ambiguous, and ever subject to change; concepts, quite simply, that require the informed use of the intellect to be interpreted and

applied . . . Even the most mundane problem can be presented in new contexts and with unique aspects that cannot be resolved by mere bravado, silver tongue, or good intentions. Thus, scholarship is neither the sole responsibility of, nor a luxury confined to, law school faculties. It is a moral imperative of a learned profession.

Second, I believe a lawyer must be service-oriented, as opposed to self-oriented. I do not speak simply of legal services to the poor. I refer to the conviction that our skill and learning are to be utilized, not primarily for personal gain or self-aggrandizement, but in the public interest and for the public good. And service includes the element of self-sacrifice that must prevail over personal comfort, needs, or convenience. I am not suggesting that a lawyer abdicate his personal morality. That is a different question. I am suggesting this reason for our existence: that our talents are to be used to benefit others, the great as well as the oppressed, the rich as well as the poor, the popular as well as the unpopular, and to solve exciting, challenging cases, as well as the mundane and routine.

Finally, I believe a lawyer must be a person of integrity. There has never been a time, nor will there be, when your personal and professional integrity will not be challenged, and when you will not be tempted to take an easier, more popular, financially more rewarding, and less painful road. You will be tempted to avoid your scholarship and service obligations daily. You will be tempted to compromise either your own or your client's principles. Unfortunately, we tend to emphasize the more spectacular lapses of duty—as in the Watergate affair—and piously swear never to repeat that kind of mistake. But the question of integrity is equally important in contexts less notorious, the daily contexts where personal gratification and deviation from duty seem less momentous and arguably less harmful. But it is exactly here that adherence to the ethical principles of our profession is most important; where daily we are tempted to compromise our principles, or the interests of our clients, and thus erode the public's respect for, and confidence in, the legal system. It is in the context of these apparently insignificant confrontations of principle that you also will have the opportunity to preserve your self-respect, personally and professionally.

Assuming, at least for the sake of argument, that scholarship, service, and integrity are desirable traits, does the law school have a part? I am confident that most observers are at least skeptical. I believe that law faculties do teach these things and influence their development, and that it is done, not by words, courses, speeches or pro-

grams, but by example. Indeed, long after the Rule in Shelley's Case has been forgotten and all due respect to our ability to hone your analytical skills has been given, it is just possible that the most important lesson we teach is our view of the relative importance of scholarship, service, and integrity. It happens without words, and no pious words can undo the lesson if poorly taught.



On Time. . .

Bernard E. Bernstein

Up until this day, and certainly during the past three years, most of your time has been spent trying to achieve one objective: graduating from law school. Now you must learn to treat time differently. You must view it as something to be cherished, to be planned for, and to be used to shape your lives. You must become much more sophisticated and sensitive about allotting and programming your time.

In practicing law you will soon learn how important and how limited your time becomes. In many cases just how much time you can spend on a given task determines just how much you can charge for the work. The task itself must justify the time that you invest in it, and you cannot spend more time on a particular problem than that problem justifies . . . You [also] have the continuing problem of finding time to keep up with developments in the law. New cases must be read, new statutes must be understood, the ever-increasing regulations of administrative agencies must be assimilated, and you must keep your fingers on the pulse of the law to detect new trends—new concepts—new fashions.

You must also find time in the practice of law to remember that lawyers have a *special responsibility to society*. We are expected to be the peacemakers—the ones who facilitate the settlement of disputes without permitting people to slug it out in the arena. We must measure the respective values of the given problem, to look for solutions, and encourage settlements. When we cannot bring our skills to bear to effect an equitable resolution of a problem, we must be prepared to lead contestants away from the arena and into the courtroom where the rules of law and the rules of evidence should apply. That is what lawyering is all about.

In addition to lawyering, you must always ask yourself, "How good is the system?" "Is it working properly?" "Can it be improved?" "What can I do to help?" Take some time during those early years when you are finding your way around courthouses to look in on the courts of lowest jurisdiction. Watch the drunk driving cases and the public drunkenness cases. Observe the petty lar-

cery cases, shoplifting, and numerous assault and battery cases. Watch the defendants being escorted away in handcuffs and chains. Look into the jails and see the thousands and thousands of hours of time that are being spent in absolute nothingness. Watch the people who come to General Sessions Court to defend themselves when being sued on collection matters. How did they get into that position, and how will they ever get out of their predicament? Watch the stream of bankrupt parties who have to resort to a court proceeding to be relieved of debts that they cannot pay. Never let the press of your daily work assignments keep you from seeing the human element that is at play in everything we do and in everything that goes on around our profession, and always ask, "can it be improved?". And if the answer is "yes," take some of your precious time, pick the area in which you are interested, and try to do something to help bring about change. Work in your bar associations and civic groups and help improve some of those deficiencies that you will observe.

Because you are a lawyer, your community will also expect a great deal from you. Seated in this group are at least a half dozen judges-to-be, several mayors, four or more members of the state legislature, members of county courts and county commissions, and perhaps a governor. You will be surprised as to who they turn out to be. You are our future leaders and you must be prepared for the responsibility that will be thrust upon you. Find time, now that you do not need to have your head in a law book at all times, to be aware of what is happening around you and your community, your state, your nation, and the world. Be aware of what is current and be able to answer questions that will always be thrust upon you by those who have trouble understanding current affairs. You will be given positions of leadership in civic groups, in churches and synagogues, and because of your lawyering skills you should be able to serve and contribute greatly. If you do not, and if you allow others who are not as well trained or skilled as you to do these tasks, then society in general will suffer.

While you are doing these things—prac-

THOMFORDE



BERNSTEIN



ticing law, serving on the county political committee, serving on the board of deacons, attending a Kiwanis luncheon, coaching a little league team, working on a bar association committee, and I guess we should always add *maintaining an interest in your college of law and providing financial support therefore*—you must also make time for your families.

I believe that we are living through an epidemic of divorce, of family dissolutions, and a tearing apart of family life as it once existed for your parents and grandparents. For those of you who are married and went through law school with a spouse, *now* is the time to get *reacquainted!* That spouse is *more important* to you than any files that will be placed on your desk. The tugs and pulls of a spouse, family, the office, and the community must all be balanced, and they all take *time* and effort. For those of you who have not as yet taken the step toward marriage, the spouse you are about to choose will need the same care and attention and nurturing as any one of your clients, and then some. Unfortunately, I have been called upon to serve in many cases involving divorces for members of the bar, and I have always been distressed at how otherwise kind, considerate, and accomplished lawyers can also be such poor husbands or wives. You are responsible for raising your children and providing them with the same guidelines and the same positive values that your parents passed on to you. It takes a commitment of time, of interest, and of devotion. Again, I tell you that I have seen some of the finest lawyers have the most difficulties in raising their children. Somehow the cry of the child was only heard *after* the cry of the client. You must balance those cries, and you must be able to distinguish what is real from what is imaginary, what is temporary from what is permanent.

And as the years go by, you must find time (what I call quiet time) to sit and to think and to reflect and to measure what you have accomplished, where were your successes, where were your failures, and how can you do better. Take some time to regroup, to reconsider, and to look ahead.

The nineteen years of schooling that you have just completed will enable you to fulfill the work of your profession. You must add to that a good soul and a kind heart, a concern for your fellow man, and the ability to see "the big picture." Work at being a good lawyer, enjoy the excitement of your work and of your life, and add to it and improve upon it. The law degree that you will receive imposes these obligations upon you; the hood that will be placed upon your shoulders marks you with having accepted the responsibilities to serve the public, to safe-

guard the traditions of the law, and to ensure that future generations continue to live in peace and tranquility.

I salute you and welcome you to the profession.

Judge Wilson Honored

United States District Judge Frank Wilson ('41), of Chattanooga, was named by the publication, *The American Lawyer*, as the outstanding district judge in the Sixth Federal Judicial Circuit.

Described as having enjoyed "unprecedented popularity and respect" from the local bar since his appointment in 1961, Judge Wilson was praised for his conscientiousness, humor, and the respectful treatment lawyers and parties uniformly receive in his court. His service has also been distinguished by his continued contacts with prisoners he has sentenced and his individualized attention to their rehabilitation during imprisonment and after release. Judge Wilson's handling of the difficult Jimmy Hoffa prosecution was also singled out for special praise.

The publication selected both the "best" and "worst" district judges in each circuits in its July, 1980 issue, basing its conclusions on investigations made by local journalists.

The Bankruptcy Act of 1841: A Curse or a Blessing?

By Carl A. Pierce

In the last year, lawyers across the country have been adjusting to some significant changes in the Federal bankruptcy laws. To relieve the tedium of struggling with statutory technicalities, Professor Pierce looks at an earlier controversy over our bankruptcy laws and lets the legislators of the 1840's identify some of the fundamental policy concerns underlying all bankruptcy legislation.

"Bankruptcy," said historian Charles Warren, "is a gloomy and depressing subject," and many Americans view the law of bankruptcy as a dry and technical subject interesting only to lawyers. For those creditors and debtors who meet in court to settle their affairs under the bankruptcy laws of the United States, however, the subject is fraught with great personal consequence, and notwithstanding their technical complexity our bankruptcy laws reflect some very fundamental judgments about the proper treatment of an individual who is either unwilling or unable to pay his just debts. In periods of prosperity, most Americans do not reflect upon the "gloomy and depressing subject," but our recurrent economic depressions have provided many opportunities for heated debate about the ap-



Summer/Fall 1980/The University of Tennessee College of Law/1505 W. Cumberland Knoxville TN 37916

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Quarterly Highlights * * * *

● Dr. Larry T. McGehee, Special Assistant to the President for Advancement of the Arts and Humanities at UT Knoxville, addressed the graduates at the commencement hooding ceremonies on December 6, 1979.



Dec. 6, 1979-Reverend Robert G. Tharp, Dr. Larry T. McGehee, Dean Kenneth L. Penegar.

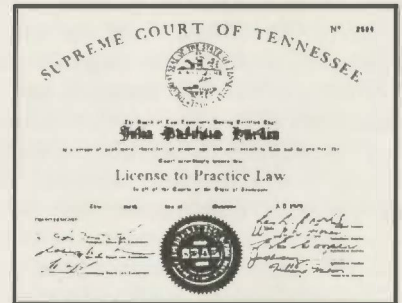
● Professor John Noonan gave the Sixth Annual Alumni Distinguished Lecture in Jurisprudence on Wednesday evening, April 2, 1980, entitled "Other People's Morals: The Lawyer's Conscience." (An excerpt from his paper is printed elsewhere in this issue.)

● Professor Jack Heinz of Northwestern University School of Law visited the school

for two days on April 9 and 10, 1980. During his visit he presented a public lecture summarizing the findings of his research on the legal profession in Chicago. He also visited classes and gave a faculty forum describing the research methodology for his work in the legal profession.

● Final round arguments in the Advocates' Appellate Prize Moot Court Competition were heard on Friday, May 2, 1980, by a distinguished panel of jurists including Associate Justice William Rehnquist of the United States Supreme Court, Circuit Judge Nathaniel Jones of the Sixth Circuit Court of Appeals, and District Court Judge Robert Merhige of Richmond, Virginia. During the awards ceremony on the evening following the arguments, each judge made brief remarks to the large audience of students and faculty.

● Reports of the February Bar examination were received during the spring quarter. For the second time in a decade it was reported that the University of Tennessee College of Law graduates posted a 100 percent pass record.



● Bernard E. Bernstein, Knoxville attorney, longtime member of the Alumni Advisory Council, and past president of the Knoxville Bar Association, gave the principal address at spring commencement hooding ceremonies on Monday, June 9th.



June 9, 1980-Attorney Bernard E. Bernstein, Reverend W.L. Couch, Jr., Dean Kenneth L. Penegar.

Recognition and Awards



(Left) Dean Penegar presents the faculty's award of \$200 to the outstanding graduate of the year, Ms. Fran Ansley. Ms. Ansley was a member of the Tennessee Law Review, National Lawyers' Guild, and was elected to the Order of the Coif upon her graduation. She graduated with the highest grade point average achieved in the last 10 years at the U.T. College of Law (a 3.8).

(Right) Professor Glenn E. Coven presents certificates of outstanding service to the Board of Editors of the Tennessee Law Review at the Honors Presentation on Friday, May 2, 1980. Professor Coven, along with Professor Jerry Phillips, served as faculty advisor to the Tennessee Law Review this year.

