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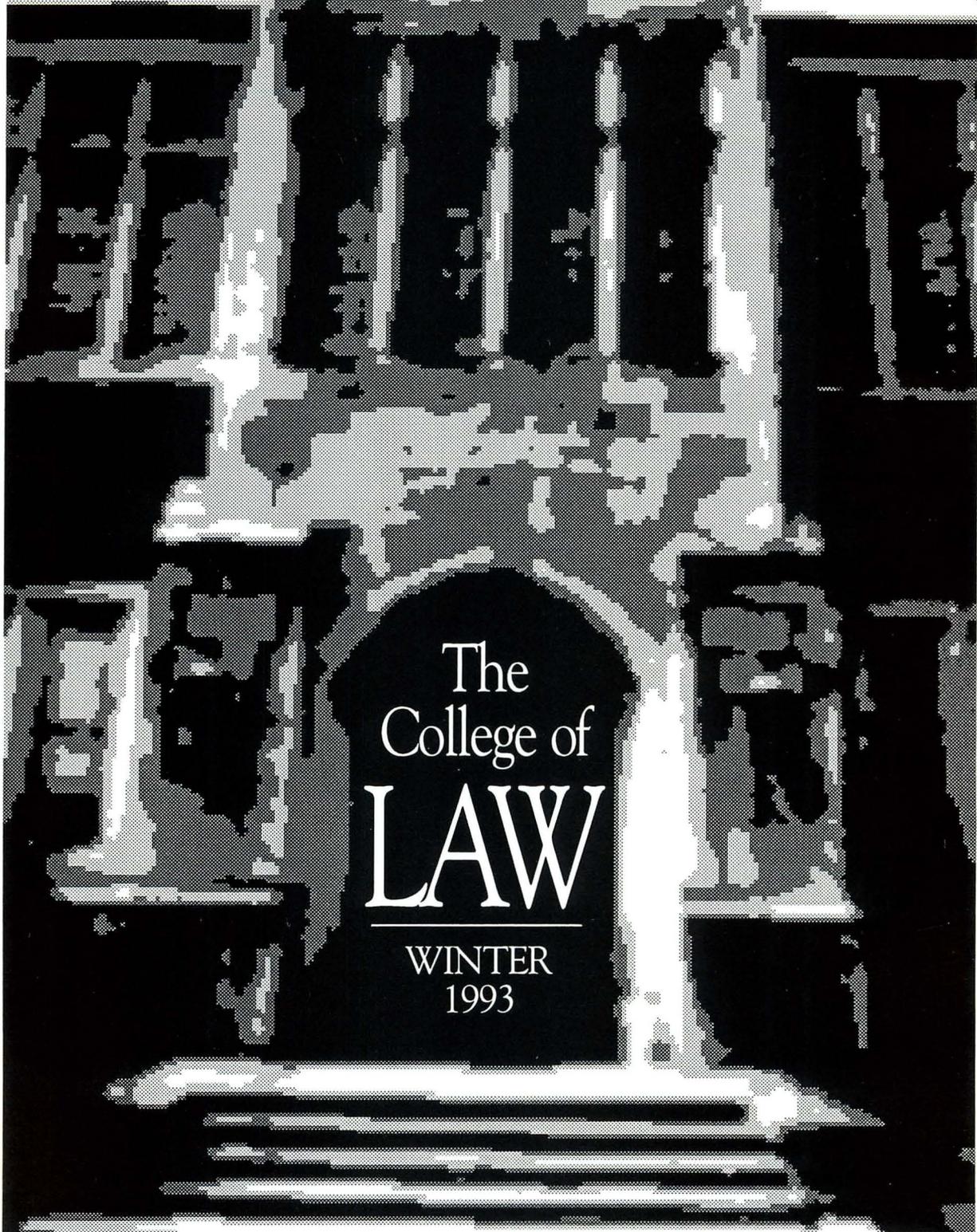
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FEATURING:
CLE CORNER



THE UNIVERSITY OF TENNESSEE
ALUMNI HEADNOTES

Alumni Headnotes

Winter 1993

Volume 19, Number 2

Calendar

March 6	Tennessee Law Review Banquet
March 10-14*	Jerome Prince Evidence Moot Court Competition at Brooklyn Law School in New York City. The team: Jason Hood of Memphis, Jane Stahl of Chattanooga, and Joe Thompson of Gallatin. The advisor: Professor Neil P. Cohen
March 12*	Charles Miller Lecture in Professional Responsibility by Gerry Lopez, the Montgomery Professor of Public Interest Law at Stanford Law School. See page 3.
March 18-21*	Robert Wagner Labor Law Moot Court Competition at New York Law School in New York City. The team: Gary Ferraris of Knoxville, Margaret Gray of Terre Haute, Indiana, and Sharon Patterson of Johnson City. The advisor: Professor Pat Hardin.
March 22-26	Spring break
March 27	Dean's Circle meeting
April 9	Holiday - No classes and administrative offices closed
April 12-16*	Moot Court Week
April 13*	Former Chief Justice of the U.S. Supreme Court Warren Burger will deliver the inaugural Judge Robert L. Taylor lecture.
April 15-17*	The First Annual Tennessee Corporate Counsel Institute. See page 24.
April 24	Alumni Advisory Council meeting
April 30	Classes end * GCT Law Day: Alan Novak Auction
May 4-13	Examination period
May 13*	Hooding ceremony
May 14	Commencement
May 19-23*	College of Trial Advocacy
May 25	Registration for Summer Term
May 26	Summer classes begin

* Alumni cordially invited to attend. For further information please call 615/974-4241.

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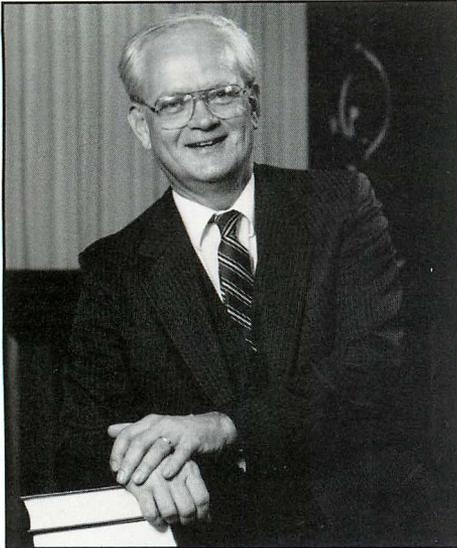
Administration

Dean:	Richard S. Wirtz
Associate Dean for Academic Affairs:	R. Lawrence Dessem
Associate Dean for Student Affairs:	Mary Jo Hoover
Director of Admissions & Financial Aid:	Sybil Richards
Director of Career Services:	Joann Rothery
Director of Development & Alumni Affairs:	Suzanne Livingood
Director of the Law Library:	Bill Beintema
Acting Director of the Legal Clinic:	Jerry Black
Assistant to the Dean:	Peggy Goodman

Alumni Headnotes is published by the Office of Development & Alumni Affairs at the College of Law in February, April and September for alumni, friends, staff, and students.

Printer: UT Graphic Arts

Dean's Corner



On Crossing the Bar Without a Paddle

Do American law schools graduate their students ready to assume the responsibilities of the practice of law?

Almost 30 years ago Walter Gellhorn, a respected law teacher and a thoughtful man, posed the question in the pages of the *Columbia Law Review*. He concluded that the answer is no. He went on to chide his colleagues in the teaching profession. We professors, he wrote,

*too readily embrace the belief that our graduates will be well and broadly trained after they leave the academic grove. Only a few are in fact employed by law firms with what one might call an instructional tradition. The others take pot luck--and the luck is by no means always good. Even in New York, which has a concentration of large law firms, 70 percent, roughly, of the bar engages in solo practice, beginning not long after graduation. Law professors cannot justly suppose that others will do systematically what they have left undone.*¹

¹Walter Gellhorn, "The Second and Third Years of Law Study," 17 *Journal of Legal Education* 1, 13 (1964).

In the years since Professor Gellhorn wrote, legal education has changed. The most significant departure from the standard curriculum of a generation ago has been the development of in-house legal clinics, in which Tennessee has played a leading role. But there have been other important changes--

- * the addition to every law school curriculum of a required course in professional ethics;
 - * a reduction in the number of required courses, accompanied by a proliferation of electives in the second and third years;
 - * increased opportunities for specialization;
 - * new courses integrating law with other disciplines, such as economics and psychology;
 - * the diversification of student bodies and law faculties to include more women, more people of color, and more people returning to school to study law at a mid-point in their lives;
 - * an increased emphasis on the improvement of students' writing;
 - * the introduction of computer-assisted legal research;
- and, most recently,
- * the addition to the curriculum--partly in response to the Chief Justice Burger's criticisms of lawyer competence in court--of a raft of courses (many of which make extensive use of simulations and videotape) designed to help students develop basic competence in a broad range of skills, including, in addition to trial and appellate advocacy, interviewing and counseling, negotiation,

arbitration, mediation, planning and drafting, and advanced legal research.

Now do American law schools graduate their students prepared to assume the responsibilities of the practice of law?

I think the answer of many lawyers and law teachers would still be, no.

Recently a remarkable book has appeared on the scene. It is the Report of the ABA Task Force on Law Schools and the Profession: Narrowing the Gap, entitled *Legal Education and Professional Development -- An Educational Continuum*. The Task Force, which included former Dean Marilyn Yarbrough of this law school, was chaired by former ABA President Robert MacCrate. People are calling the book the *MacCrate Report*.

The *MacCrate Report* pulls no punches:

It has long been apparent that American law schools cannot reasonably be expected to shoulder the task of converting even very able students into full-fledged lawyers licensed to handle legal matters. Thus a gap develops between the expectation and the reality, resulting in complaints and recriminations from legal educators and practicing lawyers. The lament of the practicing bar is a steady refrain: "They can't draft a contract, they can't write, they've never seen a summons, the professors have never been inside a courtroom." (P.4.)

This has the ring of truth, but it's also familiar. The question is, what's to be done.

The most striking aspect of the report is its call for active partnership between lawyers and law teachers. "Law schools and the practicing bar should look upon the development of lawyers as a common enterprise. . . ." In particular,

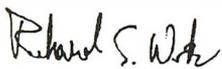
"The transition from law school into individual practice or relatively unsupervised positions in small law offices, both public and private, presents special problems of lawyer competence which the law schools, the organized bar and licensing authorities must address."

"The organized bar . . . should strive to make available to all new lawyers effective instruction in lawyering skills and professional values at a cost that new lawyers can afford with scholarship aid provided as needed." (Pp. 330, 334, 335-36 -- emphasis added.)

In this recommendation I hear echoes of comments I have picked up over the past 18 months from lawyers all across the state. Some feel so strongly they have offered to help in any way they can, including researching, on their own time with their own resources, ways in which successful programs of this kind have been launched in other states.

The proposition before us is straightforward. There's a critical job of transition education to be done in this state, and neither the bar nor the law schools can do it alone.

Are we ready to take it on together?



Richard S. Wirtz



Clinic Instructor Gary L. Anderson (left), Clinic Founder and Emeriti Professor of Law Charles H. Miller, and Clinic Director Dean H. Rivkin

The 1993 Charles Miller Lecture in Professional Responsibility

The Charles Henderson Miller Lecture Series in Professional Responsibility was established to honor Charles H. Miller, the founding director of the University of Tennessee Legal Clinic. One of Professor Miller's major themes throughout his illustrious teaching career was his concern for educating students about their future professional responsibilities as lawyers.

The Legal Clinic remains to this day a leader in this facet of legal education. The Clinic and this lecture series offer continuing reminders of Professor Miller's insight and creativity.

The 1993 lecture features Gerald P. Lopez, the Montgomery Professor of Public Interest Law at Stanford Law School. After earning a B.A. from the University of Southern California in 1970, he attained a J.D. in 1974 from Harvard. Before beginning private practice, he was a clerk for the U.S. District Court in San Diego from 1974-75. Prior to joining the Stanford law faculty in 1985, he was an Assistant

Professor of Law at California Western School of Law in San Diego from 1976-78 and a teaching professor at UCLA from 1978-85. At Stanford, Professor Lopez teaches civil rights litigation, clinical law, and contracts.

Professor Lopez recently published his first book, *Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice* (Westview Press, 1992). He has also published several articles, including "The Idea of a Constitution in the Chicano Tradition," in 1987 in the *Journal of Legal Education*; "Training Future Lawyers to Work with the Politically and Socially Subordinated," in 1988 in the *West Virginia Law Review*; and "Reconceiving Civil Rights Practice," in 1989 in the *Georgetown Law Journal*.

The lecture will be Friday, March 12, at noon in the Moot Court Room of the George C. Taylor Law Center. It is free of charge and open to the public. A reception to honor Charles Miller and Professor Lopez will immediately follow.

Development News

New Presidents' Club Members

Thanks to:

John J. Graham
Bridgeport, Connecticut

Deborah and Thomas E. Lauria
Miami, Florida

Lise and Blakeley D. Matthews
Nashville

Katherine and William Nunnally
Greeneville

PDP Sponsors Successful Phone-a-thon

The law fraternity of Phi Delta Phi sponsored a phone-a-thon, October 4-6, to help raise funds for the Law Library. PDP members Micki Griffin, Pete Halverstadt and Jack Mayfield served as co-chairs. It was the first College of Law phone-a-thon conducted by law students.

Law students called law alums who had never donated to GCT or who have given in the past but not in recent years. To encourage participation and to add to the excitement, an alum offered to match dollar for dollar, up to \$5,000, the money donated by new donors to the College. For three nights, the students called as many alums as they could throughout the U.S.

During the telephone conversation, students not only asked for support, but verified addresses. Postcards were mailed in advance of the event to notify each prospective alum about the phone-a-thon.

Phone-a-thon volunteers included: Jeff Beemer, John Bowles, Victoria Bowling, Jonathan Cole, Derek Crownover, Karol Davidson, Billy Eiselstein, Deborah Fanselau, David Fenkel, Shannon Francis, Micki Griffin, Steve Hacker, Donna Hackett, Pete Halverstadt, Kris Holt, Jason Hood, Marian Howard, Karen Jernigan, Michelle Jones, Morris Landau, Milton MaGee, Sherry Mahar, Jack Mayfield, Linda McCain-Parson, Allen McDonald, Greg Pehlman, Mitzi Privette and Paige Waldrop. Liz Roy, a '91 law graduate, helped with paperwork.

Results:

New Contributors: 108
Increased Pledges: 53
Number of Pledges: 187
Total \$ Pledged: \$27,680
[\$12,680 to Law Library; \$5,000 match; \$10,000 to the National Moot Court team]

Prize Winners:

Sunday, October 4, 1992
Jack Mayfield: most pledges (10)
Michelle Jones: most \$ pledged (\$725)
Billy Eiselstein: largest pledge (\$10,000)
Monday, October 5, 1992
Steve Hacker: most pledges (9)
Sherry Mahar: most \$ pledged (\$750)
Deborah Fanselau: largest pledge (\$500)
Tuesday, October 6, 1992
Micki Griffin: most pledges (18)
Sherry Mahar: most \$ pledged (\$1,370)
Micki Griffin: largest pledge (\$250)
Winners of the \$25.00 Copper Cellar Gift Certificates were:
Micki Griffin: most pledges;
Sherry Mahar: most money;
Billy Eiselstein: largest pledge

Elam Bequests \$200,000 to GCT

Colonel Tom Elam of Union City announced a bequest of \$200,000 to the College of Law. During a ceremony at UT in September, Colonel Elam, a member of the Class of '34 and UT Trustee since '56, was honored by having the Neyland Stadium press box named for him. Colonel Elam is a senior partner in the law firm of Elam, Glasgow & Acree in Union City. He serves on the College of Law's Dean's Circle and received the Outstanding Public Service Award from the College in 1991.

Class of '91 Honors Classmate

By choosing to establish a scholarship to help deserving students attain a legal education at the University of Tennessee College of Law, the Class of '91 has established a legacy which is officially called "The Class of 1991 Dana Collier Memorial Scholarship Endowment." Class members voted in October to name the scholarship after classmate, Dana A. Collier, who died April 19, 1992 after an automobile accident.

Once endowed, the scholarship will be a one-year scholarship awarded to an entering first-year law student who has demonstrated successful academic performance and shows financial need. Recipients will be chosen by the Law Scholarship Selection Committee. The Class aspires to continue contributing to the endowment with the eventual goal of funding a full tuition scholarship.

Garland Fund Continues to Grow

On the anniversary of Claire Garland's death, her family and friends once again solicited donations for the Claire Garland Memorial Fund at the College of Law. Claire, Class of '78, was killed in an automobile accident in February 1992. Bonnie C. Bolejack, Class of '77, worked at TVA with Claire and spearheaded the drive.

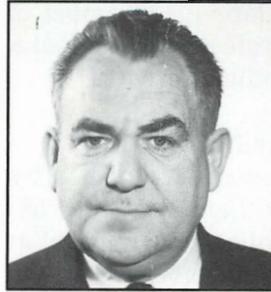
Once endowed, the fund will assist in purchasing book and material supplies for financially disadvantaged female and minority students at the College of Law. Claire's husband, Morris Herndon, and Justin Schwamm, one of Claire's co-workers in the General Counsel's Office, decided how the endowment would be used.

"This is a wonderful memorial to a truly remarkable woman," said Dean Wirtz. Bonnie said that she hoped a fund raising drive can be done for the endowment at this time every year ... to remember Claire by helping law students. Bonnie is the Manager of Information and Support for Diversity Development at TVA in Knoxville.

Adam J. Klein, Jr., Memorial Fund Established

A.J. Klein, Class of '51, died at the National Naval Hospital in Bethesda, Maryland on October 27, 1992 at the age of 69. A memorial fund has been established at the College of Law by his family and friends. A.J. Klein was a compassionate man who loved his family. He worked, lived, and gave every ounce of energy during his life to provide Americans with a safe place to live.

The memorial scholarship will perpetuate A.J. Klein's commitment to others. A.J. retired in June 1986 from the House Armed Services Committee to pursue a career as a private consultant in aerospace and nuclear energy. He continued this career until his death.



A.J. also retired from the U.S. Navy in October 1969, following twenty years of active service.

He entered Lincoln Memorial College at the age of 16. In 1942, after graduation from the University of Tennessee in Knoxville, A.J. joined the Navy and earned his wings. He later studied economics and law at the University of Tennessee, earning a Bachelor of Law degree in 1951. In 1966, he received a Masters Degree in Business Administration from George Washington University. He was a member of the Tennessee and Federal Bar and was admitted to practice before the United States Supreme Court.

He is the youngest of ten children of the late Adam Joseph Klein, Sr., and Hattie Day Logan Klein of Jellico. He is survived by his wife of 48 years, Mary Ann Cross Klein, of McLean, Virginia; a son, Robert Cross Klein of Hyattsville, Maryland; a daughter, Susan Jane Morgan, of Manassas, Virginia; two grandsons, John Goff Morgan and Steven Robert Morgan, also of Manassas; three sisters; and one brother. Donations to the Klein Memorial Scholarship may be sent to the Office of Development and Alumni Affairs, College of Law, 1505 West Cumberland Avenue, Knoxville, Tennessee 37996-1800.



Karol H. Davidson, (front left) a second-year from Oak Ridge, Kimberly C. Price, a first-year from Chattanooga, Bridget Bailey, a second-year from Chicago, Illinois, and Michelle Y. Jones, a first-year from Nashville.

BLSA Champions for Knox County Voter

The Black Law Students Association took on voter registration as a major project last fall. They registered voters on campus and in the community. When the news that 2,000 persons had been denied registration due to application problems and the registrants would have no chance to re-register, four law students, Bridget Bailey, Karol Davidson, Michelle Jones, and Kim Price, took the problem to Carol Nickle, a cooperating attorney for the American Civil Liberties Union. Ms. Price was one of the registrants who had her application denied.

Ms. Nickle, Class of '75, filed to seek court relief. U.S. District Judge James Jarvis, Class of '60, agreed to reopen voter registration in Knox County on Friday, October 30, 1992, after a class action lawsuit was filed by Ms. Nickle in Federal Court on behalf of two plaintiffs, Kim Price and another registrant whose registration was also denied. The case is not over. Ms. Nickle will go forward on the constitutionality of the statute in question.

Faculty News



Professor Ansley (right) introduced Professor of Law John C. Brittain of the University of Connecticut, Hartford, to College of Law students and faculty. Professor Brittain presented a talk on November 6 about the Haitian Relief Project.

Frances L. Ansley ...
... gave a talk on "Lessons About Free Trade from the U.S.-Mexico Maquiladora Program" at a UTK Centripetals Luncheon in October.
... served on the planning committee of the Regional Economic Justice Network (REJN) for their annual meeting in September.
... wrote a 40-page draft paper for a training session at the Martin Luther King Center in Atlanta in preparation for the REJN meeting.
... served on a panel sponsored by the Association of American Law Schools (AALS) Executive Committee on the subject of the 'canon debate' and its relevance for legal education at its annual meeting in San Francisco in January.
... had her review of Patricia J. Williams' *The Alchemy of Race and Rights: The Diary of a Law Professor* appear in the Fall 1992 newsletter of the Center for Research on Women at Memphis State University

Jerry Black ...
... has been appointed Acting Director of the Legal Clinic while a nation-wide search is conducted for a new permanent director. He

replaced Professor Dean Rivkin. ... was the keynote speaker at Leadership Education's "Justice Day" Seminar in Knoxville on November 20. The seminar was sponsored by the Greater Knoxville Chamber of Commerce. Professor Black spoke on the judicial process.

Neil P. Cohen ...
... has been named by Chancellor William T. Snyder to chair a police review panel at UT. The 11-member panel will monitor activities of the UT police.



Professors Judy Cornett (left), Larry Dessem, and Neil Cohen participated in a Law School Survival Skills Seminar on "Taking Final Exams" in November. The seminar was one in a series of seven seminars which introduced law students to various aspects concerning law school life. Law Women President, Barbara Johnson, introduced the panel.

Judy M. Cornett ...
... participated in a panel discussion on "The Status of Abortion Rights After the *Casey* Decision." The panel was sponsored by Tennesseans for Choice, Oak Ridge, in October. A revised version of her presentation, "The *Casey* Decision: Coherence or Compromise?" will appear in *The Choice Advocate*, the group's newsletter.
... participated in a panel last November on "Post-Election Review of Abortion Issues" which

was sponsored by the Oak Ridge chapter of Hadassah. She presented "Regulation of Abortion After the *Casey* Decision."



Professor Dessem gets into character when he teaches the Erie Railroad case.

R. Lawrence Dessem ...
... has been appointed Associated Dean for Academic Affairs at the College of Law. He replaces Professor Joseph Cook who now returns to full-time teaching and research.
... presented a CLE program to the Knoxville Bar Association on Pretrial Litigation.
... had an article, "A Different Kind of Law School Class," appear in the November/December *Tennessee Bar Journal*.
... had his book, *Pretrial Litigation in a Nutshell*, featured on the cover of a West Publishing Company advertising brochure in December.

... served as reporter for the Advisory Group on Litigation Cost and Delay for the U.S. District Court for the Eastern District of Tennessee. The group published a 92-page report on its findings.

Grayfred B. Gray ...
... serves on the Advisory Board of the UT Conflict Resolution Program. The program promotes the understanding and use of effective conflict resolution methods through education, research and service.

Patrick Hardin ...

... served as editor in chief of *The Developing Labor Law: The Board, the Courts, and the National Labor Relations Act* (ABA, 1992, 3rd ed.) The two volumes contain 1,906 pages of text and 300 pages of cases.



Third-year law student Jack Mayfield (left) presented a plaque to Professor Hardin at a reception in his honor. The plaque commemorated the publication of Professor Hardin's book and read "With Love, Admiration, and Respect from his Advisees, November 18, 1992."



Ginny Jones talks with Marshall H. Peterson, Class of '87, and Durward talks to Dean Wirtz at the end of the banquet. Marshall and Dean Wirtz presided over the program.

Durward S. Jones ...

... retired from the College of Law in December. At a banquet in his honor in October, Professor Jones said he still cannot believe that he has been able to do what he loves to do and get paid to do it.

Joseph H. King, Jr. ...

... had an article, "Exculpatory Agreements for Volunteers in Youth Activities - The Alternative of 'Nerf® Tiddlywinks,'" published in Volume 53, Number 3, of the *Ohio State Law Journal*.

Robert M. Lloyd ...

... addressed the Tennessee General Sessions Judges Conference in October on "Selected Problems Under Article 2 of the UCC."

.. wrote a computer program entitled "UCC Article 2A: The New Law of Equipment Leasing." It has been accredited for six units of mandatory CLE credit by the Colorado Commission on Continuing Legal and Judicial Education.

Carol A. Mutter ...

... presented a program in November on judicial clerkship opportunities. The panel included: Janet Edwards, Class of '92, for the Tennessee Court of Criminal Appeals; Linda Elam, Class of '92, for the Tennessee Court of Appeals; Melvin Malone, Class of '89, for the U.S. Court of Appeals for the Sixth Circuit and U.S. District Court; Lisa Rippey, Class of '92, for the Tennessee Supreme Court; Roy Satterwhite, Class of '91, for the Tennessee Court of Appeals; and Andy Tillman, Class of '89, for the U.S. Court of Appeals for the Sixth Circuit.

Jerry J. Phillips ...

... has been elected chair-elect of the Torts and Compensation Section at the 1993 annual meeting of the Association of American Law Schools.

Philip Prygoski ...

... had an article, "Abortion and the Right to Die: Judicial Imposition of a Theory of Life," published in the *Seton Hall Law Review*, Number 1, Volume 23, 1992.

Carl Pierce ...

... will serve on the UT Faculty Senate Athletics Committee.

... participated in a panel sponsored by the Knoxville Community Forum on the "Conflicts of Interest in Local Government."

The program was broadcasted on Knoxville's local cable channel on November 17.



Philip J. Prygoski, Visiting Professor from Thomas M. Cooley Law School, Lansing, Michigan, presented "One Flew Over the Cuckoo's Nest" or "How to Cope with Law School" in December as part of a Student Bar Association special activity. Exams started the next week for law students. SBA President Victoria Bowling introduced Professor Prygoski (front right). Brian Addington (center front), a third-year law student from Kingsport, organized the program as a SBA representative.

Glenn Reynolds ...

... is a Visiting Professor at the University of Virginia Law School this semester.

... had an article, "Outer Space and Peace: Some Thoughts on Structures and Relations," published in the Summer 1992 Symposium issue of the *Tennessee Law Review*.

... appeared in November on a CNN show, "Space Policy under the Clinton/Gore Administration." ... served as moderator for the Election Debate '92 which featured former presidential candidate Paul Tsongas and former White House Chief of

Faculty News

Staff John Sununu. The October debate was sponsored by the UT Issues Committee.



Sununu



Reynolds



Tsongas



Professor Reynolds (center) and Donna Hackett (right), Black Law Student Association President, welcome Professor of Law Sherri L. Burr from the University of New Mexico, Albuquerque. Professor Burr presented a talk on "The Promise and Risk of a North American Free Trade Agreement" at the College of Law in October.

John A. Sebert, Jr. ... presented "Effective Law School Policies and Practices Concerning Substance Abuse by Students" at the AALS annual meeting in San Francisco in January.



Professor Dean Rivkin (standing) presented Evelyn Carr with a 10-year service award from UT on September 28. Evelyn is a word-processing specialist in the Legal Clinic. Legal Clinic Founder Charlie Miller (left) and Dean Wirtz also attended the presentation to congratulate her.

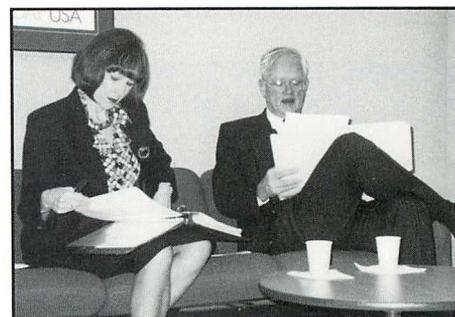
Barbara Stark ... will have an article, "Postmodern Rhetoric, Economic Rights and an International Text: 'A Miracle for Breakfast'," published in the March 1993 issue of the *Virginia Journal of International Law*.

... was a panelist for "Litigating and Judging International Law Claims in the 1990s" at the AALS Annual Meeting in January. It is sponsored by the Section on International Law.

... will serve on the International Law Association (U.S. Branch) Committee on International Law in Domestic Courts to study the application of international law in municipal (national) courts.

... will participate in a panel on "Feminist Theory and International Law" at the annual meeting of the American Society of International Law in Washington, D.C., March 31 - April 5. She will also present "The Economic Covenant as a Postmodern Feminist Text" at the meeting.

... had an article, "Conceptions of International Peace and Environmental Rights: The Remains of the Day," published in the Summer 1992 Symposium issue of the *Tennessee Law Review*. She also served as coordinator of the issue.



The Student Bar Association sponsored a "Breakfast with the Dean" on November 11. Dean Wirtz discussed job placement and the UT bar passage rate with interested students. Joann Rothery (left), Director of Career Services, answered questions about job placement and the future job market.

Richard S. Wirtz ... has been designated by UT Chancellor William T. Snyder to chair the search committee for the new Dean of the College of Engineering at UTK.

... as chair of the Teaching Methods Section of the Association of American Law Schools, organized (with Professor John Elson of Northwestern University) a program on "Teaching Legal Problem-Solving" at the 1993 AALS annual meeting.



Faculty News

Adjunct Professors add variety to the Spring 1993 Semester.

Alumni adjuncts are featured in the Alumni News Section under their class year. They include: Gary A. Davis, Class of '80; W. Thomas Dillard, Class of '64; Bethany K. Dumas, Class of '84; John K. Harber, Class of '77; Mark P. Jendrek, Class of '86; Janice K. Kell, Class of '86; James R. LaFevor, Class of '74; Johanna B. McGlothlin, Class of '84; Timothy M. McLemore, Class of '86; Barbara J. Muhlbeier, Class of '83; Andrew S. Neely, Class of '77; Steven Oberman, Class of '80; Donald F. Paine, Class of '63; Sarah Y. Sheppard, Class of '79; Wanda G. Sobieski, Class of '82; Deborah C. Stevens, Class of '80; and Judge Penny Jo White, Class of '81.

Ann Barker taught the Community Resource Clinic during the 1991-92 academic year and now returns to teach a course on interviewing, counseling and negotiation.

Lenny L. Croce is a graduate of Baylor University and Vanderbilt Law School, where he was president of the Vanderbilt Legal Aid Society. Since 1978 he has been Managing and Senior Attorney in the Oak Ridge Office of Rural Legal Services of Tennessee. Lenny has broad-ranging experience in civil and criminal litigation at all levels of the state and federal judicial systems. He will teach Pretrial Litigation.

Jane R. Feaster is a judicial clerk to Deputy Chief Judge John M. Vittone, an administrative law judge in the Department of Labor, in Knoxville. She is a graduate of the University of Virginia and the University of Florida College of Law. Jane will teach Legal Process II.

James L. Gardner is in general practice in Knoxville and concentrates on securities and corporate law. He received his J.D. in 1985 from Yale. Jim will teach a corporate planning seminar.

Lawrence F. Giordano is a partner in the Knoxville law firm of Susano, Sheppard & Giordano. A native of Buffalo, New York, he was selected for Phi Beta Kappa while an undergraduate at Denison University (Granville, Ohio) and received his law degree from Georgetown University in 1978. Larry is a member of the American, Tennessee and Knoxville bar associations, the Tennessee Trial Lawyers Association, the Defense Research Institute, the National Health Lawyers Association, and the Knoxville Chapter of the American Inns of Court. He will teach trial practice.

The Honorable Thomas W. Phillips is a U.S. Magistrate Judge for the Eastern District of Tennessee. He holds a B.A. degree from Berea College (Kentucky), a J.D. degree from Vanderbilt University, and a LL.M. from George Washington University. Judge Phillips is a member of the American, Tennessee and Knoxville Bar Associations and the Knoxville Chapter of the American Inns of Court. He will teach Pretrial Litigation.

Courtney Shea is a supervisory attorney-advisor with the Knoxville office of the United States Department of the Interior. She received both her undergraduate and law degrees, with honors, from the University of Connecticut. She will be a co-instructor in the Environmental Law Seminar.



Paige A. Winck is an Assistant U.S. Attorney, Civil Division, for the Southern District of West Virginia and the Eastern District of Tennessee. She received a B.A. in 1975 from the College of William and Mary and a J.D. in 1978 from Georgetown University Law Center. Paige will teach Legal Process



Sybil V. Richards (insert), Director of Admissions and Financial Aid, presented "Law Student Advising: Are We Communicating?" at the Law School Admission Council's Fifth Annual Financial Aid Conference in November. Janet Hatcher, Admissions Office Supervisor, also attended the conference, which was held in Atlanta, Georgia.



HONORS BANQUET AND AWARDS PROGRAM October 16, 1992

The University of Tennessee College of Law held its annual Honors Banquet and Awards Program, Friday, October 16, at the Radisson Hotel in Knoxville. Awards were presented to students for their extraordinary scholarship achievements during the year. Dean Richard S. Wirtz presided over the event in which over sixty students were honored. "This is an evening," he noted, "in which we celebrate excellence."

Students receiving academic awards from West Publishing Company, Callaghan and Company, and the Michie Company included Elizabeth C. Price of Charlotte, North Carolina; Suzanne Noblit Scott of Chattanooga; and Martin B. Bailey, a June 1992 graduate now associated with the Knoxville law firm of Hunton and Williams. Ms. Price also received a special award from the Knoxville Bar Auxiliary to the Tennessee Bar Association for academic achievement during her first year of studies. The award was presented by Knoxville Auxiliary President Judy Ridge. Ms. Scott also received the Herbert L. Davis Trust Fund Award for earning the highest scholastic average during the first two years of study. Linda C. Elam, a June 1992 graduate now serving a judicial clerkship with the Honorable Samuel Lewis in Nashville, received the United States Law Week Award, which is given to the student who made the most academic progress during the third year of studies.

P. Matthew Ledbetter, Jr., a June 1992 graduate who is now practicing in Covington, Georgia, received the Charles H. Miller Clinical Achievement Award for excellence in civil advocacy. "Matt and Mr. Miller share a passion for justice," said Legal Clinic Director and Professor of Law

Dean Rivkin. "He was an exemplary student who helped clients with his zeal, skill and commitment." Bob Booker, a June 1992 graduate who is now working with Martin Marietta in Oak Ridge, was the sixth recipient of the James L. Powers III Award for excellence in criminal advocacy. Professor of Law Jerry Black presented Bob with the award and said Bob never gives up on a client and continues to seek answers to their problems.

Steven A. Hart, Deputy Attorney General, announced the third winner of an award established by the Attorney General's office for the University of Tennessee College of Law to recognize and reward the accomplishments of students who have excelled in Trial Practice. In honoring Suzanne Noblit Scott, Mr. Hart respectfully requested that she not use her trial advocacy skills against his office. Ms. Scott will be invited to participate in the Attorney General's Trial Advocacy Program, an intensive one-week trial practice seminar.

The Knoxville office of Hunton and Williams was represented by Martin Bailey, who presented the firm's annual first-year writing award to Bruce C. Bryant of Greer, South Carolina. Hunton and Williams was one of the first law firms to present a firm gift and firm award. They also sponsor awards for Law Review.

Recognizing the need to reward outstanding student leadership, alumni members of the law firm of Heiskell, Donelson, Bearman, Adams, Williams and Kirsch have established an annual award to honor the achievements of students who have demonstrated extraordinary leadership in any law school endeavor. Stephen E. Roth presented the award to this year's winner, Irma E. Freestate, daughter of Julia Gonzalez of Edinburg, Texas. Irma assisted with the conception and growth of the Hispanic Law Students Soci-

ety. With only three Hispanic law students enrolled, the Society now has 15 members. "That's quite an accomplishment," said Dean Wirtz.

The Frank Benson Creekmore Memorial Award was presented to Jim Andrews of Knoxville by Betsey Creekmore. The Creekmore Award recognizes students for their future promise for professional success as practitioners of law in Tennessee. Frank Creekmore was a 1933 law graduate.

Andrew J. Logan, a June 1992 graduate now associated with the Houston, Texas law firm of Vinson and Elkins, received the Arnett, Draper and Hagood Book Prize for antitrust law. The National Association of Women Lawyers Award went to Heidi A. Barcus, of Waco, Texas. Ms. Barcus was recognized for her work in Law Women, the Student Bar Association, the Tennessee Association for Public Interest Law, and the law school's championship intramural football team.

Two alumni, Mike Galligan and Bill Ramsey, established the Tennessee Law Review Editing Award in recognition of outstanding contributions to editing. The first recipient of this award is Richard L. Gaines, a June 1992 graduate who is now serving a judicial clerkship with the Honorable Emory Widener of Abingdon, Virginia. Mr. Galligan, Class of 1971, is with the law firm of Galligan and Newman in McMinnville, and Mr. Ramsey, Class of 1980, is with the Nashville law firm of Neal and Harwell.

Five faculty members were recognized for their superior achievements. Gregory M. Stein, who teaches land acquisition and development, land finance law, land use law, law and economics and property, and Donald F. Paine, who teaches evidence and remedies, received the 1992 Harold C. Warner Outstanding

Teacher Award for their excellence in classroom teaching. The Warner Award is endowed by 1950 alumnus Robert Child and his wife Lorraine in honor of Harold C. Warner, who was the dean of the College of Law from 1963 until 1971.

The Carden Award for outstanding service to the institution went to Associate Dean Mary Jo Hoover and Professor Joseph G. Cook received the Carden Award for superior achievement in scholarship.

The law firm of Bass, Berry and Sims established an award to be presented annually to a faculty member in recognition of outstanding service to the Bench and Bar. Gary L. Anderson became the first recipient of this award due to his work with the Tennessee Association of Criminal Defense Lawyers. He teaches criminal advocacy, criminal law, criminal procedure, evidence, and trial practice.



Elizabeth Price (left) and Judy Ridge, Knoxville Bar Auxiliary President



Suzanne Scott and Steven Hart, Deputy Attorney General



Bruce Bryant (left) and Martin Bailey



Linda Elam and Dean Wirtz



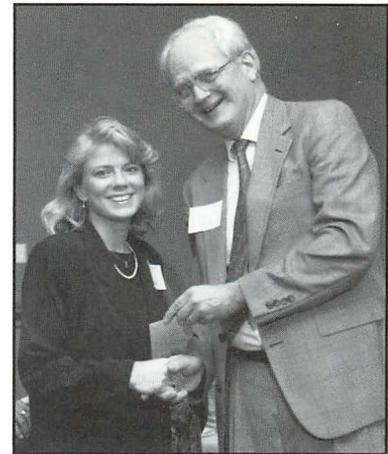
Professor Jerry Black (left) and Bob Booker



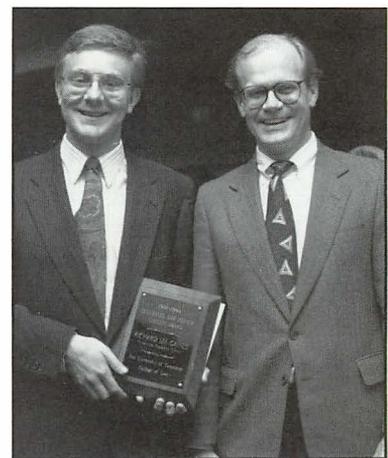
Irma Freestate and Stephen Roth



Jim Andrews and Betsey Creekmore

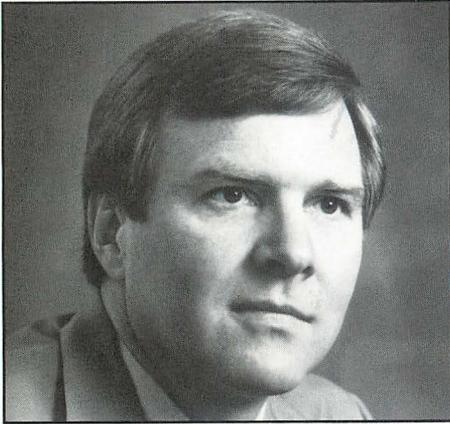


Heidi Barcus and Dean Wirtz



Richard Gaines (left) and Bill Ramsey

Two Bar Advocates

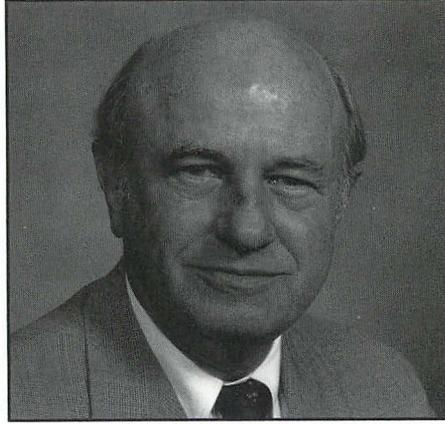


Paul Campbell

Some organizations are successful because of internal guidelines and stability; others, because of external qualities. The Tennessee Bar Association (TBA) is an active legal organization that is successful for both reasons. Its internal strength is due to each member's active participation and strong Nashville-based headquarters. Its external strength comes from leadership which is spearheaded by the president.

The Tennessee Bar Association has over 6,500 members who elect their president and govern through its Board and House of Delegates. The TBA's Major functions are providing educational, service and social programs to its members and sponsoring special projects. This volunteer legal organization is committed to service.

Both this year's president and next year's are "Volunteers" (as in Tennessee and UT), UT Big Orange alumni, or, more specifically, George C. Taylor College of Law alumni. Paul Campbell III of Chattanooga serves as president until June 5, 1993. He will be succeeded by J. Fraser Humphreys, Jr., of Memphis. Their leadership in the TBA should prove as strong as the TBA itself.



Fraser Humphreys

Paul Campbell III, Class of '75, took on the presidency with many years of established TBA service. He became an active member right out of law school. His committee and board service includes Legal Education and Admission to Bar Committee (1978-81); Board of Directors, Young Lawyers Conference (1979-82); Model Rules of Professional Conduct Committee (1982-85); Litigation Section, Council (1984-88) and Chair (1986-87); Board of Governors (1985-present); Appellate Practice Manual Committee (1983-86), Tort Reform Committee (1986-87); Continuing Legal Education Committee (1984-86, 1987-present); Interprofessional Code Committee (1989-present); Vice president (1990-91); and President-elect (1991-92).

Paul also teaches CLE courses through the TBA educational programs and has authored several articles and chapters for TBA publications. They include "Workers' Compensation Outline" published in the August 1982 issue of the *Tennessee Bar Journal* and; "Workers' Compensation Chapter, *Appellate Practice Manual* (1985).

Through his articles in the *Tennessee Bar Journal*, Paul has offered some timely advice. "We

[lawyers] need to be just in order to do justice." "The energy and idealism of youth are resources not to be neglected." "Lawyers have been worthy of recognition because of what they give. We must make service an integral part of our professional lives." As an advocate for the legal profession through the TBA, Paul is a zealous president.

The TBA will also find a strong advocate in Fraser when he becomes president. Fraser confesses that he enjoys working with lawyers and that he believes in the need for a strong association. He would like to see the Tennessee Bar become unified. "When you see the programs and accomplishments of unified bars and their resources," says Fraser, "you realize what can be accomplished for the public good." He hopes that the TBA will further study the matter of a unified bar in Tennessee. Another goal is to lay a foundation for acquisition of a bar center building.

Fraser, Class of '50, served the Memphis Bar Association as an officer for many years in the 80's and gained invaluable experience. Today he serves on several American Bar Association sections. Before seeking office, Fraser worked in the TBA through its House of Delegates. He wishes to improve the image of the profession through the bar and leave office knowing that the bar is financially healthy and strong.

A year of dedicated service to the TBA will not take the wind out of either of these two bar advocates. Once out of office, each will continue with his busy private practice. Paul is a partner in the Chattanooga law firm of Campbell & Campbell and Fraser is a partner in the Memphis law firm of Humphreys Dunlap Wellford Acuff & Stanton.

Alumni News

Class of '37

ABE A. ROTWEIN continues to practice law in Jackson, Mississippi. He was honored last year by the Mississippi State Bar for having practiced for over 50 years. Abe is serving as the President and Commander of the Jackson Chapter of the Military Order of World Wars. He resides in Brandon with his wife, Rosalie.

Class of '47

ROBERT (Bob) H. LEONARD will not seek reelection as Farragut, Tennessee's mayor in April. After seven terms in office, Bob feels it is time to step down. This is no retirement though because he still practices law six days a week in his Knoxville office. Bob would also like to travel and spend more time with his three grandchildren.

Class of '48



The Honorable SHIRLEY B. UNDERWOOD was a guest lecturer for Professor Philip Prygoski's Children and The Law class at the College of Law in December. She is a juvenile judge in Johnson City.

Class of '49

The Honorable ROBERT M. SUMMITT has been elected to the Judicial Administration Division Council of the American Bar Association for a three-year term. He just concluded a year as chair of the National Conference of State Trial Judges, but will con-

tinue an additional year on the Executive Committee. Judge Summitt has also been appointed by Tennessee Chief Justice Lyle Reid to the commission to implement the Americans Disability Act as it applies to Tennessee courts. He is a Hamilton County Circuit Court Judge.

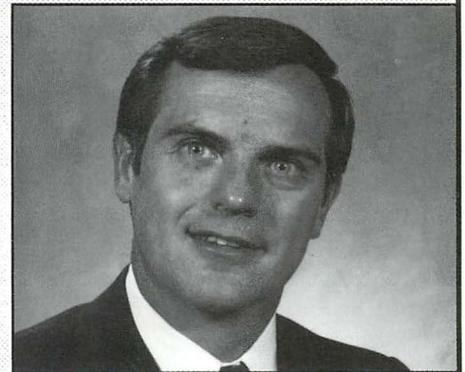
Class of '57

The Honorable E. RILEY ANDERSON was a guest speaker for Phi Delta Phi's Bench & Bar Series on September 18, 1992, at the College of Law. He discussed

the switch to comparative negligence in Tennessee, explained how cases are brought before the court, and presented tips for good lawyering before the court. Justice Anderson is an Associate Justice of the Tennessee Supreme Court.

HAROLD A. SOLOFF and his wife, Phyllis, stopped by the College of Law during a trip south last fall to visit the Legal Clinic and inquire about Charlie Miller. Harold and Phyllis are retired educators and now have plans to travel.

The Honorable Robert L. Echols, Class of '64, has been selected to receive a Citation for Outstanding Public Service by a committee of his fellow alumni of the University of Tennessee College of Law. The Outstanding Public Service Award, in the form of a plaque, is awarded each year to recognize alumni who have distinguished themselves and their profession by longterm contributions to their community, to the public, and to the legal profession. The selection committee included S. Morris Hadden of Kingsport, Class of '64; George T. 'Buck' Lewis III of Memphis, Class of '80; Ellen Hobbs Lyle of Nashville, Class of '81; and Joe Mont McAfee of Knoxville, Class of '60.



After graduation from the University of Tennessee College of Law in 1964, Judge Echols served as a law clerk for the Honorable Marion S. Boyd in Memphis, and then as a Legislative Assistant to Congressman Dan Kuykendall in Washington, D.C. Judge Echols entered private practice in Nashville in 1969 with Bailey, Ewing, Deal & Conner. He joined Dearborn & Ewing in 1972. In 1992 he was appointed by President Bush to the United States District Court for Middle Tennessee.

While at the College of Law, he served as President of Phi Delta Phi, Secretary of the Student Bar Association, and a member of the Moot Court Board. Judge Echols is currently a member of the Presidents' Club at UT and the Dean's Circle at the College of Law. He also has served on the Alumni Advisory Council. He serves on the boards of directors of several schools in Tennessee as well as a number of charitable organizations, is a deacon in his church, and is a colonel in the Tennessee Army National Guard.

Alumni News



Harold and Phyllis Soloff of Norwich, Connecticut.

Class of '58

JAMES D. ROBINSON and his wife, Nancy Glaze, attended the American College of Trial Lawyers meeting in London and Paris in November 1992. Nancy earned a B.S. from UT in 1956. James is a partner in the Chattanooga law firm of Robinson, Smith & Wells.

Class of '61

JOHN B. WATERS, JR., chairman of the Tennessee Valley Authority, received the director's award from America's Clean Water Foundation for his leadership in promoting public involvement in water quality. TVA manages the entire Tennessee River system.

Class of '63

DONALD F. PAINE will teach Legal Profession at the College of Law during the Spring 1993 Semester. He is a partner in the Knoxville law firm of Paine, Swiney & Tarwater.

Class of '64

W. THOMAS DILLARD was elected secretary of the Tennessee Association of Criminal Defense Lawyers at their annual convention in Nashville in August 1992. He is a partner in the Knoxville law firm of Ritchie, Fels & Dillard. Tom will also teach trial practice during the Spring 1993 Semester at the College of Law.

Class of '65

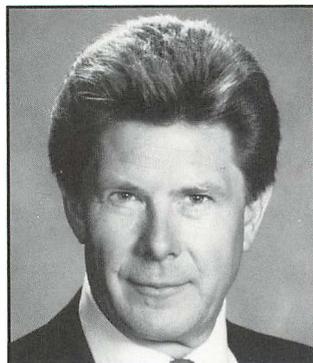
JERRY G. CUNNINGHAM will resign from the U.S. Attorney's

Office in Knoxville in the spring to join the Maryville law firm of Kizer & Black. He was appointed in November 1991 by President Bush.

Class of '66

F.D. GIBSON III opened a second law office in Knoxville last year. His primary office is in Maryville.

Class of '67



GORDON E. JACKSON has coauthored a book, *How to Defend and Win Labor and Employment Law Cases* (Prentice-Hall, 1992). He is the author of two other books by Prentice-Hall, *The Law and Employment Law Desk Book* (an 826-page, one-volume reference guide to federal and state labor and employment laws) and *When Labor Trouble Strikes*. Gordon is the senior partner in the Memphis law firm of Jackson, Shields, Yeiser & Cantrell.

Class of '68

WILLIAM B. ACREE, JR., has been elected a Fellow of the Tennessee Bar Foundation. The Bar Foundation honors attorneys who have distinguished themselves in the profession and administers a grant-making program which supports law-related public interest projects. He is a partner in the Union City law firm of Elam, Glasgow & Acree.

JAMES C. SIMMONS, JR., will serve on the Dean's Advisory Committee of the Pharmacy School at the University of Tennessee Medical School in Memphis. He is also serving on the College of Law's Dean's Circle.

Jim is a partner in the Atlanta, Georgia law firm of Simmons & Toliver.

JOHN W. WHEELER has been appointed to chair a committee to form a historical society for the U.S. District Court in the Eastern District of Tennessee and to the bankruptcy judge merit selection panel for the Eastern District of Tennessee. He continues to serve in the ABA's House of Delegates. John is a partner with the Knoxville law firm of Hodges, Doughty & Carson.

Class of '70

JOHN W. FERTIG, JR., serves as a probate judge for the District of Oxford in Connecticut. He also practices law from offices in Prospect and Oxford.

Class of '71

ROGER W. DICKSON was inducted as a Fellow in the American College of Trial Lawyers in November 1992. He is a partner in the Chattanooga law firm of Miller & Martin, and a Trustee of The University of Tennessee.

A special thanks to the Honorable JOSEPH M. TIPTON for his many years of service to the College of Law as an adjunct faculty member. Many students have benefited from his wisdom and experience as a trial lawyer and judge. He will be missed.

Class of '74

JAMES R. LaFEVOR will teach Trial Practice during the Spring 1993 Semester at the College of Law. He is associated with Rowland & Rowland in Knoxville.

Class of '75

TOM W. CRIDER was appointed District Public Defender of the 28th District by Governor Ned McWherter in 1989 and was elected without opposition in 1990. He is serving as president of the District Public Defender's Conference for 1992-93. Tom invites classmates to get in touch

Alumni News

with him at 107 South Court Square, Trenton 38382. His telephone number is 901/855-2158.

Class of '77

WILLIAM A. COHN taught a seminar on creditors' rights and collecting delinquent debts with another Memphis attorney in December. He is a principal in the Cohn Law Firm, where he practices in the areas of bankruptcy and collection law.

GREGORY G. FLETCHER has become a partner in the litigation group of Heiskell, Donelson, Bearman, Adams, Williams & Kirsch in their Memphis office. He concentrates in the fields of civil litigation and appellate practice.

JOHN K. HARBER will teach Trial Practice during the Spring 1993 Semester at the College of Law. He is a partner in the Knoxville law firm of Pryor, Flynn, Priest & Harber. The firm concentrates in the areas of personal injury, medical malpractice, workers' compensation, and civil rights.

KATHY HOGAN and her husband, Warren R. Howard, Class of '78, announce the birth of daughter, Megan Muldoon, on October 1, 1992. Kathy joined the Denver, Colorado law firm of McGuane & Malone, P.C. and focuses her practice exclusively on family law. Her address is Suite 825, 3773 Cherry Creek North Drive, Denver 80209 and her telephone number is 303/388-4500.

KENNETH A. MILLER has associated with Robert J. Smith and Donna M. Lefebvre, Class of '85, to form Miller, Smith & Lefebvre. The Knoxville law firm will specialize exclusively in Social Security Disability claims.

ANDREW S. NEELY will teach Intellectual Property at the College of Law during the Spring 1993 Semester. He is a partner in the Knoxville law firm of Luedeka, Hodges, Neely & Graham.

JIMMIE LYNN RAMSAUR was selected as a Fellow of the Nashville Bar Foundation in November 1992. She is an Assistant United States Attorney in Nashville.

RANDALL E. REAGAN was elected to a three-year term on the board of directors of the Tennessee Association of Criminal Defense Lawyers at their annual convention in Nashville in August 1992. He is a partner in the Knoxville law firm of Montague & Reagan.

Class of '78

DAVID A. BAUGH proudly announces the formation on November 2, 1992, of the law firm of Mora & Baugh, Ltd. Mora & Baugh will operate and try cases nationally from offices in Chicago and, through Mora Baugh & Hermelee, in Florida. The firm specializes in litigation involving malpractice defense, product liability, and commercial litigation. Before forming his own law firm, David, who is also a CPA, served with the Securities and Exchange Commission and worked for the firms of Karon, Morrison & Savikas, Portes, Sharp, Herbst & Kravets, and Williams & Montgomery. He also lectures on accounting malpractice, liability to third parties and other topics.

Carole Y. Lynch, a partner in the Chattanooga law firm of Grant, Konvalinka & Grubbs, has been selected to receive an Alumni Leadership Award from the University of Tennessee College of Law. The award, in the form of a plaque, is awarded each year to recognize alumni who have contributed to the betterment of the College of Law. Carole, Class of '77, was honored at the fall meeting of the Alumni Advisory Council, November 21, in Knoxville.



She has been an outstanding advocate for the College of Law and the University where she is a member of the Presidents' Club. Carole has served as chair of the College's Alumni Advisory Council for two years and is a member of the College's Dean's Circle.

She served as President of the Chattanooga Bar Association from 1987 until 1988, and is also a charter member of the Southeast Tennessee Lawyers' Association for Women. On the state level, Carole sits on the Editorial Board of the *Tennessee Bar Journal*, is a member of the Tennessee Bar Association's Unified Bar Study Committee, and chaired the Bar Leadership Conference in 1990.

Her extraordinary leadership has gained her national recognition as well. She has been a member of the Executive Council of the National Conference of Bar Presidents since 1989 and serves as the American Bar Association delegate to the National Conference of Lawyers and Realtors. In 1992 she was elected as a delegate-at-large to the ABA House of Delegates and as treasurer of the ABA's National Conference of Bar Presidents.

Alumni News

JEFFREY H. BEUSSE opened Beusse Holmes, P.C. in Grand Rapids, Michigan, in June 1992. The firm specializes in trial law in the areas of personal injury, commercial law, and insurance company defense.

WARREN R. HOWARD and his wife, Kathy Hogan, Class of '77, announce the birth of daughter, Megan Muldoon, on October 1, 1992. He works in the Office of Federal Contract Compliance Programs at the U.S. Department of Labor in Denver, Colorado.

MICHAEL RUSSO and his wife, Ann, proudly announce the birth of their third child, Alexandra Marie, on August 8, 1992. Mike is associated with the Woodbury, New York law firm of Tarangelo & Totura.

Class of '79

FREDERICK W. KINDEL, a partner in the Cincinnati, Ohio law firm of Benesch, Freidlander, Coplan & Aronoff, has been admitted as a Fellow of the American College of Mortgage Attorneys. To become a Fellow of the College, an attorney must have considerable experience in the mortgage lending area and be proposed by a Fellow of the College. The College's purpose is to establish and maintain a group of nationally recognized, skilled, and experienced lawyers in lending transactions secured by real estate who work to improve and reform mortgage lending procedures. Fred maintains a regional practice, with an emphasis on real estate, including lender representations on financings and loan workouts, commercial leasing and real estate related litigation.

RICHARD G. ROSSER lists his News/Awards/Honors as daughter Whitney Brooke Rosser who was born on October 15, 1992, and son John Collin Graham Rosser

who was born on November 26, 1990. He is a solo practitioner in Sevierville with an office at 102 East Court Square.

SARAH Y. SHEPPEARD will teach Trial Practice during the Spring 1993 Semester at the College of Law. She is a partner with the Knoxville law firm of Susano, Sheppard & Giordano.

MARK E. STEPHENS, Knox County Public Defender, spoke to members of the National Legal Aid and Defenders Association at their annual meeting in Toronto, Canada in November. He lectured on the defense of drug cases, sentencing in drug cases, and caseload standards for public defender offices. He was also elected to serve on the executive committee of the statewide Public Defender Conference in 1992. He represents 12 public defender offices in the Eastern District of Tennessee.

MARY E. WALKER was appointed by Juvenile Court Judge Andy Shookhoff of Nashville as a Juvenile Court referee in cases dealing with abused or neglected children. Armed with both a J.D. degree and a master's degree in social work, she hopes to find ways to reduce the amount of time children spend in foster care. Mary is currently an Assistant District Attorney General.

Class of '80

MELINDA J. BRANSCOMB has been promoted to Associate Professor at the University of Puget Sound Law School in Tacoma, Washington. The University is a short boat ride away from her home on Vashon Island.

GARY A. DAVIS will co-teach an environmental law seminar at the College of Law during the Spring 1993 Semester. He is a Senior Fellow at the University of Tennessee Energy, Environment, and Resources Center: Waste Management Research and Education Institute in Knoxville. Gary also

practices environmental law and has published widely in the area of environmental law.



During the Tennessee/Florida game, Buck snapped a picture of Peggy Wirtz. Peggy is the wife of Dean Wirtz.

GEORGE T. (Buck) LEWIS III leaves his office in Memphis to enjoy Big Orange Football each year. He is a partner with Heiskell, Donelson, Bearman, Adams, Williams & Kirsch.

STEVEN OBERMAN will teach Trial Practice at the College of Law during the Spring 1993 Semester. He is also an advisor to the National Trial Moot Court team at the College. Steve is a partner with the Knoxville law firm of Daniel & Oberman.

MARCIA P. PARSONS, an Office of Chapter 13 trustee in Knoxville, is one of the first to receive certification in consumer bankruptcy law by the American Bankruptcy Board of Certification. She earned her certification in November 1992.

DEBORAH C. STEVENS will teach Trial Practice during the Spring 1993 Semester at the College of Law. She is a partner with the Knoxville law firm of Lewis, King, Krieg & Waldrop, where her practice is concentrated in the areas of products liability and other tort law and health care law.

Class of '81

SHARA A. FLACY was elected District Public Defender for the 22nd Judicial District in the August 6, 1992 general election.

Alumni News

The 22nd district covers Giles, Lawrence, Maury, and Wayne Counties.

MICHAEL D. PEARIGEN, former Deputy Attorney General for the State of Tennessee, joined the environmental group at Waller Lansden Dortch & Davis in Nashville last year.

ANN C. SHORT of Knoxville was elected the first female president of the Tennessee Association of Criminal Defense Lawyers at their annual convention in Nashville in August 1992.

GERARD M. SICILIANO and his wife, Paula, proudly announce the birth of their second daughter, Kathleen Marie Siciliano, on June 12, 1992. Gerard is a partner in the Chattanooga law firm of Luther, Anderson, Cleary & Ruth.

The Honorable **PENNY JO WHITE** was appointed to the Court of Criminal Appeals for the State of Tennessee in October 1992. She had been elected Circuit Court Judge of the First Judicial District in 1990. Judge White will teach Trial Practice at the College of Law during the Spring 1993 Semester.

Class of '82

TODD J. CAMPBELL worked on the Clinton/Gore transition team in Washington, D.C. He assisted with filling 3,100 non-cabinet positions in the government. Todd took leave from the Nashville law firm of Gullett, Sanford, Robinson & Martin where he is a partner.

MICHAEL A. DE PARTO presented a seminar for the Career Services Office on September 25, 1992 entitled, "What to do if you're in the Bottom Half: Advice from a 1982 Grad." After practicing in the private sector for a year and a half and earning a securities license to sell mutual funds and

real estate investments, he co-founded Mednet Financial, Inc., of Watchung, New Jersey. Mednet buys and sells medical practices and represents over 500 physicians and dentists for insurance and financial needs.



Joann Rothery, (left) Director of Career Services, and Professor Judy Cornett, Class of '82, introduce Mike to a law student audience.

ANDRÉE LAROSE and her husband, Henry Elsen, proudly announce the birth of their daughter, Renée Larose Elsen, on November 16, 1991. Andrée is a staff attorney with the Montana Advocacy Program in Helena. The Montana Advocacy Program is a federally funded private non-profit organization which advocates the rights of persons with developmental disabilities and mental illnesses.

WANDA G. SOBIESKI will teach Pre-Trial Litigation at the College of Law during the Spring 1993 Semester. She announces the opening of her new office in Suite 1850, 900 Gay Street SW, Knoxville 37902. Her telephone number is 615/546-7770. Wanda was formerly with Baker, Worthington, Crossley, Stansberry & Woolf in Knoxville.

Class of '83

CAROLYN FOREHAND married Wes Snofner in May 1992. She is associated with the Nashville law firm of Waller Lansden Dortch & Davis.

BARBARA J. MUHLBEIER will teach Legal Process at the College of Law during the Spring 1993

Semester. She is vice president and general counsel for the First American National Bank in Knoxville.

THOMAS J. WRIGHT became the Assistant Federal Community Defender for the Greeneville Division of the U.S. District Court for the Eastern District of Tennessee last fall. He and his wife, Dawn, are pleased to announce the arrival of their second child, Robert Charles, on May 2, 1992.

Class of '84

REGGIE E. KEATON and his wife, Sally, proudly announce the birth of their second son, Johnathan Wade, on January 12, 1993. Reggie is a partner in the Knoxville law firm of Frantz, McConnell & Seymour.

JOHANNA B. MCGLOTHLIN will teach Legal Process at the College of Law during the Spring 1993 Semester. She is associated with the Knoxville law firm of Arnett, Draper & Hagood.

CATHY H. MORTON has been elected president of the Blount County Bar Association. She is a partner in the Maryville law firm of Meares & Morton.

TERESA DAVIDSON

VAVALIDES is a partner in the corporate finance practice group of Johnston Maynard Grant & Parker in Phoenix, Arizona.

Class of '85

BETHANY K. DUMAS will teach Law, Language & Reality during the Spring 1993 Semester at the College of Law. She is an Associate Professor of English at UT, Knoxville.

JULIA G. HOPPE has been elected as a member of the Board of Directors of the Tennessee Law Association of Women for 1992-93. She will also serve as their recording secretary.

Alumni News

DONNA M. LEFEBVRE has joined with Robert J. Smith and Kenneth A. Miller, Class of '77, to form Miller, Smith & Lefebvre. The Knoxville law firm will specialize exclusively in Social Security Disability claims.

ELIZABETH A. McNEILL became a partner in the Memphis law firm of Wolff Ardis in December 1992. Prior to her association with Wolff Ardis, Elizabeth was an associate with Petkoff, Lancaster & Barnwell of Memphis. She is an active member of the American, Tennessee, and Memphis Bar Associations.

ARTHUR S. ROBINSON, JR., formed the law firm of Robinson, Nice & Moore in Indianapolis, Indiana. The firm practices in the areas of business law and litigation.

KARIN L. WATERMAN joined the Third National Bank in Nashville as vice president and staff counsel on December 30, 1992.

STUART A. WILSON was elected president-elect of the Young Lawyers Division of the Memphis Bar Association. He will serve as president-elect in 1993 and president in 1994. Stuart is associated with the law firm of Wilson, McRae, Ivey, Sevier, McTyler & Strain in Memphis.

Class of '86

MARK P. JENDREK will teach Legal Process at the College of Law during the Spring 1993 Semester. He is associated with the Knoxville law firm of Gentry, Tipton, Kizer & Little.

JANICE K. KELL will teach Legal Process during the Spring 1993 Semester at the College of Law. She is a clerk with the Tennessee Court of Criminal Appeals in Knoxville.

TIMOTHY M. McLEMORE will teach Tax II at the College of Law during the Spring 1993 Semester. He is associated with the law firm of Gentry, Tipton, Kizer & Little in Knoxville.

JANIS M. WILD joined the litigation section of Heiskell, Donelson, Bearman, Adams, Williams & Kirsch as an associate. She will work in their Memphis office.

Class of '87

MARK A. BROWN left the Knoxville Area Urban League January 1 to practice law with the Knoxville firm of Campbell & Dawson. He had been president of the Urban League since 1988.

GITANO BRYANT is working as a sports agent with Showtime Sports in their Houston, Texas, and Los Angeles, California, offices.

KENNETH M. BRYANT and HOLLY HOFFMAN BRYANT, Class of '88, proudly announce the birth of daughter, Elizabeth Grace. Betsy was born on September 9, 1992, and weighed 7 lb., 10.5 oz. Ken is an attorney in Nashville.

DANIEL L. CLAYTON and his wife, Stacy, are pleased to announce the arrival of their third child, Kay Ellen, born on September 18, 1992. Kay Ellen joins a cast of two other girls, Amy, 5 and Hannah, 2. The family lives in Franklin. Daniel is associated with the Nashville law firm of Kinnard & Smith where his work primarily focuses on medical negligence, personal injury, and worker's compensation for the plaintiff.

SUSAN B. DEVITT and her husband, Dr. Michael McLarnon, welcomed their second son, Andrew Devitt McLarnon, on September 2, 1992. Andrew's older brother, Alexander, is 2 years old. Susan is associated with Alston & Bird in Atlanta, Georgia.

ANDY MARKELONIS opened a solo practice in Louisville, Kentucky and is primarily engaged in the areas of criminal defense and domestic relations. He previously worked as an Assistant Commonwealth Attorney for the 33rd Judicial District in Hazard.

KIMBERLY M. ROZANSKI presented a program entitled, "Practice in Federal Court: Points to Make Your Life Easier and Your Court Presentation More Effective," to the East Tennessee Lawyers Association for Women on October 21, 1992. She is a law clerk to the Honorable Robert P. Murrian of the U.S. District Court for the Eastern District of Tennessee in Knoxville.

Class of '88

DONALD A. BOSCH returned from the 1992 Olympic Games in Barcelona, Spain last summer representing seven Olympians who collectively won eight gold, one silver, and four bronze metals in their respective events. In addition, he represents athletes in nine other sports. Don is a partner in the Knoxville law firm of Bosch & Silvey, P.C.

WILLIAM L. GOUGER, JR., became a partner in the Jasper law firm of Kelly, Kelly & Gouger, P.C., in December 1992.



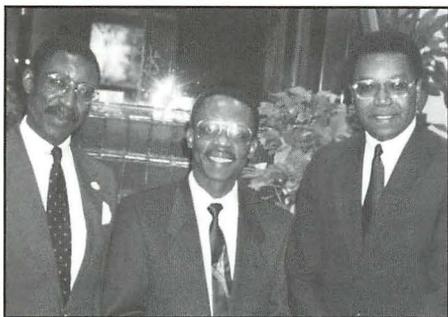
Charles H. Miller III (left), Charles H. Miller, and Angie Le Clercq

ANGIE LE CLERCQ is Head of User Education and Special Assistant to the Dean of the Libraries at the University of Tennessee, Knoxville. At a library luncheon in November honoring distinguished faculty, she

Alumni News

welcomed Clinic Founder and Professor Emeriti Charles Miller. Professor Miller has a faculty study named in his honor at Hodges Library.

Dr. LEONARD MADU continues to be a 'mover and shaker' in Nashville and the state as he organizes seminars to further business growth. He has been appointed special advisor and roving Emisary Extraordinary to Aristide. Dr. Madu also continues to write on current political topics for area newspapers.



Dr. Madu, (left) exiled Haitian President Jean Bertrand Aristide, and Dr. James Hefner, (right) President of Tennessee State University at a Nashville Clergy and Laity Concerned banquet, December 18. CALC focuses on human rights and economic and racial justice around the world.

JOHN L. TISHLER and his wife, Sandee, proudly announce the birth of son, John Ward, on September 10, 1992. John is associated with Farris, Warfield & Kanaday in Nashville.

WILLIAM G. TRAYNOR accepted a trial attorney's position with the Department of Justice Antitrust Division field office in Atlanta in September. The office has about 25 lawyers, who spend most of their time investigating or litigating criminal bid-rigging and price-fixing cases in the eleven southeastern states. He was previously with the Washington, D.C. law firm of Fried, Frank, Harris, Shriver & Jacobson.

LAURA H. WALTER has become associated with the Washington, D.C. law firm of Glass, McCullough, Sherrill & Harrold. She will practice labor and employment law.

Class of '89

GREGORY F. COLEMAN has been named a partner in the Knoxville law firm of Jenkins & Jenkins. He also serves on the Board of Directors of Baptist Hospital.

MICHAEL GOODWIN is now associated with the law firm of Green & Baker, Ltd., in Scottsdale, Arizona. The firm handles employment and civil rights litigation. He previously practiced law in Nashville.

MELVIN J. MALONE spoke with members of the Black Law Students Association in October about the Knoxville Bar Association. He is associated with Heiskell, Donelson, Bearman, Adams, Williams & Kirsch in Knoxville.

F. SCOTT MILLIGAN and his wife, Karen, proudly announce the birth of Grady Tyler Milligan on February 8, 1992. Scott taught Legal Process II as an Adjunct Professor during the Spring 1992 semester.

JOSEPH W. RAMSEY began working in July 1992 as an Assistant Public Defender in the 1st Judicial District of Tennessee. He resides in Johnson City with his wife, Melissa, who attends the Quillen College of Medicine, and their 4-year-old daughter, Emily.

Class of '90

KEITH HILEMAN works for West Services, Inc., in Washington, D.C., as an academic and CD-ROM representative with schools in Virginia, Maryland, and the District of Columbia.

THOMAS G. McCROSKEY moved back to Maryville last fall and is associated with Bird, Navratil, Kull & McCroskey. He

and wife, Lorri, were very excited about returning to East Tennessee from Mobile, Alabama.

Class of '91

JAMES M. CORNELIUS, JR., became associated with the Knoxville law firm of Hodges, Doughty & Carson on September 1, 1992. He served a judicial clerkship with the Tennessee Supreme Court in Knoxville before going into private practice.

JACK H. (Nick) McCALL, JR., and JENNIFER L. ASHLEY were married on October 3, 1992 in Knoxville and reside in Nashville. After serving a judicial clerkship in Nashville with the Honorable Gilbert S. Merritt of the U.S. Court of Appeals, Nick is now associated with Farris, Warfield & Kanaday. His article, "The Inexorable Advance of Technology": America & International Efforts to Curb Missile Proliferation," was published in the Spring 1992 issue of *Jurimetrics Journal*, and a short spin-off of the article has also been published in the *Journal of Space Law*. The article received the Loevenger Award in November 1992 from Arizona State University and the American Bar Association's Section on Law, Science & Technology.

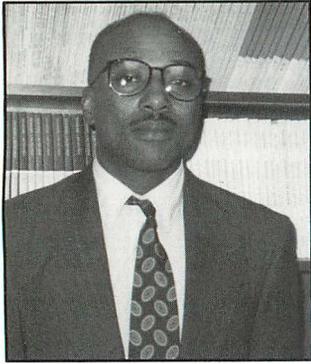
NATASHA K. METCALF spoke with members of the Black Law Students Association in October about the Knoxville Bar Association. She is associated with Kennerly, Montgomery & Finley, P.C. in Knoxville.

Class of '92

JOHN M. BRYANT, JR., has become associated with the Nashville law firm of Brewer, Krause & Brooks.

SCOTT D. CAREY has become associated with the law firm of Heiskell, Donelson, Bearman, Adams, Williams & Kirsch in their Nashville office.

Alumni News



MATTHEW E. DAVIS, formerly with the Knoxville law firm of Piper, Waters & Witt, became an associate with the law firm of Cromartie & Williams of Columbia, South Carolina and will serve as the acting managing partner. He is a member of the Tennessee and Knoxville Bar Associations and the Tennessee Trial Lawyers Association. During law school, Matthew was a platoon leader and education officer in the South Carolina Army National Guard in York, South Carolina. Lieutenant Davis was awarded the Army Achievement Medal for helping Delta Company obtain the highest score on the Army Physical Readiness Test. He is now a First Lieutenant with the Kentucky National Guard.

JOHN J. GRIFFIN, JR., has become associated with the Nashville law firm of Brewer, Krause & Brooks.

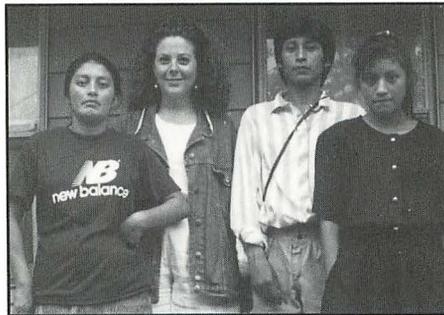
KURT R. KLAUS has become associated with the Nashville law firm of Brewer, Krause & Brooks.

GREGORY S. McMILLAN and his wife, Gretchen, proudly announce the birth of Conner Elise McMillan on November 13, 1992. She weighed 7 lbs., 5 oz. Greg is associated with the Knoxville law firm of Susano & Sheppard.

Class of '94

MICKI GRIFFIN worked as a intern for the Camden Regional

Legal Services, Farm Worker Division, Bridgeton, New Jersey last summer due to a stipend she received from the National Lawyers Guild. She was one of 21 recipients selected nationwide. Micki worked in the area of employment law and all of the cases she assisted with were victories for her clients. As a second-year law student, she is vice president of the Hispanic Law Student Association and an executive committee member of the Tennessee Association of Public Interest Law.



Micki (second from left) with a family she assisted last summer.



BERNARD J. O'CONNOR, a.k.a. Father Bernie, not only attends law school, but also teaches one on the most popular classes on the main UT campus. His course, Spirituality of Health Care, is taught through the College of Nursing. The course has been nominated for a national teaching award by the National University Continuing Education Association. He also teaches courses in Religious Studies. Father Bernie, a second-year law student, hales from Sydney Mines, Canada.

Class of '95

GERRY HOPKIN-PETERS lent his photographic skills to capture law students having a good time at this year's Chilla. After graduation from law school, he hopes to become an international and mass media law practitioner.



Chilla, October 29, 1992

In Memoriam

W. Raymond Blackard '27
Jacksonville, Florida

John Frank Dugger '48
Morristown

Edwin Ross Hanna, Jr. '48
Knoxville

Adam Joseph Klein, Jr. '51
McLean, Virginia

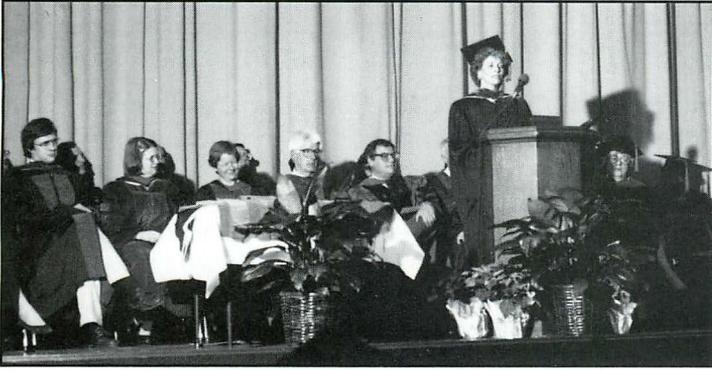
Claxton R. McClain '36
Knoxville

John M. Pick '39
West Bend, Wisconsin

Jack Bernard Tate '26
New Haven, Connecticut

H. Calvin Walter '49
Knoxville

Harvey M. Yaffe '47
Memphis



**On the occasion of Hooding,
December 18, 1992
Honorable Penny Jo White
excerpts from her speech**

What do you call 100 lawyers chained together at the bottom of the ocean? A good start. So why are we always in the bottom five in surveys that rank honesty, ethics, and trustworthiness in professions? Is the bashing and battering of lawyers a bum rap or just desert? And if its even partially deserved what are we, YES WE, going to do about it?

Let me make a suggestion. As you leave here, commit yourself to do some good out there. Use all you have learned not only to bill hours, but to build solutions. Be mindful that you have entered a service profession. Involve those who hire you in all aspects of their case. They hired you. You work for them. That is a difficult and perhaps dissatisfying proposition. It is, however, the gospel.

The case is theirs, the problem is theirs, and the life it effects is theirs. Let them share in the solution. Ask their opinion. Explain how the law relates to the facts of their case. Talk to them. Include them. You will shortly be given the awesome right and obligation to advise, to represent, to counsel. You, however, have not been given the right to direct. That prerogative remains with the client. Treat your clients and all professional associates with respect.

Listen to them, communicate with them, not just when you need to, but when they need you

to. Show them, if they are clients, that you understand their problem, are concerned about solving it, and are working with them toward that end. It's a simple legal amplification of the golden rule. Treat them the way you think they ought to treat you.

And finally, deal with the legal system and the public honestly, professionally, and fairly. I'm fond of reminding 'almost' lawyers that unless they plan to relocate every few years or practice in an area where they never cross paths twice with the same lawyer, judge, litigant, or witness, they better deal honestly and professionally with all those with whom they have contact.

I like to think of professionalism as the three Ps: preparedness, proficiency, and prioritization. In the last three years you have undoubtedly not sat for an exam unprepared; you have rarely often chosen television or recreation over study groups and outlines (at least during the last few weeks of the semester); and you have worked hard to master substantive law - otherwise you would not be here. Would you consider giving less effort to one who has hired you than you have given in the classroom? Would you consider a person's legal concerns less important than, say, the substantive law of remedies? Of course you would not. And so there you have it.

You are beginning a career in which you must put some things above your own personal interests; a profession in which you will be gratified not only in the size of your pay check or the number of

billable hours, but in helping solve legal problems.

Justice Brandeis, more altruistic than can perhaps be expected, remarked: "Some men buy diamonds, and rare works of art, others delight in automobiles and yachts. My luxury is to invest my surplus effort beyond that required for the proper support of my family to the pleasure of taking up a problem and solving or helping to solve it for the people. I have only one life, and it is short enough. Why waste it on the things I don't want most? I don't want money or property most. I want to be free."

If the prognosticators are correct, you might be the height of what will eventually be a pendulum reversal. Fewer lawyers, fewer law firms, fewer law schools. Perhaps you can be the generation of lawyers who change our public perception to one of service and honor. Perhaps you can free us all from the undeserved stigma that we carry.

At every opportunity talk positively with the public about what we really do. Help remove the Arnie Becker image and for goodness sakes don't perpetuate it by your actions. The public is entitled to a more realistic view. When you talk to nonlawyers about the law, use English. Vow now to spend some time each and every day serving. It is a good start and the rewards will be great.

Let me share with you a modified poem from *The Guidepost*.
Be a voice for the speechless
Those who are small and weak.
Shout out for all the hopeless creatures
Who have no power to speak.
Lift your heart to the sky
On behalf of the least of these,
The frightened, the persecuted,
The misunderstood.
Voice their ignored pleas.
If you can help one creature
Respond to a desperate call,
Then know that you have served
And promoted equal justice for all.

With this issue, *Headnotes* will introduce a new feature, CLE Corner. CLE Corner will present reprinted continuing legal education outlines written by College of Law faculty members in connection with their presentations to various groups throughout the state and the nation. *Headnotes* hopes CLE Corner will provide insight into what our faculty is doing as well as provide you with information on new developments in the law. Professor Robert M. Lloyd serves as the CLE Coordinator at the College of Law. The first CLE Corner features Professor Carol A. Mutter.

Professor Mutter teaches torts, contracts, and insurance law. She was the moderator and a presenter at a College of Law CLE program on August 7, 1992, entitled "Comparative Negligence and Punitive Damages: Tort Reform in the Tennessee Supreme Court." Professor Mutter's presentation focused on the effect of the adoption of comparative fault by the Tennessee Supreme Court on the assumption of risk defense. She has recently elaborated on this outline in an article to be published next month in the *Memphis State University Law Review*, Volume 23, Issue 1. This issue features a symposium on the Supreme Court's comparative fault's decision, *McIntyre v. Balentine*, and will also include an article by College of Law Professor Jerry J. Phillips.

Rethinking Assumption of Risk After *McIntyre*

I. Introduction

After the adoption of modified comparative negligence, need to rethink the continued viability of the assumption of risk defense.

- A. Previously, both contributory negligence and assumption of risk were full defenses. Substantial overlap between contributory negligence (objective test) and assumption of risk (subjective test) were not that problematic. Now courts must determine what conduct will reduce recovery under *McIntyre* and what conduct, if any, will foreclose recovery entirely.
- B. Assumption of risk terminology is often used to denote several different legal concepts--lack of precision plus lack of uniformity among jurisdictions.
- C. Overview of this topic found in: V. Schwartz, *Comparative Negligence* (2d ed.), Chapter 9; *Comparative Negligence* (Matthew Bender), § 4.20; Mutter, 57 Tenn. L. Rev. 199, 284-294.

II. Two basic forms of assumption of risk--express and implied.

- A. Express assumption of risk--contractual, express release, waiver, or exculpatory clause. Generally unaffected by comparative negligence. Agreement must be clearly expressed and will be narrowly construed. In Tennessee, exculpatory agreement will be enforced so long as it does not extend to liability for gross negligence or otherwise offend public policy. See *Olson v. Molven*, 558 S.W.2d 929 (Tenn. 1977).
- B. Implied assumption of risk--person knowingly and voluntarily encounters a risk, but does not expressly acknowledge that he is doing so. Greatest confusion in this area.

1. Implied assumption of risk often divided into primary and secondary categories.

- (a) Primary--plaintiff has assumed known risks inherent in a particular activity. Overlap with duty analysis. Defendant's duty does not include protecting him from risk which materialized.
- (b) Secondary--plaintiff knowingly encounters risk created by defendant's negligence. If encounter is unreasonable, plaintiff's conduct usually same as contributory negligence, so should fall within comparative negligence scheme. If encounter is reasonable, plaintiff's conduct is not negligent, but is voluntary. Split of authority re whether implied secondary reasonable assumption of risk is no defense to defendant's negligence, a partial defense, or a complete defense. Implied secondary reasonable assumption of risk often focused on duty and seems very similar to primary assumption of risk. See *Ordway*

v. Superior Court, 243 Cal. Rptr. 536 (1988); *Rini v. Oaklawn Jockey Club*, 861 F.2d 502 (8th Cir. 1988) (applying Arkansas law), *V. Schwartz*, §§ 9.1, 9.4 (c).

2. Academic debate re parameters of these categories is legion. Classic statements of conflicting viewpoints in the so-called "Battle of the Wilderness" among drafters of Second Restatement of Torts. See American Law Institute, Restatement of the Law (Second): Torts, Tentative Draft No. 9, 70-87.

3. Many jurisdictions have folded assumptions of risk into their comparative negligence schemes, either by statute or judicial decision. In many cases, however, what has been incorporated is only what could be called implied secondary assumption of risk. Substantial judicial debate re operation of implied primary and/or reasonable assumption of risk. Basic question is when plaintiff's consent to encounter a risk should be implied, or, put another way, when defendant should not be under a duty to protect plaintiff from the risk

4. Particular areas of concern:

- (a) Contact sports (participants and spectators);
- (b) Other participants in risky recreational activities;
- (c) Employment cases involving inherent risks in job;
- (d) The "fireman's rule";
- (e) "Obvious" dangers on defendant's premises.

III. Recent articles

A. Diamond, Assumption of Risk After Comparative Negligence: Integrating Contract Theory into Tort Doctrine, 52 *Ohio State L.J.* 717 (1991).

B. DeWold and Hander, Assumption of Risk and Abnormally Dangerous Activities: A Proposal, 51 *Mont. L. Rev.* 161 (1990).

C. Wildman and Barker, Time to Abolish Implied Assumption of a Reasonable Risk in California, 25 *U. San. Fran. L. Rev.* 647 (1991).

IV. Some illustrative recent cases

A. *Byrd v. Matthews*, 571 So.2d 258 (Miss. 1990). Suit by wife of injured race car driver. Court characterized case as involving a "sports" injury and barred the wife's consortium claim. Court deferred question of how assumption of risk applies in non-sports injuries.

B. *Harris v. The Ark*, 810 P.2d 276 (Colo. 1990). Comparative negligence statute which incorporates assumption of risk does not violate equal protection. Interesting theory.

C. *Coleman v. Ramada Hotel Operating Co.*, 933 F. 2d 470 (7th Cir. 1991) (Illinois law). Employee who participated in obstacle course game during employer-sponsored picnic at defendant's resort sued for injuries. Court held resort owner had no duty to warn of obvious danger of using playground slide in reverse and that plaintiff had assumed the risk.

D. *King v. Kayak Manufacturing Corp.*, 387 S.E.2d 511 (W.Va. 1989). Newly articulated doctrine of "comparative assumption of risk" is available in products action by injured diver, but plaintiff is not barred unless his fault equals or exceeds that of defendants.

E. Florida cases--update on 57 *Tenn. L. Rev.* 199, 289-290:

- (1) *Mazzeo v. City of Sebastian*, 550 So.2d 1113 (Fla. 1989). Exception for contact sports to the merger of "express" assumption of risk into comparative negligence does not include

aberrant conduct in noncontact sport; swimmer's dive into water known to be shallow to be evaluated under pure comparative negligence system.

(2) *Kendrick v. Ed's Beach Service*, 577 So.2d 936 (Fla. 1991). Even if diver was aware of dangerous condition and assumed the risk, comparative scheme applies.

F. California cases--update on 57 Tenn. L. Rev. 199, 286 n.414, 292:

(1) *Knight v. Jewett*, 11 Cal. Rptr. 2d 2, 834 P.2d 696 (Cal. 1992) (in bank). In a long-awaited and extensively briefed decision, the California Supreme Court, determining that the assumption of risk doctrine is still viable under the state's comparative fault principle, affirmed summary judgment for a defendant sued by a woman whose finger was injured during an informal game of touch football. Applying a primary assumption of risk analysis, the plurality opinion concluded that "a participant in an active sport breaches a legal duty of care to other participants only if the participant intentionally injures another player or engages in conduct that is so reckless as to be totally outside the range of the ordinary activity involved in the sport." Three other justices concurred in the result, with two preferring a consent-based analysis based on plaintiff's knowledge of the risk; one justice dissented, arguing that the record did not support summary judgment under either the consent or the no-duty approach.

(2) *Ford v. Gouin*, 11 Cal. Rptr. 2d 30, 834 P.2d 72 (Cal. 1992) (in bank). Companion case to *Knight*. A water skier was injured when he collided with a tree limb overhanging the waterway while skiing barefoot and backward. The majority affirmed a summary judgment for the defendant boat driver, holding that limited duty principles of *Knight* applied to active sports activities such as water skiing.

(3) *Milwaukee Electric Tool Corp. v. Superior Court*, 6 Cal. Rptr. 2d 423 (Ct. App. 1992). Products case in which court of appeals held that reasonable implied assumption of risk could be interposed as a complete defense. The California Supreme Court initially granted review in this case, as well as in a number of other cases (listed in *Milwaukee*) presenting assumption of risk issues. All these cases were returned to the various lower courts with directions to vacate and reconsider in light of *Knight v. Jewett*.



First Annual Tennessee Corporate Counsel Institute
April 15-16, 1993 in Knoxville
at the Radisson Hotel, 401 West Summit Hill Drive
Sponsored by the Tennessee Chapter of the American Corporate Counsel Association
and
The University of Tennessee College of Law

The Program

Thursday, April 15	Friday, April 16
What a CEO Expects of Counsel	Bankruptcy for the Generalist
Employment Law	Litigation Management and Audit and Alternative Fee Arrangements
Ethics and Professionalism	Corporate Criminal Law Panel"
Environmental Law	That's Entertainment" - Going Public
Tennessee Legislative Highlights	Techniques for Avoiding Litigation
Conducting an Effective Internal Investigation	Antitrust for the Generalist
	What a General Counsel Expects of His Staff
	Tennessee Court Highlights

Alumni Address Change and News for the next issue of Headnotes

If your address or job status has changed or will soon change, let us know.

News/Awards/Honors

Name: _____ Class: _____

Firm Name/Organization: _____

Address: _____

City/State/Zip: _____

Phone: _____

This is my: _____ Office Address _____ Home Address

Is this a change of address? _____ Yes _____ No

Would you like your new work address published? _____ Yes _____ No

If yes, please list your former address: _____

Please send your information to: Office of Development and Alumni Affairs
The University of Tennessee College of Law
1505 West Cumberland Avenue
Knoxville, Tennessee 37996-1800

Our telephone number is 615/974-6691. Please call if you have any questions.

**Whenever you're in town, please drop by!
The College of Law faculty, students,
administration, and staff would like to
see you.**

Words from the Wise!

The student produced editorial paper, *Sua Sponte*, would like to solicit articles from alumni. Published monthly, *Sua Sponte* provides a forum for different views to be expressed to the College of Law community. Law students would stand to benefit from exposure to the views of those who have experienced what students will come to experience.

Alumni are integral members of the College of Law community and *Sua Sponte* welcomes the opportunity to publish their articles. Please send submissions to the Editor, *Sua Sponte*, College of Law, 1505 West Cumberland Avenue, Knoxville, Tennessee 37996-1800. *Sua Sponte* reserves the right to publish only those materials that meet its standards.

The University of Tennessee, Knoxville does not discriminate on the basis of race, sex, color, religion, national origin, age, handicap, or veteran status in provision of educational opportunities or employment opportunities and benefits. UT Knoxville does not discriminate on the basis of sex or handicap in its educational programs or activities, pursuant to requirements of Title IX of the Educational Amendments of 1972, Public Law 92-318, and Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, and the Americans With Disabilities Act of 1990, Public Law 101-336, respectively. This policy extends to both employment by and admission to the University. Inquiries concerning Title IX, Section 504, and the Americans With Disabilities Act of 1990 should be directed to the Office of Affirmative Action, The University of Tennessee, 403-C Andy Holt Tower, Knoxville, Tennessee 37996-0144; or telephone 615/974-2498. Charges of violation of the above policy should also be directed to the Office of Affirmative Action.
E01-1610-008-93

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