



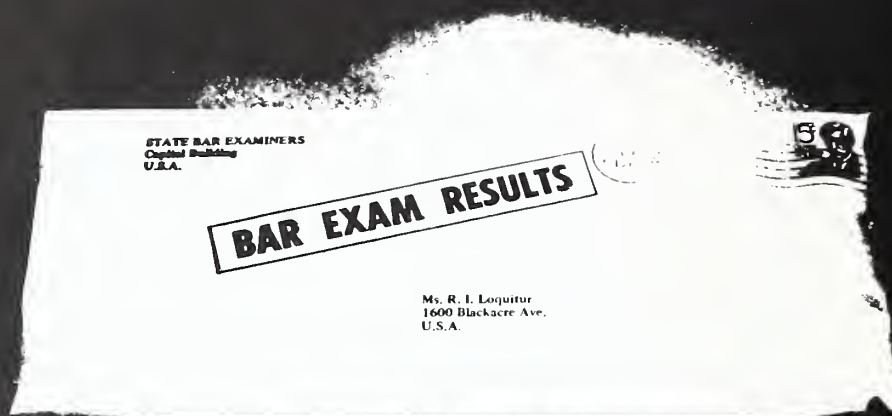
James A. Webster, Jr.

Wake Forest Jurist

Fall, 1978

Vol. 9, No. 1

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BAR REVIEW

WAKE FOREST JURIST

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Fall, 1978

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STATEMENT OF PURPOSE AND POLICY

The *Wake Forest Jurist* is published twice yearly by the Wake Forest School of Law of Wake Forest University. Its main purpose is to inform the friends and alumni of the Law School about activities and events of interest at the Law School, of recent important decisions by the courts of North Carolina and other jurisdictions, and news of the achievements and activities of fellow alumni. In this way the *Jurist* seeks to provide a service and a meaningful link between the School of Law and its alumni. Also, the magazine shall provide a forum for the creative talents of students, faculty and its alumni and an opportunity for legal writing by them. Opinions expressed and positions advocated herein are those of the authors and do not represent official policy of the School of Law.

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In Memoriam
JAMES A. WEBSTER, JR.
by James E. Sizemore*

In the early years of his administration of the Wake Forest College School of Law, Dean Carroll W. Weathers was faced with the task of replacing several outstanding law professors. Not the least of these was Edgar W. Timberlake, who retired in 1954 after more than half a century of teaching law at Wake Forest. Professor Timberlake was "Mr. Property" to all who studied law at Wake Forest. In his own words, Professor Timberlake had been at Wake Forest "since that time that the memory of man runneth not to the contrary." Loved by his students and respected throughout the state and beyond, he had become a legend.

The problem for Dean Weathers can be stated simply: Where does one turn to replace a legend? After consultation with the faculty (including Professor Timberlake), the President of the College and others, Dean Weathers turned to a young practitioner in the small town of Leaksville (now Eden), North Carolina.

Jim Webster had graduated from the law school in 1951. He was asked to teach in the law school for one year at that time to replace a teacher who had been granted a one-year leave of absence. At the age of twenty-four, he was one of the youngest teachers in an accredited law school in the country.

This writer had joined the faculty in the fall of 1953, and thus had a part in the decision to invite Jim to join the faculty in the fall of 1954. Of more importance to the writer is the fact that our teaching years at Wake Forest paralleled each other for twenty-four years. In our early teaching years at both the old and the new campus, we were often in the law school until after midnight. It was there that our close relationship developed and that I often picked his keen legal mind.

To his students he brought excellent teaching; to his courses he brought superb scholarship; to his colleagues he brought inspiration and good fellowship; and to his Alma Mater, he brought fierce loyalty. He had convictions, and never hesitated to state or defend them.

He taught the formal course in legal ethics for several years. His students in the property courses will testify that in addition to common sense teaching, these subjects were pervaded with a sense of ethics.

Law teachers, as any other professionals, enjoy their work in varying degrees. Jim Webster loved teaching and willingly put in the hours of preparation to do an excellent job. He expected, and received, no less effort from his students. He devoted all but two years of his adult life to teaching. He became "Mr. Property II" at Wake Forest.

A chronicle of all of his achievements is beyond the scope of this brief tribute. It is sufficient to record that he authored two definitive books on North Carolina Real Property Law and several lead articles in Law Reviews; served as a member of the General Statutes Commission for four years; was chairman of the drafting committee which revised the lien law of North Carolina; served as consultant to the North Carolina Insurance Department, the North Carolina Real Estate Licensing Board, and to the Attorney General of North Carolina.

He never stopped improving his keen and fertile mind. He earned the Doctor of Laws Degree from Harvard University in 1967.

His loyalty to Wake Forest was equaled only by his loyalty and devotion to his family and his church. All of his efforts were shared and supported by his lovely wife Alice and their three children, Dean, Gloria and Marc.

For twenty-four years Jim Webster was my colleague and my friend. I shall miss him. Indeed, every son and daughter of Wake Forest School of Law who knew him shall miss him.

*Professor of Law, Wake Forest University School of Law.

FROM THE EDITOR

“AS A NEW ERA BEGINS”

“One would expect that with the transition there would be the usual initial confusion of adjustment which occurs in most administrative changes. The Law School can take pride in the fact that such has not been the case . . . Wake Forest Law School begins a new era of challenges which will be met with novel ideas governed by cautious consideration . . . continuing a rational, productive development to meet the ever-changing demands of the legal profession . . .”

These observations appeared in the very first edition of the *Jurist* back in 1971, just after Dean Weathers had retired, “adding yet another great chapter to the Law School’s enviable history.” The timeliness of this passage lends credence to the old adage, “the more things change, the more they stay the same.”

Most of you are well aware of the fact that there are many changes at Carswell Hall this semester: the new addition, a bright and exuberant first year class, new faculty members, expanded Law School activities, new recruiting efforts, changes in the legal profession itself, and soon, a new dean. In spite of all these rapid changes and the new directions they imply, the atmosphere is business as usual. The students seem happy, calm and optimistic. I believe that the quality of legal education at Wake Forest is continuing to improve and most of my classmates echo this confidence.

As the Law School enters this exciting new era of growth and development, we at the *Jurist* thought it an appropriate time to reflect on our past and revamp your alumni publication in keeping with this trend to a more sophisticated and professional institution. The *Jurist* was born in 1971 when Reid Potter* conceived the idea for an alumni magazine and sold the administration on his proposal. His original Board of Editors consisted of James Funderburk, Jack Simpson, Carolyn Burnette, Ed Speas, and Neil Batelli. While the appearance and budget of the *Jurist* have changed dramatically in these past seven years, the primary purpose of communication between the school and its alumni has remained constant. We are grateful to Reid for having had the foresight to establish this forum, and as a tribute to him and his original staff, we are presently upgrading the

magazine by moving to a new size which is more economical as well as more professional.

Space in this edition of the *Jurist* has, of necessity, been largely devoted to law school news. We are, however, fortunate enough to be publishing two excellent legal articles which we hope will be of interest to most readers. As always, we are eager for your suggestions on topics you would like to see addressed. Additionally, we invite you to submit your own work for publication in the *Jurist* as well as information on your status for the Class Notes section (write, or call 919-761-5441).

The *Jurist* staff wishes to congratulate the members of the Class of 1978 who passed the North Carolina Bar this past summer, as well as those who prevailed out of state. We have published the new business addresses of as many of the recent graduates as were available from the Placement Office. If we have omitted you, please let us know where you are for the Spring issue.

Finally, I would like to thank all those who were responsible for putting this magazine together. Changing to a larger size necessitated many new procedures and more work than usual. Dean Corbett has proven himself to be an excellent administrator whose door is always open. I am especially grateful to him for all his help and support this semester. Special thanks are also in order for our typists, Dot Austin and Carolyn Stone; our advisor, Professor Covington; Assistant Dean Elva Jess; and Marty Lentz of the Wake Forest Publications Office. And last but by no means least, the dedication of the *Jurist* staff members has earned them my love and respect forever (thanks, gang!).

*J. Reid Potter is presently engaged in the private practice of law in Charlotte and is the author of a recently published book entitled, *North Carolina Appellate Handbook*.



From the Dean

The School of Law was greatly saddened on October 30, by the death of Dr. James A. Webster, Jr., who for twenty-five years taught Property and other courses at the School. He was a powerful personality and a strong teacher. He was outspoken in support of his convictions and true to his beliefs and ideals. Such men are rare and he will be sorely missed. He was in the prime of his powers as a teacher when last Christmas, at age 50, he was stricken by cancer. We have grieved at his illness and we mourn his death. The faculty has initiated a memorial fund in his honor which will be designated at a future time for scholarships, books, or other appropriate uses in furtherance of legal education. The First Year Class has purchased a loose-leaf series of six books entitled, *Zoning and Land Use Planning*, by Patrick Rohan, in memory of Dr. Webster, father of their classmate, Dean Webster.

The last year in the Law School has been in some respects a turbulent one. The newspapers carried strident reports of controversy surrounding the decision by the Board of Trustees not to renew the charter of the Wake Forest Institute for Labor Policy Analysis (WILPA). The Lawyer Alumni Executive Committee has reported to the alumni about that termination, and with regard to the resignation of Dean Bowman. I will not undertake to chronicle those matters here. It is important to note, however, that legal education has proceeded without interruption in the Law School. WILPA was independently chartered by the Trustees and did not constitute a part of the teaching program of the law school. The dispute had only an indirect effect upon the school.

This year we are shorthanded in faculty, due in part to the departure of Professors Petro and Vieira (both of the WILPA staff) and Dean Bowman, each of whom taught one course each semester. Greater losses in teaching hours were occasioned by Stetson's luring away Professors Oleck and Faris too late in the year to replace them, and of course, the loss of Dr. Webster.

However, there is good news as well. Elva Jess, a 1976 graduate, who has been practicing law in Southport, N.C., has returned to serve as Assistant Dean, permitting former Assistant Dean Herring to go to full-time teaching. Additionally, Katherine Miller has joined us this year as a visiting professor on leave from Womble, Carlyle, Sandridge and Rice. With the addition of these fine people to our existing strong faculty, we have been able to offer the full range of basic courses and all but a couple of the electives we have offered in the past.

We have a Faculty Recruitment Committee working its way through a substantial number of applications for teaching positions. We anticipate hiring as many as seven new persons in the next few years to fill vacancies, replace retiring professors and meet newly interpreted student-faculty ratio requirements set by the American Bar Association.

Additionally, the Dean Search Committee consisting of four faculty members, four trustees, two alumni and one member of the University Administration is hard at work. (See article on page 7.)

We had another good year on the North Carolina Bar, with 96% of our graduates having been successful on their first try. Results do not come quickly from other states, but we continue to hear equally good news from those who have taken other bars.

The new addition to Carswell Hall was completed in record time. Approximately 1300 square feet were added, including classrooms and a student lounge. The addition was dedicated on October 14th during Lawyer Homecoming weekend with Chesterfield Smith, past president of the American Bar Association, as principal speaker. The addition has added much needed "elbow room" to accommodate our present student body of 475 in a comfortable academic environment. The remaining challenge is securing the approximately \$300,000 yet to be raised to pay for it.

A significant additional event during the dedication ceremony was the announcement of the A.J. Fletcher Scholarship Fund. Mr. Fletcher, an alumnus of the school who is a broadcasting executive in Raleigh, has established a substantial scholarship fund in the school which will provide its premier scholarship. The first recipient is James A. (Dean) Webster, III, son of the late Professor James A. Webster, Jr.

Alumni support has continued to be strong. This year saw giving by 40% of our alumni, amounting (with gifts from friends) to approximately \$200,000. Additionally, the Partners Banquet on October 13th had its largest turnout to date with many new partners joining the ranks. (Chesterfield Smith also spoke to that group.) On the 14th, after the Wake Forest-Carolina football game, approximately 300 people came to the Homecoming Reception at Bermuda Run. That event grows each year and provides one of the best occasions for alumni fellowship.

These are challenging times at the Law School. With many new faculty members and a dean to be employed,

we are about to define the nature of the school for years to come. It is a time when those interested in the school should make their voices heard, and it is a time when real support is needed more than ever. That support is needed not only in the form of donations, which are crucial, but also in pride, in participation, and in encouragement of fine young men and women to attend our law school and take important places in the legal profession.

Having mentioned challenges and monetary needs, I would be remiss if I did not point out what I see as perhaps the single greatest long term challenge to the school. That is the raising of sufficient endowment. Ninety percent of the school's operating expenses is paid by tuition—twice the percentage normally expected in good schools. That makes the continued support of the programs of the school dangerously dependent on continued high enrollment, a picture which could change drastically in the future. To insure a continued program of high quality in the years to come, we must secure endowment literally in the millions of dollars. That will not be an easy task but it is one which must be accomplished if the future quality, security and independence of the school is to be assured.



LAW

SCHOOL

NEWS

WESTLAW - COMPUTERIZED LEGAL RESEARCH ARRIVES AT WAKE FOREST

WESTLAW, a computerized legal research system developed by the West Publishing Company, was installed this November in an office, adjoining the law library, especially designed for its accommodation. By a special agreement, West Publishing Company installed the computer at a reduced fee since the system will be used only by faculty, students, and administrators. The faculty library committee approved the purchase on a trial basis subject to an assessment by students and faculty after one year.

Applying electronic technology to legal research, WESTLAW provides speedy access to relevant case law from the U.S. Supreme Court, Courts of Appeals, District Courts, and all state courts as reported by West's National Reporter System. An operator directs a WESTLAW data search by specifying case names or citations, West's topic and key numbers, or natural search queries. A search query may be a question, statement, or assembly of words and phrases in everyday English which WESTLAW analyzes and correlates with the language of reported decisions within the chosen data base. Once a search is complete, the WESTLAW terminal displays all documents containing one or more of the words or combinations of words in the search query. At this point, the operator can browse through the collected documents, print the relevant ones, or initiate another search with another query.

In announcing the acquisition and installation of WESTLAW, Kenneth A. Zick, Director of Law Library Services, outlined the instructional utilization of WESTLAW. "Our goal in the coming year will be to orient as many of our students as possible in the most effective and efficient manner as time constraints allow. Since our West contract permits us only 150 hours per month of use time, the success of our program will depend upon maximizing user efficiency. This is not an unrealistic goal when one considers the fact that most law firms will be paying approximately \$75 per hour to use the computer and will also be interested in the most

effective utilization of their new resource. In order to qualify and be certified to use WESTLAW, a student must attend an orientation program which includes lectures, exercises, and individual instruction at the computer terminal."

Professor Zick commented on the place of the computer in the legal profession. "Although most lawyers have an inherent love for the brown covers of a law-book and a suspicious apprehension bordering upon open hostility to the use of any machinery, the legal research computer is probably here to stay. The economics of law practice will make the computer more and more attractive to lawyer use. With the rising cost of books, office space, and secretarial time, as well as the rapid proliferation of legal materials, the computer provides a convenient alternative to the storage of massive amounts of information in a small area with rapid updating for expeditious retrieval. It would be wrong to suggest that the computer can replace the legal mind's ability to analyze a legal problem. The computer only supplies the attorney with what he would have had to find manually anyway—legal authority. The use and analysis of that authority will always be the peculiar bailiwick of the legal mind. To ignore the computer in the future will be to ignore and waste the attorney's most precious asset—his time."

Law students graduating in the near future may find WESTLAW to be important sooner than they think. A number of North Carolina firms already have the system, and more are considering adding it this year. Campbell College Law School added WESTLAW to its instructional program earlier this year. The University of North Carolina School of Law is also considering the system. LEXIS, another computerized research system, has been in operation at the Duke University Law Library for the past several years. Obviously, computerized legal research is fast becoming another tool in the practicing lawyer's expanding repertoire of essential skills.

EXCELLENCE IN TEACHING AWARD

The Board of Editors and staff are pleased to announce the establishment of the *Jurist* Award for Excellence in Teaching, to be awarded to a member of the faculty in the Spring. It is anticipated that voting will take place in April, and that the recipient will be announced at Law Day and in the Spring issue of the *Jurist*.

As this is to be an annual award, it was decided that voting would be limited to the third year class. However, it is hoped that members of both the first and second year classes will begin thinking about the professor they might choose to honor during their third year.

THE HOODING CEREMONY

The Hooding Ceremony for 1978 graduates of the Wake Forest University School of Law was held on May 14, 1978. Dean Pasco M. Bowman gave opening and closing remarks and participated in the Awards ceremony. The graduates honored Dean Bowman with a special tribute of appreciation for his service to the School of Law. The James A. Webster, Jr., Faculty Award was created in honor of Dr. Webster and presented to Raymond C. Hurley as the person who achieved the highest grades in Property courses during law school. The Honorable Hiram H. Ward, U.S. District Judge for the Middle District of North Carolina, was the Distinguished Guest Speaker. Dr. Hugh W. Divine administered the Oath to the graduates. The most prestigious distinction of the Law School, *Magna cum laude*, was presented to Eugene C. Pridgen.

FOURTH CIRCUIT CLINICAL PROGRAM

Wake Forest Law School participates in the Fourth Circuit Court of Appeals student clinical program which allows students to defend, and in some cases to oppose, indigents on appeal. Students are called on to write briefs and may argue before the Court. Student response has been overwhelming this year and Professors Walker and Zick are each directing two teams of students involved in four cases. In addition, because of the number of qualified students who wanted to participate in the program, local attorneys for supervision had to be recruited. This year marks the first year the program has been tried at Wake Forest, which now joins the ranks of the majority of schools in the country having chosen to support such programs.

FACULTY SPEAKERS COMMITTEE

The beginnings of the Faculty Speakers Committee this past year should be welcomed with great enthusiasm and support. Members of the Committee include Professors Rose, Zick, and Newman. Also, Attorney-in-Residence Samuel G. Wellman has contributed his efforts. The Committee is working to entice legal scholars, prominent in the area of trial advocacy, to speak at the Law School. Well-known national and international figures are the target of the Committee's efforts. At this point, a number of prominent American trial attorneys have been contacted as well as several distinguished English solicitors and jurists. The first appearances of these speakers is expected to be some time in the Spring semester of next year.

THE SEARCH FOR A NEW DEAN

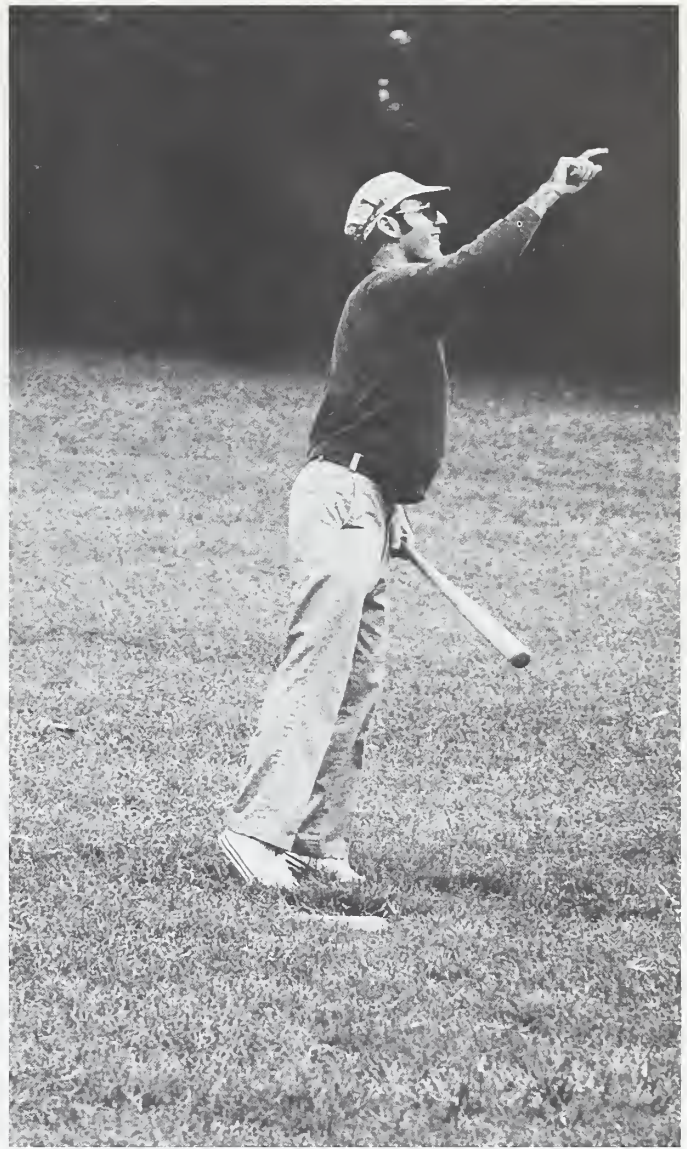
As many readers are aware, Pasco M. Bowman resigned this summer as Dean of the School of Law to assume the deanship at the University of Missouri Law School. Since then, Professor Leon Corbett has been Acting Dean. On September 8, the Wake Forest Board of Trustees took action to fill the opening by creating and appointing members to the Dean Search Committee.

The Trustees have asked that the committee submit three recommendations in time for the Board's regular meeting on December 8, 1978. Since this article was written on November 15, work remaining for the committee and its final result cannot be reported.

The twelve-member committee includes two alumni; four trustees, three of whom are also alumni; four Law School professors; the University Provost Dr. Edwin G. Wilson; and Mr. James Mason, Chairman of the Board of Trustees, serving in an *ex officio* capacity. The faculty members are Professors David Shores, Thomas Roberts, Boyce Covington, and James Bond. The trustees are Richard A. Williams (1949), Lonnie B. Williams (1953), Robert W. Yelton (1967), and Leon L. Rice, Jr. The alumni on the committee are Fred D. Turnage (1948), President of the Lawyer Alumni Association, and James E. Humphreys (1967), a member of the Lawyer Alumni Executive Committee. (Dates are shown for those who graduated from the Wake Forest School of Law.) The Search Committee is chaired by Professor Shores, and all members except the University Provost are attorneys.

In the first stage of the search, the committee solicited nominations and applications from national and local sources. After its first meeting on September 9, committee members drafted and mailed an announcement letter to the deans of all ABA-accredited law schools across the country. The letter requested that the dean pass the announcement on to all faculty members and that recommendations be returned by November 1, 1978. Notices were also published in the *Chronicle of Higher Education*, the *Placement Bulletin* of the Association of American Law Schools, the *ABA Journal*, and the *Affirmative Action Register*. Mr. Fred Turnage wrote to all alumni asking for recommendations.

After a number of applications had been received, the committee then began the process of screening the candidates at its second meeting on October 14. As of November 15, numerous recommendations and applications had been received from law school deans; and Professor Shores had asked them for further information about the prospective candidates' interests in Wake Forest. Approximately thirty applications have been received in this way. A substantial number of applications have also been received from alumni. Other sources have been students and faculty of the Law School as well as local members of the bar. Women and prominent members of the legal profession in North Carolina are among the applicants. Professor Shores



commented, "My personal feeling is that we have some very promising prospects at this time."

The third stage of the search involves personal interviews with a select number of candidates. The Search Committee met on November 4 to decide whether to invite one or more of the present candidates for interviews, or to extend the search for applicants beyond the November 1 deadline originally established. During an interview, the candidate meets with the committee, the faculty and administrators of the Law School, and University administrators.

Finally, the Search Committee hopes to settle on three candidates to recommend to the Board of Trustees at its December 8 meeting. The Board will consider the committee's recommendations in conjunction with the approval of President Scales and the Law School faculty in coming to its decision. The *Jurist* extends best wishes to all those involved in the search for a new dean and hopes the person chosen to fill this important position will prove a great success for the Wake Forest School of Law.



ELVA JESS

This summer, the Wake Forest School of Law welcomed the return of an alumna, Elva L. Jess, as its new Assistant Dean.

Originally from Kensington, Maryland, Ms. Jess came to North Carolina to attend Methodist College in Fayetteville and graduated *cum laude* in 1971 with a B.A. in history. She later came to Wake Forest Law School and received her J.D. in 1976. As a student, Ms. Jess participated in the Moot Court, serving as an Associate Justice in charge of the Practice Court Program. She was selected as a member of the Order of the Barristers, an award for honor in appellate advocacy.

After graduation, Ms. Jess worked for two years as an associate in trial practice with Ray Walton of Southport, N.C. When Professor Herring resigned as Assistant Dean last year to devote full time to teaching, former Dean Bowman offered the position to Ms. Jess. She assumed her responsibilities on July 1st of this year.

As Assistant Dean, Ms. Jess handles everything from lightbulbs and typewriter ribbons to recruiting prospective students for the Law School. Some of her many activities include acting as the administration's representative to various student organizations, supervising secretaries for the faculty, and acquiring equipment, furnishings, and supplies. She is working closely with the Office of Development and enjoys the contact with alumni this provides. This fall, Ms. Jess has also been involved with Moot Court's Judge Edwin M. Stanley Competition.

For recreation, Ms. Jess enjoys all kinds of sports. She plays tennis, golf, softball, and hopes to learn racquet ball. She enjoys the dubious honor of having been the player-coach for the faculty team in this fall's softball tournament. (They lost.) In addition to all of her professional and recreational activities, Ms. Jess still finds time to pursue a master's degree in history here at Wake Forest. Her thesis is concerned with blockade strategies and techniques during the Civil War.

KATHERINE MILLER

The Law School is proud to welcome to the faculty Ms. Katherine Miller. Ms. Miller came to North Carolina as an undergraduate at Wake Forest. She earned her B.A. in History in 1971 and entered Wake Forest Law School. She graduated in 1974.

Prior to joining the faculty this year, Ms. Miller was in private practice with the firm of Womble, Carlyle, Sandridge, and Rice in Winston-Salem. Her duties there primarily included trial practice, medical malpractice, and employee compensation plans. She is currently on a leave of absence from the firm.

This fall, Ms. Miller taught Torts and Trusts. Though both courses have been enjoyable, she feels that Torts has been the more interesting, due to its common law evolution and the enthusiasm of the first year class. She noted that life on the other side of the podium is a bit tougher than she had expected because of the level of preparation required to meet each class.

In observing the changes which have taken place at the Law School since her days as a student, she noted that the most astounding one has been the increase in the number of women in the school. Only seven years ago, she was one of five women in her class and one of thirteen in the entire school. She agrees that most of the changes she sees indicate a continuing trend toward excellence.



Prof. Miller with Halloween gift from her first year Torts class.

THE LAW SCHOOL WELCOMES A NEW LAWYER-IN-RESIDENCE

Samuel G. Wellman is an articulate, mild-mannered gentleman from Cleveland, Ohio, who recently moved to Winston-Salem in retirement and came carrying thoughts of "doing something" with Wake Forest School of Law. Armed with over forty years of experience in the general practice of law, he now occupies a third floor office as our Lawyer-in-Residence.

Mr. Wellman is a University of Michigan graduate. He received his A.B. in 1932 and his law degree in 1934. While attending the law school, he worked as a student editor of the *Michigan Law Review*. Upon graduation, he became an associate of the fifty-member Cleveland law firm of Hahn, Loeser, Freedheim, Dean and Wellman, and remained an active partner until his recent retirement. Engaged in a general practice, Mr. Wellman's principal areas of concentration included real estate, corporations, estate planning, probate, real property taxation, and anti-trust. As a member of a large firm, he also had frequent contacts with security law, administrative law, mortgages, landlord-tenant, trusts, agency and partnership, guardianship, domestic relations, estate and gift taxation, sales and use taxation, and unfair competition.

While here at the Law School, Mr. Wellman principally looks toward building on this past experience, to use what he knows in whatever way it can "be helpful to the students and the faculty." His primary function is to remain available to the students for discussion of concerns, legal or otherwise. He sees his role as one requiring flexibility and has already found novel ways of applying his practical knowledge. Thus far, his efforts have centered around developing a kinship with the law faculty and the more organized activities of the school. He is involved in recruiting speakers for the Spring Speaker's Program. He sat as a judge in the Moot Court preliminaries and reviewed Stanley Cup briefs.

The *Jurist* is pleased to welcome Mr. Wellman to the Law School.

FACULTY RECRUITMENT 1979-1980

The American Bar Association has recently published a proposed rule which states that a student-faculty ratio

of 20 to 1 or less is excellent and that a ratio of 30 to 1 or more is unsatisfactory. Four hundred seventy-five students were attending class at Wake Forest University School of Law on October 1, 1978. By the ABA standard, a *minimum* of seventeen full-time teachers should be employed. Unfortunately, the faculty experienced the unexpected loss of six members during the spring semester and summer of 1978, too late to find adequate replacements for the 1978-79 academic year. Therefore, only sixteen teachers comprise the faculty at present, and two of them, the Acting Dean and the Director of Library Services, are teaching half time. The School's present faculty of fifteen equivalent full-time teachers is two less than the minimum which the ABA proposes for accredited law schools.

Professor Hugh Divine is expected to retire at the end of this academic year. Hence, if the faculty is to meet the minimum ABA proposed requirements for the 1979-80 academic year, at least three full-time teachers must be recruited before classes begin in August. However, if Wake Forest is to recruit and retain ambitious, creative, competent, and dedicated faculty to carry on the tradition of strong teaching, clearly the student-faculty ratio should be substantially less than the maximum of 30 to 1 prescribed by the ABA. Accordingly, the Board of Visitors has recommended that a total of seven new full-time teachers be recruited as soon as practicable. The Board of Visitors has also recommended that the salaries of full professors be made more competitive with those paid by other law schools in North Carolina and elsewhere in the Southeast.

Law school teaching demands keenness of mind, devotion to the ideal of the profession, dedication to the art of teaching, and of course, a solid grasp of the law. The recruitment of qualified law teachers is a competition between the Wake Forest University School of Law on one side, and government, the practicing profession, and other law schools on the other. The Faculty Recruitment Committee, consisting of Professors Lauerman, Shores, Billings, and Covington, will search for teachers who are worthy to teach at Wake Forest. The school, the faculty, and above all, the students, deserve as many highly qualified law teachers as can be supported. The Faculty Recruitment Committee will not settle for less.





1979 S.B.A.-Jurist Outstanding Alumnus Award

The 1978 Student Bar Association—*Jurist* Outstanding Alumnus Award was presented to the Honorable Hamilton Hobgood on April 8, 1978. Judge Hobgood, a Superior Court Judge for the Ninth Judicial District, has devoted a lifetime to distinguished public service. The *Jurist* would like to extend to the alumni the opportunity to nominate candidates for the 1979 award of this honor. Without such input, outstanding graduates like Judge Hobgood might go unrecognized by their fellow alumni.

Factors which should be considered in nominating candidates for the Outstanding Alumnus Award are:

1. Standard of excellence throughout the nominee's career, though not necessarily just the legal career.
2. Service to Wake Forest University School of Law.
3. Service to the community, the state, and the nation, and
4. General good character.

The award will be presented at the Law Day Banquet in April. As usual, the *Jurist* will include in its spring issue an article on the recipient of the award.

Recipients of the award in the past have been truly outstanding members of the alumni. Along with Judge Hobgood, they have included the following:

Basil M. Watkins	R.P. Burns
Judge J.J. Hayes	G. C. Carswell
J.F. Hoge	Judge Edwin M. Stanley
James W. Mason	Judge John D. Larkins
Dr. Norman A. Wiggins	Judge Walter J. Bone
Justice Joseph Branch	Dean Carroll W. Weathers
Senator Robert B. Morgan	Justice David Britt
Judge Woodrow Jones	Ralph James Scott

The Student Bar Association and the *Jurist* hope that the alumni will again aid us in the selection of this year's Outstanding Alumnus. All nominations should be submitted to the nominating committee by March 1, 1979. Please include a brief description of the individual's qualifications and submit it to: The *Jurist*, Wake Forest University School of Law, Post Office Box 7206, Winston-Salem, North Carolina 27106.

NATIONAL TRIAL COURT COMPETITION

Wake Forest Law School has entered its first team in the 1979 National Trial Competition which is sponsored annually by the Texas Young Lawyers Association, and involves law schools across the country. Regional competition rounds are held at various law schools, and the final round will be held in Houston, Texas between February 28 and March 1, 1979.

The case for competition is a federal criminal prosecution for conspiracy to harbor a fugitive and bribe a public official. Each round of competition is similar to the trials conducted in the trial advocacy courses taught at Wake Forest by Professors Corbett, Billings, and Taylor. Trials are confined to opening statements, the presentation of evidence, and closing arguments. The courts are presided over by state and federal judges as well as practicing attorneys. Winners advance according to a single-elimination format.

The Wake Forest team includes Mary Root, John Ross, David Tamer, and Tom Ferrell. Professors Corbett, Billings, and Taylor are acting as advisors. The competition offers excellent opportunities to develop trial advocacy skills and test those skills against teams from law schools across the country.

THE STUDENT TRIAL BAR

In response to recent attacks upon the legal profes-

sion for not properly preparing attorneys to do trial work, and upon law schools for not teaching students practical skills, a group of law students interested in litigation have formed a Student Trial Bar.

The stated purpose of the Student Trial Bar (STB) is "to promote trial advocacy skills through the education, observation, and participation of interested second and third year students." In this regard, it is designed as a supplement to the Trial Court Course, the Moot Court Board, and other advocacy programs at the Law School. The STB is a vehicle by which students interested in trial work can increase their knowledge and skills in this area.

Besides the day-to-day activities, there is tentatively scheduled for late January a District Court Day and video-tape presentation. During District Court Day, members and candidates will learn the mechanics of presenting a case in a State District Court by trying mock cases before a District Court judge (yet to be chosen) here at the Law School. Also, a presentation of a series of Irving Younger tapes is planned for the second semester this year.

Although the STB is only in its formative stage, students working in it are optimistic about its future. At the present time, approximately fifty students have indicated an interest in participating. The founders are confident that the Student Trial Bar will fulfill the important need for developing trial skills.



MOOT COURT BOARD

The Moot Court Board began the 1978-79 school year faced with the challenge of surpassing the outstanding achievements of last year's Board. Results from competitions held last spring are quite impressive. Wake Forest teams took first place in two competitions, and finished in the top twenty-five percent in every competition entered. The team of Debbie Bost and Morris Caddell narrowly missed another first-place finish after reaching the final round of the Mugel Tax Competition held last April in Buffalo. This outstanding record is a tribute to years of hard work by past and present Board members and faculty advisors.

In the National Competition this fall, Board members Debbie Bost, Kent Brown, Nita de Roos, Dorian Gunter, and David Boone represented Wake Forest in the regional round. The teams traveled to Richmond in October for oral argument, accompanied by team advisor Ken Zick. The problem for the competition this year concerned the promulgation of an FTC trade regulation restricting the televised advertising of sugared products directed to children.

Teams have been selected for the Kaufman Moot Court Competition and the Jessup International Law Competition to be held in the spring. Kim Bauman, Lynn Burseson, Bob Crumley, and Stuart Markman will brief and argue an international law problem which was distributed late this semester. In April, Sam Behrends and Marc Sandman will travel to New York to represent Wake Forest in the Kaufman Moot Court Competition. The board is fielding its first team in the Kaufman Competition which is sponsored by the Young Lawyer's Committee of the New York City Bar. The problem for the Competition involves tender offers under the Williams Act. The decision to compete in the Kaufman Competition was made after it was learned that the Wagner Labor Law Competition will not be held this year. Selections for the William and Mary Competition, the Craven Competition in Chapel Hill, and the Mugel Tax Competition in Buffalo will be made at the end of this semester.

Within the Law School, the Appellate Moot Court program and the Judge Edwin M. Stanley Competition dominated the Board's fall activities. Wes Agee served as Appellate Moot Court chairman, and Laura Crumpler managed the Stanley Competition. Interest in the Stanley Competition was at an all-time high, with thirty-six students participating. This year's problem involved an antitrust action by a title insurance company against a state bar association which attempted to restrict the issuance of title opinions by lay employees of the company. As in years past, local attorneys served as judges, and their invaluable assistance assured the success of the Competition. The finals were held November 18

before an outstanding panel of jurists and attorneys, including Judge James B. McMillan, William H. McElwee and David F. Shores. Results of the Competition were: Marc Van Nuys (winner), Marla Tugwell (finalist), Wayland Sermons and Rebecca Helton (semi-finalists).

WAKE FOREST LAW REVIEW

As the *Law Review* begins its fifteenth year, it is appropriate to reflect on its growth. The *Jurist* is a particularly appropriate forum for this reflection because alumni of Wake Forest School of Law, in large measure, are responsible for the success of the *Law Review*.

The *Review* has increased in size from 108 pages and one issue in 1965 to nearly 1200 pages and six issues in 1978. In addition, paid subscribers have increased from under 500 in 1973 to over 1200 in 1978. Growth of the budget was inevitable, and the fiscal management of the *Review* was reformed to keep pace with its growing complexity. As a result, the operation proceeds with much greater efficiency. Though the budget has doubled since 1973, the total number of subscribers has tripled.

The numbers tell only part of the story. Reprint requests and citations are also indicative of the value readers place on the *Review's* research. Student articles have been reprinted in various legal digests and publications throughout the country. Over sixty requests for reprints of two articles have been received this year. Not only is the *Review* being read by its subscribers, it is reaching attorneys all over the country.

This year's Board of Editors renewed the *Law Review's* commitment to serving the North Carolina and Fourth Circuit practitioner. The *Law Review* will increase coverage of North Carolina and relevant Fourth Circuit law. Lead articles, however, present a special problem. The extent to which the *Review* publishes on North Carolina relates directly to the articles received by the *Review*. Unfortunately, the *Review* has received few unsolicited lead articles on North Carolina law.

An analysis of the new Trial Stage and Appellate Procedure Act in Chapter 15A of the North Carolina General Statutes is the subject of the *Law Review's* October issue. Articles by Leon Corbett and Rhoda Billings of the Wake Forest faculty, Allen Baily, Sidney Eagles, and co-authors James Van Camp and Douglas Gill give the insider's view of the Criminal Code Commission. Continuing development of the *Law Review* requires similar support from alumni and friends. With support, the *Wake Forest Law Review* will continue to prosper and remain a source of pride for all alumni of the Wake Forest School of Law.

SBA

Although a financial crisis has precipitated "belt-tightening" measures, this year's SBA has instituted three new programs: the semi-annual book sale, a Noonday Speakers Program, and a motion picture series.

Tom Pittman successfully directed the Book Sale held at the beginning of the semester. The sale grossed \$2800, and contributed \$176 profit to the SBA. The next sale will take place in January, 1979.

The Noonday Speakers Program has brought a number of interesting and informative speakers to the school. Among the fall speakers were John Mackovic, Wake Forest football coach; Steve Neal, Fifth District Congressman; Donald Tisdale, District Attorney for the Fourth Judicial District; and Dr. Mark Corts, President of the North Carolina Baptist State Convention. The SBA hopes to continue this highly successful program in the Spring.

A unique program which the SBA has instituted is the motion picture series, which shows full-length films depicting the lives of attorneys as seen through the eyes of Hollywood. The series serves as an entertaining break from studies, but it also enables students to gain insight into the way society perceives the legal profession.

Other SBA projects include work on the honor code, a clinical program, and the 1979 Law Day. Law Day will be held on April 7, 1979, and includes a banquet and a dance. All alumni and students are invited. Through these programs, the SBA hopes to be of continuing service to students, faculty, and alumni of the Law School.



First year SBA representatives pictured above.



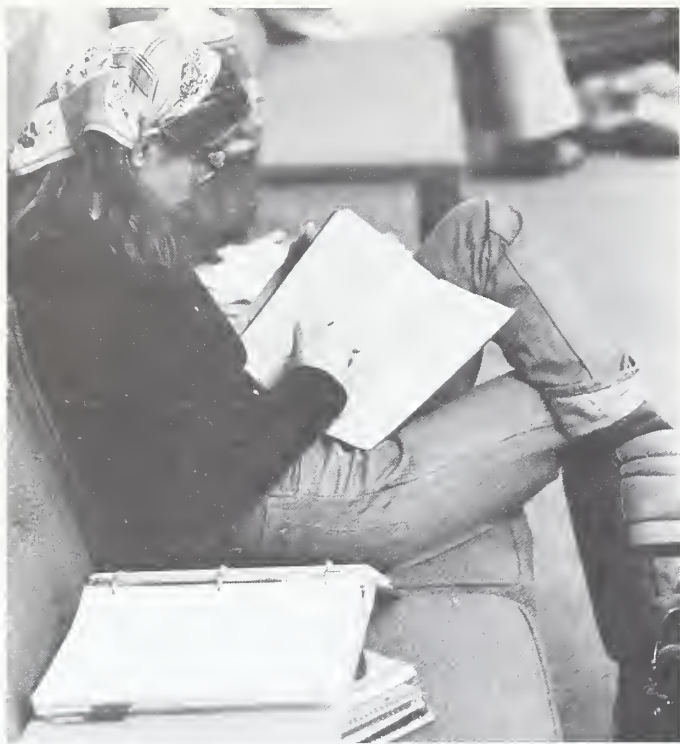
ABA-LSJ

The Law Student Division of the American Bar Association is the student arm of the national professional society. Its purpose is to further academic excellence through participation with the organized bar in efforts to formulate and revise standards of legal education, to achieve awareness and promote the involvement of member students in the solutions to today's problems of a changing society, to become involved with and participate fully in the reaching of goals set by the bar, and to promote professional responsibility. Three national programs sponsored by the Division to realize this purpose are the Howard C. Schwab Memorial Award Essay Contest, the 1979 Insurance Essay Contest, and the 1979 Client Counseling Competition.

The Howard C. Schwab Memorial Award Essay Contest, sponsored by the Family Law Section of the Division, is designed to promote greater interest and expertise in the area of Family Law. All second and third year members may participate. Essay topics may be broad, and length should be around 3,000 words. Cash prizes will be awarded for first place (\$500), second place (\$300), and third place (\$200).

The Insurance, Negligence, and Compensation Law Section is sponsoring the 1979 Insurance Essay Contest for second and third year members. Any subject related to insurance may be the topic of the 10,000 to 12,000 word essay. Cash awards will be given for first place (\$2,000), second place (\$1,000), and third place (\$500).

The annual Client Counseling Competition is designed to provide students with concepts and skills for the human side of the practice of law. It stresses preventative and counseling practice. The participants gain confidence in their ability to leave clients with the conclusion that clients are, personally and professionally, in good hands. The topic is "Legal Malpractice: Yes, No, or Maybe," with teams competing from all ABA-approved law schools. Regional finals are scheduled for March 10, 1979, with the National finals on March 31 and April 1, 1979.



victory this year, and recruits for both teams are being solicited.

HEARSAY

The *Hearsay* has published two issues this fall and anticipates publication of two issues in the spring, despite a considerable reduction in its budget. In order to meet printing costs, first-year student Mike Pratt has assumed the duties of Ads Editor. His efforts have enabled the newspaper to subsidize one-fourth of its own costs, which formerly had been paid entirely by the Student Bar Association. For the spring issues, classified advertisements have been suggested to further defray expenses.

This year's staff includes Sally Foster, Editor; Stephanie Simms, Graphics Editor; Randy James, Photographer; Mike Pratt, Ads Editor; Anna Wilson, Joe Root, Al Kwasiipui, Michael Logan, Deborah Glass, and Sam Behrends.

WOMEN-IN-LAW

Early in the fall semester, Women-in-Law held an orientation meeting to familiarize students and prospective members with their goals and functions. The meeting was well-attended, and plans for the year's activities were discussed. Those present expressed interest in many areas, among them assistance to the local Women's Crisis Center and speaking at area high schools on subjects related to women and the law.

On September 17, WIL held its traditional Fall Potluck Supper for students, faculty, and staff. This year, the Supper was given in honor of the Law School's three new assistant deans—Elva Jess, Laura Myers, and Jeanne Wilson. In spite of the Student Bar Association's decision not to fund student organizations, the Women-in-Law Speakers' Program continues to thrive. On September 21, the organization was honored with a visit from Dr. Pauli Murray, renowned feminist, civil rights' activist, lawyer, teacher, and priest. The spring semester promises additional high calibre speakers.

Women-in-Law was well-represented at the fall meeting of the North Carolina Association of Women Attorneys, which was held in Greensboro November 10-11. A number of the members were present for the founding of this organization last spring, and each of them looks forward to a continuing relationship with this organization.

As the basketball season approaches, Women-in-Law prepares for the second annual WIL-faculty basketball game, to be played in February. They look for a big





BALSA

The Black American Law Student Association (BALSA), Wake Forest Chapter, arranged a schedule of events aimed at increasing the minority enrollment at the Law School and promoting a more positive attitude toward the Law School within the Black community. Also, BALSA worked in conjunction with the University's newly-created Office of Minority Affairs to provide a forum for interaction among all minority graduate and professional students enrolled at Wake Forest.

In cooperation with the Law School Admissions Office and the Faculty Recruitment Committee, BALSA members participated in Career Day activities at predominantly Black colleges and universities throughout the Southeast. Recruitment was aimed at Black and Native American students and has produced concrete results in applications from minority students who would not have otherwise applied to Wake Forest.

Plans were also made to schedule events in which members of the Black legal community (in particular, alumni of Wake Forest) could interact with students presently enrolled in the Law School. These events were designed for full student body participation. The first activity under this new program was a reception held in November for Black members of the local bar.

Last year the Wake Forest BALSA Chapter effectively sought to strengthen BALSA ties, both regional and national. Sam Feemster was appointed to a representative position in the Student Division of the North Carolina Association of Black Lawyers. Members have made plans to attend activities sponsored by BALSA chapters at other law schools and to participate in the North Carolina Association of Black Lawyers meeting, which will be held at the Benton Convention Center early next year.

Membership in BALSA remains open to all Wake Forest law students.

ENVIRONMENTAL LAW SOCIETY

The Environmental Law Society is a group of law students organized to encourage research into the unique and interesting areas of environmental law. The Society sponsors activities for members and non-members to promote this end.

Last Spring, the Society's major accomplishment was its co-sponsorship of the Energy Symposium held on campus. The symposium was designed to examine in realistic terms our present energy sources and needs as well as future alternatives. The program attracted such notable speakers as William B. Schulz, who presented a lecture on the Price Anderson Supreme Court case, and Congressman Steve Neal, who reported on pending energy legislation.

This Fall, two members of the Society, Chuck White and Jay Corpening, have completed articles for publication concerning the Public Trust Doctrine. Also, in October, several members of the group organized a field trip to Linville Gorge.

The Society is open to anyone interested either in research into environmental law, or simply in enjoying the environment.





PHI DELTA PHI

Within the hallowed halls of the Law School, the term "triple figures" generally denotes a less than stellar class rank. However, the term was descriptive of a more pleasant distinction for Phi Delta Phi during the fall, for it signified the decision of more than one hundred students to pledge the fraternity as new members. Since total membership now exceeds one hundred and fifty, the dues war chest should even withstand the deficit spending philosophy of the present officers.

The fraternity seeks to provide an attractive social program to counterbalance the rigors of the academic scene. "Attitude Adjustment Seminars" were held at the Philosopher's Club, Regency Lounge, Safari Room, Sherwood Clubhouse, and Graylyn Stables.

While part of the fraternity's efforts will now focus upon administering the loan and scholarship programs, the social calendar should remain crowded. Current plans call for a semi-formal dance, a chartered bus trip to Charlotte on the first day of liquor-by-the-drink, and a response to the fevered cry of "Toga-Toga-Toga."

UPDATE: PHI ALPHA DELTA

The Timberlake Chapter of Phi Alpha Delta is enjoying another successful year. A wide range of social activities, including a pre-game cookout, a wine and cheese party, a cocktail party with Salem College, and numerous beer blasts have highlighted the fall. Among the events planned for the future are a hayride, a Spring Cookout with a live band, a pizza party, and the annual Spring Banquet.

Sports director Ed Bunch is coordinating a complete intramural sports program with P.A.D. teams competing in football, volleyball, soccer, basketball, and softball. Professional activities director Doug Powell has planned

a full schedule of speakers and programs such as the Police Ride Program, the Courtroom Observation Program, and the Radio Spot Program.

Officers for the 1978-79 year are Mickey McLean (Justice), Tom Ainsworth (Vice-Justice), Ann Heffelfinger (Clerk), Dan McIntyre (Treasurer), and Thomas Stamps (Marshal). Twenty-five new members will be initiated into the fraternity in ceremonies planned for later in the semester.

Alumni are always encouraged to participate in the Chapter's social activities, especially the Spring Banquet. The Chapter is again fortunate to have the help and advice of James L. Cole, a Winston-Salem attorney, as its Alumni Advisor. Through his help, the Chapter has been able to coordinate programs and events with alumni. Phi Alpha Delta is proud to continue in the tradition of service to the student, the Law School, and the profession.

CARILLON DEDICATED

The Janet Jeffrey Carlile Harris Carillon was dedicated on November 4 on the Wake Forest campus. The carillon was given to the University by Charles Upchurch Harris in honor of his wife, Janet Jeffrey Carlile Harris. Dr. Harris is originally from Raleigh and graduated from Wake Forest College. He is currently president of Bloy Episcopal School of Theology in Claremont, California. He is also president of the *Anglican Theological Review* and is honorary canon of St. James Cathedral in Chicago.

The carillon has forty-seven bronze bells, weighing a total of 22,142 pounds. The largest single bell weighs almost 4,400 pounds. The inaugural recitalist for the carillon was James R. Lawson, carillonneur at the Riverside Church in New York City which has the world's largest carillon.

ADMISSIONS

In the Spring of 1978, Mrs. Jeanne Wilson was named Assistant to the Dean for Admissions and Financial Aid. Mrs. Wilson came to the Law School five years ago and holds a degree in political science from Oklahoma State University. She finds that admissions work continues to be a most challenging and interesting part of her work.

Applications were down in 1978 from the 1977 total of 1400, and applications for the 1979 class are down for the first month's records. However, the quality of applicants continues to rise. The median scores for the 1978 class are 3.2 GPA and 630 LSAT, compared with the 1974 medians of 3.0 and 590. Another change in admissions is the increase in the number of women applying and being accepted for the study of law. The number of women in the first year class exceeds the entire female population of the Law School in 1973. Married couples with both husband and wife in law school are not uncommon. Ages range from 20 to 53 in the first year class. North Carolinians still comprise a substantial majority of our students (the highest ratio of any segment of the University) but, as in years past, the Law School attracts a substantial number of fine students from other states. An effort is made to attract students from other states in order to bring together a group of students who are not only well qualified, but also contribute a diversity of background and experience.

Recruiting has become an important aspect of admissions. Faculty, staff, and students have cooperated in an effort to attract the most qualified applicants. Future plans include an emphasis on personal contacts between students presently in the Law School and acquaintances at their undergraduate institutions who may be interested in attending Wake Forest. It has been our experience that such personal contact can be the deciding factor in a student's choice of law schools.

As the quantity of applications declines, the competition for qualified students has become tighter. A sobering article in the Emory Law School newspaper reported that their first year class has 28 empty seats. Southern Methodist University had a similar experience two years ago with 20 empty seats. The smaller private law schools are feeling the pinch first for it is difficult to compete with institutions whose tuition costs are \$700 to \$800 per year.

PLACEMENT

The Law School Placement Office, consisting of the newly appointed Director of Placement, Laura Myers, and a secretary, Lois Mende, expends considerable time and effort in assisting law students seeking employment. Supplementing this effort are the dean, assistant deans, and faculty members who, through their contact with alumni, North Carolina and out-of-state law firms, businesses, and governmental agencies, provide information regarding many employment opportunities.

The services of the Placement Office are available to second and third year students, as well as to graduates of the Law School seeking permanent employment, clerkships, part-time work and summer employment. Primarily, the Placement Office operates as a clearing house—that is, it receives notices of employment opportunities, collects resumes from interested students and graduates, and arranges on-campus and off-campus interviews. In addition, the Law School, through the Placement Office, publishes a brochure of members of the third year class. A biographical sketch and photograph of each student is included in the brochure, which is mailed to all North Carolina law firms and to alumni of the Law School not residing in the state.

In an effort to insure that students make effective use of the opportunities available, the Placement Office has sponsored workshops in resume preparation and interview techniques. Judicial clerkship seminars for those interested in employment in that area have also been offered.

The Placement Office also follows up on the employment of recent graduates. As of September, 1978, 89% of the 1978 graduating class reporting were employed: 55% with law firms, 9% with federal, state, or local governmental agencies, 7.9% with banks and corporations, and 8.7% with judicial clerkships. Eight percent of the graduates opened their own law practice, including three who opened a tax planning and consulting firm. A few graduates pursued additional graduate studies while others entered teaching, the military, or joined legal aid staffs. This variety in employment placement finds members of the Class of 1978 in nineteen different states and the District of Columbia.



Jim Cooley, Sid Eagles, and Ben White at Stanley semi-finals.



Dean Webster ('81) and A.J. Fletcher ('11)



*Don and Meyressa ('68) Schoonmaker,
Gene McElroy ('62)*

Lawyers Alumni Homecoming



*President Scales, Chesterfield Smith, Dean Corbett ('61), Justice
Branch ('38)*



Keith ('57) and Peggy ('78) Sharpe, Dona Bass ('78) and Jim Perry.

1978



Chesterfield Smith, immediate past president of the ABA



Professor Covington and Marian Parker ('78)

RECENT U.S. SUPREME COURT CASES ON FIRE AND CRIME SCENE SEARCHES

I.

The fourth amendment to the United States Constitution prohibits all unreasonable searches and seizures.¹ A basic principle in interpreting the fourth amendment is that searches and seizures outside the judicial process are *per se* unreasonable.² Despite the presumption that warrantless searches are unreasonable, a few specifically established and narrowly defined exceptions have emerged under the heading of “emergency searches.” The exceptions to the search warrant requirements share a common justification—an emergency, a situation that demands an immediate response. Thus a policeman may make a warrantless entry into a house when he is in “hot pursuit” of a criminal suspect.³ Similarly, a policeman may make a warrantless and unannounced entry to prevent the imminent destruction of evidence.⁴

In its recent term, the United States Supreme Court handed down two decisions⁵ that clarify the concept of emergency searches as well as narrow the lawful scope of such activities.

II.

Michigan v. Tyler arose out of a fire at a furniture store owned by defendant Loren Tyler. While firemen were still fighting the blaze, the local fire chief and a line officer entered the building and began looking for evidence of the cause of the fire. They found two containers of flammable liquid. In the hours following this initial entry, several additional entries were made for the express purpose of determining the fire’s origin. In the course of these entries, additional evidence of arson, including evidence suggestive of a fuse trail, was uncovered. Several weeks after the fire, an arson investigator from the Michigan State Police inspected the building a number of times. His efforts uncovered further evidence of arson. Neither consent nor warrants were ever obtained.

Tyler was found guilty of conspiring to burn real property, burning real property, and burning insured property with intent to defraud.

In an opinion written by Mr. Justice Stewart, the U.S. Supreme Court ruled that the entries and seizures made at the initial inspection and four hours later to determine the fire’s cause were lawful, but those that were made several weeks after the fire by the arson investigator from the Michigan State Police were unlawful.

Tyler establishes a general rule that official entries to investigate the cause of a fire must adhere to the warrant requirements of the fourth amendment.⁶ Because an investigator is a fireman rather than a policeman reduces neither a person’s reasonable expectations of privacy

nor the protection of the fourth amendment.⁷ But this general rule is subject to a number of exceptions.

The Court observed that a burning building presents a sufficient emergency to justify a warrantless entry by firemen to fight a fire.⁸ Such a situation fits very closely the traditional justification for emergency searches—a situation that demands an immediate response. The response must be immediate because not only is the property of the person whose privacy is intruded upon threatened, but also the property, and perhaps the lives, of others are jeopardized by the fire. Before a warrant could be obtained to fight the fire, the fire would probably have spread.

A fireman’s authority to be on the premises of a burning building does not end when the fire is out. His authority to remain on the scene after a fire has been extinguished is grounded on two bases. The first basis is derived from firemen’s authority to enter a burning building to fight a fire. Though the fire might be over, the prompt determination of its origin is often necessary to prevent its recurrence. Immediate action may also be necessary to preserve evidence from intentional or accidental destruction. Therefore, the Court reasoned, firemen do not need a warrant to remain in a building for a reasonable time after a fire has been put out to investigate its cause.⁹ It should be noted that the firemen who investigated the fire in *Tyler* had to halt their investigation because of darkness, smoke, and steam which hampered visibility; the court ruled that their warrantless search when they returned four hours later was no more than a continuation of the initial search.

The Court did not put any precise boundaries on what length of time it deemed to be “reasonable.” It did, however, provide some guidelines that will help to determine whether the time that fire investigators remain on the premises is reasonable. The Court observed that a fire in a single-family dwelling that is put out at an identifiable time presents fewer problems of investigation and containment than does a fire that spreads through an apartment complex or engulfs a number of buildings.¹⁰ In the latter, firemen may have to remain on the scene for a long time, repeatedly entering or re-entering the buildings to insure that the fire is out. Another factor that serves to determine the reasonableness of the firemen’s extended stay is the reasonable expectation of privacy of the people who are affected by the fire investigators’ presence. A person’s reasonable expectations of privacy are less if the structure has been destroyed by fire than if only one or two rooms have been damaged. In the first example, the presence of fire investigators to insure that the fire is out works no greater disruption of routine than has already been caused by the fire. Therefore, it can be argued that the length of time that firemen may remain on the scene checking to see that the fire is out and has not spread is longer in the first example than in the second.

The second basis for firemen’s authority to remain

on the scene after a fire has been put out is grounded not on the emergency that was presented by the fire itself but on statutory grants of power to investigate the cause of the fire.¹¹ If a fireman wishes to go beyond his initial investigation he must secure a warrant.¹² The kind of warrant he will need depends on the purpose of the investigation.

Administrative Inspection Warrants. If the fire's cause is unknown and the purpose of the investigation is to determine the cause, he will need an administrative inspection warrant.¹³ The authority to determine the origin of a fire could be based on a local ordinance or on a state statute.¹⁴ In North Carolina, the municipal fire chief, the sheriff, and the chief of a rural fire department are authorized to investigate the cause, origin, and circumstances of each fire in which property is destroyed.¹⁵

To obtain an administrative inspection warrant, a fireman must show that (a) the property is to be searched as part of a legally authorized program of inspection that naturally included that property, or (b) there is probable cause to believe that a condition, object, activity, or circumstance exists in reference to it that legally justifies the search.¹⁶ Probable cause in the criminal law sense is not required.¹⁷ An administrative inspection warrant, therefore, could be issued if it is shown that a fire occurred that destroyed property and firemen need to enter and search the premises to determine what caused the fire.¹⁸

Search Warrants. If the fireman is seeking evidence to be used in a criminal prosecution, he must secure a search warrant.¹⁹ To do so, he must show that there is probable cause to believe that a crime was committed.²⁰ Probable cause means that if the statement in the application were told to a person unfamiliar with the case, he would agree that it is more likely than not that a crime was committed and that evidence is sought that will be found in the place to be searched.²¹

Both search warrants and administrative inspection warrants must describe the evidence sought²² and the place to be searched²³ with reasonable particularity. The description of the evidence may be less precise than the description of the place that is to be searched.²⁴ Since the standard of probable cause for search warrants is more demanding than the standard for an administrative inspection warrant, the evidence sought under the search warrant should be described more precisely than evidence sought under an administrative inspection warrant.

III.

Mincey v. Arizona arose from a raid on the apartment of a suspected narcotics dealer. An undercover police officer had allegedly arranged to purchase heroin from the defendant, Rufus Mincey. The officer left after arranging the deal, ostensibly to get the money. He

returned, accompanied by nine other policemen and an assistant district attorney. When the door was opened, the undercover agent slipped inside, but the door was slammed shut before the other policemen could enter. As they forced open the door, a volley of shots came from a back bedroom. The undercover officer emerged from the room and collapsed on the floor. When the other officers entered the room, they found the defendant on the floor, wounded and semiconscious. The officer died a few hours later.

While they were on the scene, the narcotics agents administered first aid to the officer and looked for other victims. They made no further investigation. Shortly thereafter, homicide detectives arrived to take charge of the investigation. They conducted a four-day search. The entire apartment was searched, photographed, and diagrammed. Drawers, closets, and cupboards were opened and their contents inspected. Clothing pockets were emptied. Bullet fragments were dug out of the walls and floors. Sections of the carpet were pulled up and removed for examination. Some two or three hundred items were seized. No warrant was ever obtained. Mincey was convicted of murder, assault, and narcotics offenses.

Before *Mincey*, seven states²⁵ had held that the constitutional requirements of a search warrant may be set aside for a search of a scene where there is a homicide or a personal injury with the likelihood of death in which foul play may be reasonably suspected. Under the "murder scene" exception, the search so justified was limited to determining the circumstances of the death or injury.²⁶ The search had also to begin within a reasonable time after officials learned of the homicide or injury.²⁷

In an opinion delivered by Mr. Justice Stewart, the Supreme Court in *Mincey* held that the "murder scene" exception to the warrant requirement was unconstitutional. This exception was premised on the idea that a homicide or potential homicide is an emergency, a situation that demands an immediate response.²⁸ The Court disagreed, noting that a warrantless search must be strictly limited by the unusual circumstances that justify the intrusion.²⁹ It observed that in *Mincey* the search was not justified by an emergency that threatened life or limb.³⁰ In fact, all of the victims had been found by police before the homicide detectives arrived and began their search.

Under the threat to life or limb justification, the Court held the fourth amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within the entered premises needs immediate aid.³¹ In particular, when police come to the scene of a homicide, they may make a prompt warrantless search of the area to see whether there are any other victims or whether the killer is still present.³² The need to protect life or prevent serious injury justifies what would otherwise be illegal, absent the emergency.³³

The rule that the Supreme Court laid down has two apparent limitations. First, the warrantless search of the scene of a homicide must be prompt. Second, the purpose of the search is to determine whether there are any other victims or whether the killer is still on the premises. The purpose is not to obtain evidence. Police can conduct a "walk-through" of each room to look for victims or suspects and check under beds and in closets. A garage or similar outbuilding within the same yard may also be searched. In short, police may search wherever they reasonably think a victim or suspect may be found.

The Court did not directly address the issue or whether police may search cupboards and drawers. The justification that the Court used to support a warrantless search of the scene of a homicide or serious injury was the need to protect life or limb; a warrantless search must be strictly limited by its justification.³⁴ Therefore, any search of cupboards and drawers must be limited to that which is necessary to protect life or limb.³⁵ If a suspect is found on the premises and arrested, drawers and cupboards that are within his immediate control may be searched for weapons.³⁶ But there is no general authority to search drawers, cupboards, or other closed or concealed areas for weapons without a warrant.³⁷

If the circumstances are such as to constitute probable cause, police may secure the scene of a homicide pending the issuance of a search warrant after making an emergency search to find other victims or the killer.³⁸

What can be sought under the search warrant will depend on the facts as the police find them when they arrive on the scene and conduct an emergency search. Bullet wounds and knife slashes provide clear evidence of the cause of death, but without further investigation, the particular instrument that caused death may not be known. Certainly, in an application for a search warrant, the more definite the description of the object, the better the application. But, if the condition of the body indicates that death was caused by a pistol or by a small bladed knife, a description of the weapon no more detailed than that ought to be sufficient, because, even though a crime is evident, it is often impossible to know precisely what objects were used to commit it.³⁹

Despite the restrictiveness of *Tyler* and *Mincey*, a warrantless search of the scene of a crime may be conducted if consent is obtained from those persons who have a recognized privacy interest.⁴⁰ Therefore, the husband of a murdered woman could give effective consent to a search of their home, but not to a search of the room of a boarder he and his wife had taken in.

Even if a warrantless search is conducted unlawfully, a criminal suspect has no standing to challenge the admissibility of any evidence obtained in the search unless he has a recognized privacy interest that has been violated.⁴¹ Thus a defendant charged with arson would have no standing to object to an illegal warrantless search of a building that he did not own or rent, or in which he had no other recognized privacy interest.

Tyler and *Mincey* limit the permissible scope of emergency searches to situations that clearly demand an immediate response. Such situations include, but are not necessarily limited to, fighting fire and preventing its recurrence, hot pursuit of a suspect, preventing the imminent destruction of evidence, and searching for victims of crimes as well as suspects. Such searches must be conducted as soon as the emergency is discovered, and their scope is limited by its circumstances. Searches that are prolonged or go beyond meeting the immediate need of the emergency are lawful only under a warrant.

Once authorities are on the premises conducting legitimate emergency activities, they may seize any evidence that is in plain view.⁴²

Though *Tyler* and *Mincey* occurred in connection with investigations of arson and murder, respectively, the rules they lay down apply to investigations of other crimes. Such investigations may be conducted without a warrant only to the extent that is required by a legitimate emergency. If no emergency exists, then no warrantless search may be conducted.

David F. Tamer

(The Jurist wishes to thank the Institute of Government for its permission to reprint this article.)

FOOTNOTES

1. "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated...". U.S. Const. amend. IV.

2. *Katz v. United States*, 389 U.S. 347, 357 (1967).

3. *Warden v. Hayden*, 387 U.S. 294 (1967).

4. *Ker v. California*, 374 U.S. 23 (1963).

5. *Mincey v. Arizona*, 23 Cr.L.Rep. 3137 (June 21, 1980); *Michigan v. Tyler*, 23 Cr.L.Rep. 2055 (May 31, 1978).

6. 23 Cr.L.Rep. at 3058.

7. *Id.* at 3057

8. *Id.* at 3058

9. *Id.*

10. *Id.*

11. See generally, N.C. Gen. Stat. §§ 69-1 to -7.1 (Supp. 1977).

12. 23 Cr.L.Rep. at 3058.

13. *Id.*; see also, *See v. Seattle*, 387 U.S. 541 (1967).

14. Cf. *See v. Seattle*, 387 U.S. 541 (1967) (local ordinance authorizing municipal fire inspections).

15. N.C. Gen. Stat. § 69-1 (Supp. 1977).

16. N.C. Gen. Stat. § 15-27.2 (1975). See also, *Camara v. Municipal Court*, 387 U.S. 523, 538 (1967).

17. *Marshall v. Barlow's, Inc.*, 23 Cr.L. Rep. 3020, 3032 (May 24, 1978).

18. 23 Cr.L. Rep. at 3058.
19. Id.
20. Id.
21. M. Crowell, Search Warrants in North Carolina 14 (1976).
22. Id. at 8-9.
23. Id. at 11-13.
24. Id. at 8.
25. State v. Mincey, 115 Ariz. 472, 482, 566 P.2d 273, 283 n. 4 (1977).
26. 115 Ariz. at 482, 566 P.2d at 283.
27. Id.
28. 23 Crim.L.Rep. at 3139.
29. Id. See also, Terry v. Ohio, 392 U.S. 1, 25-26 (1968).
30. 23 Crim.L.Rep. at 3139.
31. Id.
32. Id.
33. Id. citing Wayne v. United States, 115 U.S. App. D.C. 234, 241, 318 F.2d 205, 212 (1965).
34. 23 Cr.L.Rep. at 3139; 392 U.S. at 25-26.
35. Cf. Chimel v. California, 395 U.S. 752, 763 (1969) (warrantless search of house for stolen coins held unlawful).
36. Id.
37. Id.
38. United States v. Picariello, 568 F.2d 222 (1st Cir. 1978).
39. M. Crowell, supra note 22, at 8.
40. United States v. Matlock, 415 U.S. 164 (1974).
41. See, N.C. Gen. Stat. § 15A-972 (1978).
42. Coolidge v. New Hampshire, 403 U.S. 443, 465-66 (1971).



SELF-EXECUTING NATURE OF NORTH CAROLINA'S CONSTITUTIONAL PROVISION FOR ENVIRONMENTAL PROTECTION

In 1972, North Carolina joined ten other states by ratifying a constitutional provision aimed at protecting the State's natural resources.¹ In this article the provision will be summarized and several possibilities of executing its terms without enacting legislation will be explored.

The Provision

Article XIV, Section 5 of the North Carolina Constitution begins with a terse statement of North Carolina's policy with regard to natural resources: "It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all the citizenry..."² This clause is more than an idle statement of what the State "would like." Significant authority is conferred upon a policy statement when it is elevated to constitutional stature. It is from this opening statement that much of the self-executing power of Article XIV, Section 5 is derived.

The remaining parts of the provision empower the state and its political subdivisions to take appropriate action to realize the policy set forth in the opening statement.³ There is a specific provision creating the "State Nature and Historic Preserve."⁴ The General Assembly is directed to acquire land and set it aside, promulgating rules and regulations for its maintenance.⁵ On its face, this section of the provision is not self-executing as it calls for legislative action. Such action cannot be mandated unless specific activities are directed by the terms of the Constitution.⁶ Taken together, however, the elements of Article XIV, Section 5 confer power without specific enabling legislation.

Possibilities for Self-Execution

A constitutional provision is self-executing when no further legislation is required to enforce its terms.⁷ The determination of self-execution is made by considering the instrument and the purposes intended to be served by it.⁸ Under this test, North Carolina's provision cannot be said to be self-executing with respect to individuals. Both parts of the provision specifically refer to the State or its political subdivisions.⁹ Some states have constitutions which confer upon citizens the "right" to a clean and healthy environment.¹⁰ Such a provision might have powerful self-executing implications, but as North Carolina does not have such a provision, consideration of these implications is beyond the scope of this article.

While not self-executing as to the public at large, the policy statement of Article XIV, section 5 will have significant impact upon activities in the state which are governed by rules related to public policy.¹¹ For example, it has been frequently held that contractual provisions in contravention of public policy will not be enforceable.¹² North Carolina's constitutionally mandated public policy of protecting the environment could be invoked by an individual or group to declare unenforceable terms of an environmentally harmful contract.

The constitutional expression of public policy could also be employed as a stepping stone to provide judicial review of administrative decisions. In *Zable v. Tabb*,¹³ the Army Corps of Engineers was required to consider statutorily expressed public policy with regard to environmental protection and conservation before issuing a dredge and fill permit.¹⁴ Such a theory could be applied to require agencies to consider constitutionally-expressed public policy as well.

The general rule for allowing judicial review of administrative agency decision is that the court will not intervene unless it is shown that the agency's decision was "arbitrary or capricious."¹⁵ Many statutes require that certain criteria be considered in reaching administrative decisions.¹⁶ Failure to consider such criteria can result in a judicial determination that the decision was arbitrary or capricious.¹⁷ Under a similar theory, agency decisions, whether or not they are subject to such statutes, may be attacked on the grounds that they failed to take into account the State's policy of protecting its environment. The Constitution would, in effect, add environmental considerations to the "list" of factors administrative agencies must weigh in reaching their decisions.

Article XIV, Section 5 provides another potentially powerful self-executing aspect: the creation of a public trust. The public trust doctrine is well-enunciated in the leading case of *Illinois Central R.R. v. Illinois*.¹⁸ Simply stated, the doctrine is that there are some types of property held by the state "in trust" for its citizens. Such property may not be converted to the detriment of its public use.¹⁹ North Carolina has constitutionally declared that the lands and the waters of the State shall be conserved and protected from pollution "for the benefit of all its citizenry."²⁰ It is difficult to imagine language which creates an interest more public in nature. Thus, the language of the Constitution could be construed as holding in public trust the lands and waters of the State in a pure condition.

The theory of public trust could be employed to influence, if not control, many aspects of environmental legislation and litigation. In *Illinois Central*,²¹ the United States Supreme Court held that a State may not legislate away its police power over navigation on the theory that such power was held in the public trust.²² Such a theory could be applied to inhibit the General Assembly from legislating away its constitutional commitment to preserving the State's natural resources.

Professor H.E. Howard, in examining the Virginia constitutional provision for environmental protection, has suggested several means by which the public trust doctrine could be used to influence legislative actions.²³ He asserts that courts could closely examine state action which limits the use of public resources, subjects them to state authority or subjects them to private interests.²⁴ Such an assertion would hold true in North Carolina as well. The North Carolina Supreme Court has relied upon a public trust theory in ruling that legislation conferring the power of eminent domain must be strictly construed because it is in derogation of the public right.²⁵ Since the constitution creates a public trust for clean land and water, legislation tending to grant

powers in derogation of that trust would also be strictly construed in North Carolina.

In some cases, legislative authority has been delegated to other bodies by the General Assembly. In such cases the courts will tend to require that the bodies affirmatively show their delegated authority to act in derogation of public trust.²⁶ North Carolina has adopted such an approach in cases dealing with delegation of the powers of eminent domain.²⁷ Similar reasoning requires that authority be shown for exercising delegated powers which might infringe upon the public's right to protection from pollution.

Finally, the public trust doctrine would tend to prevent the delegation of powers with potential to violate the public trust.²⁸ Once again, North Carolina courts have exhibited such a hesitancy in dealing with delegation of powers.²⁹

Construction of North Carolina's constitutional provision as relegating the pure lands and waters of the state to the public trust may not cause the courts to prohibit state action potentially detrimental to the environment. The public trust doctrine can, however, allow the courts to strictly scrutinize state action for potentially harmful effect.

Conclusion

North Carolina's constitutional provision for environmental protection is not self-executing with regard to the public at large. An individual or group, however, may derive its benefits without enabling legislation by application of the public policy dictated in the Constitution. The validity of contracts may be cast into doubt for being contrary to public policy. Agency decisions may be questioned. Even construction of legislative enactments may be made more responsive to environmental concerns by application of the public trust doctrine. While North Carolinians are not expressly given a constitutional right to a clean environment, Article XIV, Section 5 provides a powerful tool for environmental protection.

Charles L. White

Footnotes

1. Article XIV § 5 of the North Carolina Constitution reads:

It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve," and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

Other State provisions are:

Fla. Const. art. II, § 7; Ill. Const. art. XI, § 1; Mass. Const. art XLIX. (amended); Mich. Const. art. IV, § 52; Mont. Const. art. IX; N.M. Const. art. XX, § 21; N.Y. Const. art. XIV, § 4; Pa. Const. art. I, § 27; R.I. Const. art. XXXVI, § 17 (amended); Va. Const. art. XI, § 1.

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. See Cooley, *Constitutional Limitations* 165 (8th ed. W. Carrington 1927). See also, *St. Joseph Board of Public Schools v. Patten*, 62 Mo. 444, 448 (1876); *State ex rel Walker v. Board of Commissioners*, 141 Neb. 172, 178-79, 3 N.W.2d 196, 200 (1942); *Person v. State Board of Tax Commissioners*, 184 N.C. 499, 115 S.E. 336 (1922); *Kitchen v. Wood*, 154 N.C. 565, 70 S.E. 995 (1911).

7. A.E. Howard, *State Constitutions and the Environment*, 58 Va. L. Rev. 193, 208 (1972) (hereinafter "Howard").

8. *Kitchin v. Wood*, 154 N.C. 565, 70 S.E. 995 (1911).

9. N.C. Const. art. XIV, § 5.

10. See *Comment*, A Constitutional Right to a Livable Environment in Oregon, 55 Ore. L. Rev. 239 (1976) and citations therein.

11. Howard at 208.

12. See *Standard Fashion Co. v. Grant*, 165 N.C. 453, 81 S.E. 606, writ of error dismissed, 239 U.S. 654 (1915); *Waggoner v. Western Carolina Publishing Co.*, 190 N.C. 829, 130 S.E. 609 (1925); *Cauble v. Trexler*, 227 N.C. 307, 42 S.E.2d 77 (1947); *Glover v. Rowan Mutual Fire Insurance Co.*, 228 N.C. 195, 45 S.E. 2d 45 (1947).

13. 430 F.2d 199 (5th Cir. 1970).

14. *Id.* at 209.

15. *There have been many decisions attempting to determine to what extent the courts may "second guess" an administrative agency decision. This area of law is far from settled, particularly as regards environmental litigation. Generally, the "arbitrary and capricious" standard prevails, however. Vermont Yankee Nuclear Power Co. v. National Resources Defense Council*, 98 S.Ct. 1197 (1978); *Environmental Defense Fund Inc. v. Corps of Engineers*, 470 F.2d 289, (8th Cir. 1972); and *Sierra Club v. Froehke*, 359 F. Supp. 1289 (S.D. Tex. 1973). Compare, *N.L.R.B. v. Hearst Publications*, 322 U.S. 111 (1944).

16. See, for example, the *National Environmental Policy Act of 1969*, 42 U.S.C. §§ 4331-4347 (1976).

17. See cases at note 15/ above.

18. 146 U.S. 387 (1892).

19. For a complete discussion of the doctrine see Sax, *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention*, 68 Mich. L. Rev. 473 (1970).

20. N.C. Const. art. XIV, § 5.

21. 146 U.S. 387 (1892).

22. *Id.*

23. Howard, *supra* note 7, at 223-24.

24. *Id.*

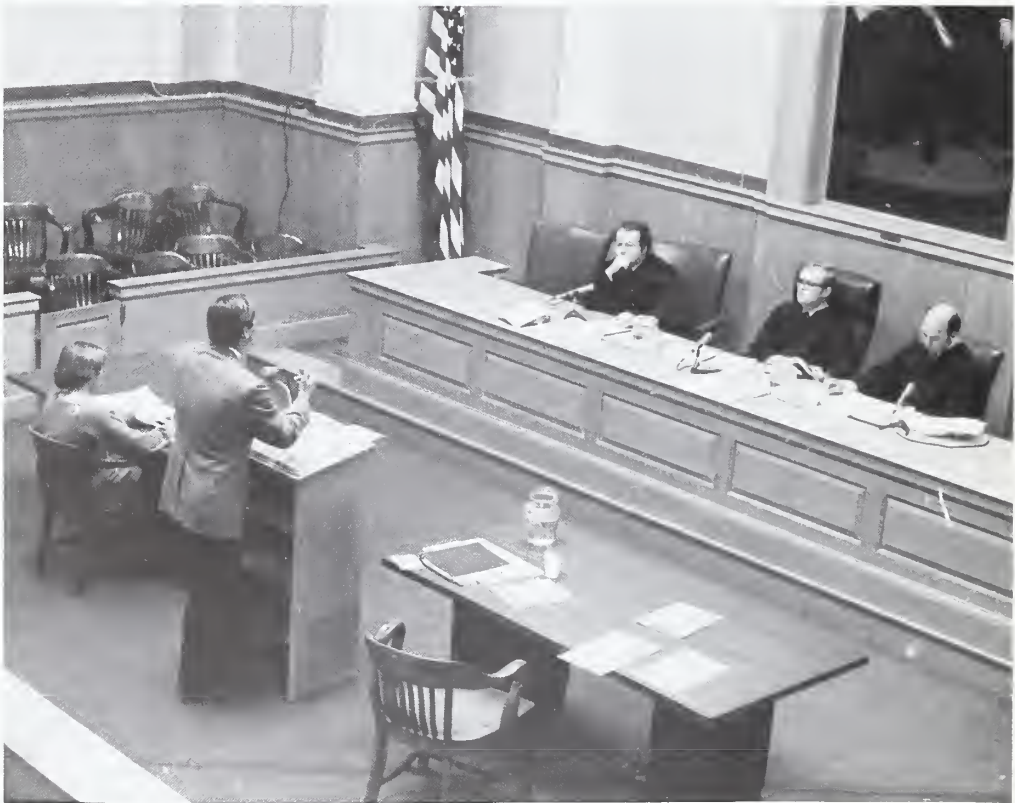
25. *State v. Core Banks Club Properties*, 275 N.C. 328, 167 S.E.2d 385 (1969). See also, *Johnson City Southern Ry. Co. v. South and W.R. Co.*, 148 N.C. 59, 61 S.E. 683 (1908); *City of Charlotte v. McNeely*, 8 N.C. App. 649, 175 S.E.2d 348 (1970); *Greensboro-High Point Airport Authority v. Irvin*, 2 N.C. App. 341, 163 S.E.2d 118 (1968); *Redevelopment Commission of the City of Washington v. Abeyounis*, 1 N.C. App. 270, 161 S.E.2d 191 (1968).

26. Howard, *supra* note 7, at 224.

27. See note 24 *supra*.

28. Howard, *supra* note 7, at 224.

29. See, *Town of Davidson v. Stough*, 258 N.C. 23, 127 S.E.2d 762 (1962); *Town of Mount Olive v. Cowan*, 235 N.C. 259, 69 S.E.2d 525 (1952); *Highway Commission v. Matthis*, 2 N.C. App. 233, 163 S.E.2d 35 (1968).



SENIOR PARTNERS 1977-1978

Half Century

R.H. Ferrell
A.J. Fletcher
Glen E. Henson
Lex Marsh
Gordon B. Rowland
John A. Stevens

1930

William H. McElwee, Jr.
Judge George D. Taylor

1931

James R. Nance, Sr.

1933

Barron K. Grier

1934

C. Woodrow Teague

1936

Robert D. Holleman

1937

H.E. Phillips
J. Max Thomas

1938

Justice Joseph Branch
Judge David M. Britt
Shearon Harris
James W. Mason

1940

Graham S. DeVane
C.W. Everett, Sr.

1942

Porter B. Byrum

1948

Paul B. Bell
Everette C. Carnes
Z. Hardy Rose
Fred D. Turnage
Larry L. Williams

1949

Warren C. Casey
Warren L. Coble
Horace R. Kornegay
E. Murray Tate
Richard A. Williams

1950

A.A. Bailey
Samuel Behrends
Evander M. Britt
Stanley J. Corne
Henry C. Doby, Jr.
Baxter H. Finch
Judge Hiram H. Ward

1951

Harry M. Lee
W. Harold Mitchell
Leroy Robinson
McNeil Watkins

1952

Judge Samuel E. Britt

1953

Marion J. Davis
Lonnie B. Williams

1954

Leslie E. Browder
Everett L. Henry

1955

Wade M. Gallant, Jr.
James E. Johnson, Jr.
Joe Mauney
Frank P. Meadows

1957

M. Alexander Biggs
C. Branson Vickory
Willis E. Murphrey III

1958

Henry G. Barnhill, Jr.
Don Pendleton

1959

J. Marshall Haywood

1960

Kenieth S. Etheridge
George B. Mast

1961

Wiley F. Bowen
James L. Cole
Joe T. Millsaps
Philip B. Whiting

1963

H. Edward Knox
William Sigmon

1964

Bobby G. Martin
Larry B. Siton

1965

Jerry L. Eagle

1966

Paul J. Williams

1967

C.W. Everett, Jr.
Larry H. Pitts
John H. Vernon, III
Charles B. Winberry

1971

William H. McElwee, III

1972

J. Larkin Pahl
J. William Straughan

1977

Victor M. Lefkowitz

Others, Friends and Parents

Jack C.D. Bailey
Mr. & Mrs. Marvin K. Blount, Sr.
James E. Bond
Pasco M. Bowman
E.D. Gaskins
Mr. & Mrs. Howard Gellis
Dr. Nicholas Georgiade
L.D. Long
Edward J. Mack
William L. Mills, Jr.
Dr. James S. Mitchener, Jr.
Leon L. Rice, Jr.
E. Norwood Robinson
H.C. Roemer
R.D. Sanders
Henry Sherrill
William W. Sturges
Peter Van Dyk Berg
T. Eugene Worrell

Corporations

Eaton Corporation
R.J. Reynolds Industries

Foundations and Associations

Forsyth Co. Bar Association
Forsyth Co. Lawyers' Wives Club
North Carolina Bar Foundation
The Rockport Fund

CLASS NOTES

1916

Lee Parker has recently co-authored *China and The Golden Weed*, The Herald Publishing company (Aloskie, N.C.). In his book Mr. Parker, in collaboration with Ruth Duval Jones, shares his memories of the "mystic East" while he was on assignment in China to promote tobacco trade during the years immediately prior to World War I. Mr. Parker currently resides in Raleigh.

1922

James L. Taylor is now retired and living in Raleigh at 1213 Cowper Drive, Raleigh, N.C. 27608, after 35 years of consecutive service with the United States Government.

1953

Brigadier General E.M. Sneed (USA Retired) has recently been appointed Associate Dean and lecturer in law at the University of South Carolina School of Law. Prior to this appointment General Sneed had been a legislative aide to Senator Strom Thurmond.

1964

Cecil P. Merritt has recently formed the partnership of Merritt and Gaylor at 109 N. Williams Street, Goldsboro, N.C. 27530. Mr. Merritt is currently president-elect of the Wayne County Bar Association, and is also president of the Mental Health Association in North Carolina and a member of the North Carolina Mental Health Study Commission.

1966

Maurice Horne is a staff attorney with AT&T, 195 Broadway, New York, N.Y. He, his wife and two sons reside at 163 Ashland Road, Summit, New Jersey 07901.

1972

Edmund T. Urban is Vice President and General Counsel for AMI

Title Insurance Company. Mr. Urban, who is also Secretary of the North Carolina Land Title Association, is married to the former Brenda Amos. They have a two year old son, Jonathan Brandon.

1973

Edward Jennings, formerly an Assistant United States Attorney for the Middle District of North Carolina, is now associated with White and Crumpler in Winston-Salem. He and his wife, Mary Ellen, have a new son, Vance Edward, born this summer.

1974

William H. Freeman is currently a District Court Judge with the 21st Judicial District in Winston-Salem.

Tyler B. Warren is a partner in the firm of Everett & Cheatham, with offices in Bethel and Greenville, North Carolina. Mr. Warren is currently secretary of the Pitt County Bar Association.

R. Michael Wells, after practicing in his hometown of Charleston, West Virginia, has returned to North Carolina where he is an associate with Frye, Booth & Porter of Winston-Salem.

1975

Christopher G. Furlong is a Democratic candidate for the Pennsylvania House of Representatives, 166th Legislative District. Mr. Furlong is associated with the firm of Sand, Gibbs, Marcer and Smith, with offices in Upper Darby and Haverford, Pennsylvania.

Morris Wayne Keeter has recently become associated with the firm of Sanders and LaFane, P.O. Box 1575 Gastonia, North Carolina 28052.

D. Clark Smith, Jr. has left Delapp, Hedrick, Harp & Smith and is now a partner with Brinkley, Walser, McGiet, Miller & Smith, Court Square, P.O. Box 557, Lexington, North Carolina 27292. Mr. Smith and his wife announce the birth of their first child, David Clark Smith, III, born August 23, 1978.

1976

A. Michael Barker, previously employed with Burke, Donaldson and Holshouser in Salisbury, North Carolina, has recently become associated with Horn, Kaplan, Goldbey and Gorney, whose business address is 1301 Atlantic Avenue, Atlantic City, New Jersey 08401. Mr. Barker and his wife have a son, Adam, born October 17, 1977.

Barry E. Coplin is now a Revenue Tax Attorney with the Arkansas Department of Finance and Administration, P.O. Box 1272-L, Little Rock, Arkansas 72203.

Resa L. Harris has recently become the Legal Officer for the Clerk of Superior Court in Mecklenburg County.

Robert R. Tait has obtained an LLM (Taxation) from Emory University. Mr. Tait is currently employed as a Tax Law Specialist in the Reorganization Branch, Corporate Tax Division (Technical) of the Internal Revenue Service. His mailing address is 4850 Kenmore Avenue, Apartment 104, Alexandria, Virginia 22304.

1977

Leonard Michael Dodd is currently a Staff Judge Advocate to

General Maxie O. Redic in Stuttgart, Germany. His business address is: Captain L.M. Dodd, S.J.A., H.H.C., 2nd Support Command (Corps), Box 97-2 APO, New York 09160. Captain Dodd was recently married to the former Mary Lou Cunningham of Greenville, South Carolina.

Lee Folger, III has recently joined Sterling Management Company of Charlotte, an investment management firm with offices in the NCNB Plaza.

Janice Head Moore, an associate with the firm of Hatfield and Allman of Winston-Salem, recently married Frank W. Moore. They reside at 1415 Chelsea Street, Winston-Salem, North Carolina 27103.

Stephen R. Little is an associate with Everette C. Carnes of Marion, North Carolina. Mr. Little was recently married to the former Alice Hobbs of Marion.

William F. May has recently opened his own office for the general practice of law at 502 Northwestern Building, Greensboro, North Carolina 27401.

Bruce J. Royal is now a staff attorney in the Tax Department of R.J. Reynolds Industries.

Janice Lee Scott is an attorney-advisor with the Department of Housing and Urban Development. Ms. Scott's business address is HUD, 415 N. Edgeworth Street, Greensboro, North Carolina 27401.



Marc Van Nuys, winner of 1978 Stanley Cup Competition



Stanley semi-finalist Rebecca Helton

1978 Graduates

Following is a list of business addresses for nearly all of the 1978 law school graduates. Only those persons for whom we had complete business addresses have been included. If there has been a mistake or if your address has been omitted, please contact the *JURIST* for inclusion in the next issue.

Marc F. Acree
Jones & Robbins
P. O. Box 1342
Rome, GA 30161

William C. Argabrite
Dearborn & Ewing
One Commerce Place
Suite 1200
Nashville, TN 37243

Robert Marks Arnold
c/o Justice Branch
NC Supreme Court
P. O. Box 1841
Raleigh, NC 27602

John D. Ash
Perry, Patrick, Farmer & Michaux
712 Cameron-Brown Building
P. O. Box 4566
Charlotte, NC 28204

Thomas J. Ashcraft
c/o Horack, Talley, Pharr and Lowndes
Johnston Building
Charlotte, NC 28282

Garza Baldwin
Womble, Carlyle, Sandridge and Rice
P. O. Box 84
Winston-Salem, NC 27102

Daniel N. Ballard
Hill, Wyatt and Bannister
P. O. Box 2585
Greenville, SC

George A. Bedsworth
c/o Warren Sparrow
2525 Wachovia Building
Winston-Salem, NC 27102

Michael H. Berken
c/o Morris and Vanderhowel
DePere, WI

Aaron Jay Bertel
Barrett, Smith, Shaprio, Simon &
Armstrong
26 Broadway
New York, NY

David H. Bland
c/o Fagg, Fagg & Nooe
Eden, NC

Michael David Bland
c/o Steward and Lowe
Gastonia, NC

David J. Bodle
Bamberger, Foreman, Oswald & Hahn
Evansville, IN

David C. Boggs
Bailey, Brackett & Brackett
Law Building
Charlotte, NC

Teresa G. Bowden
c/o Tornow & Lewis
Winston-Salem, NC

George C. Bower, Jr.
c/o H. P. Taylor, Jr.
P. O. Box 593
Wadesboro, NC 28170

Edna Lee Bryan-Cummins
c/o James Van Camp
Southern Pines, NC 28387

Charles T. Busby
Hutchins, Romanet, Thompson &
Hillard
P. O. Box 888
Plymouth, NC 27962

Edward R. Carroll
c/o John Cower
119 N. Green Street
Greensboro, NC 27402

Vickie Jean Cheek
c/o Judge Hill
U.S. District Court, 5th Circuit
Atlanta, GA

Susan M. Clapp
Haskins, Roholton & Hack
112 Broad St.
Bloomfield, NJ 07003

David H. Coates
Turp, Coates, Essl, Diggins
169 South Main St.
Hightstown, NJ 08520

Steven D. Coggins
c/o Judge Dupree
U.S. District Court, Eastern District
Raleigh, NC

Reginald F. Combs
House & Blanco
265 Executive Park
Winston-Salem, NC 27103

Lawrence J. Connell
Clerk, Supreme Court of Delaware
Wilmington, DE

David Leigh Craven
c/o Northwestern Bank
North Wilkesboro, NC

Gustavus Latham Donnelly
Gardner, Gardner, Bell & Johnson
304 Franklin St.
Mt. Airy, NC 27030

Billy Gordon Edwards
Kellogg, White & Reeves
P. O. Box 189
Manteo, NC 27954

Peter N. Ehrlich
Yegge, Hall & Evans
7865 E. Mississippi Ave.
Apt. 804
Denver, CO 80231

John B. Fleming, Jr.
Stern, Rendleman, Isaacson & Klepfer
P. O. Box 3112
Greensboro, NC 27402

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Early March - Craig Spangenberg. Distinguished Trial Attorney, Firm of Spangenberg, Shibley, Trace & Lancione, Cleveland, Ohio. Past Director and Dean, International Academy of Trial Lawyers; Past President, International Society of Barristers; Member 1965-1974 United States Judicial Conference Advisory Committee on the Federal Rules of Evidence; author of numerous articles on trial advocacy.

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