Winter 1976

Alumni Headnotes (Fall/Winter 1975/1976)

University of Tennessee College of Law

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ALUMNI ADVISORY COUNCIL

In an effort to continually reassess and enhance its role in providing leadership in the academic community and in the legal profession, the College of Law has sought to expand its opinion leader contacts beyond the confines of the George C. Taylor Law Center.

Changes in the practice of law, admissions policy, strengths and weaknesses of legal education, responsibilities of the law school in the legal profession, and questions of alumni encouragement and support are all illustrative of the significant questions which cannot be answered totally from within.

Consequently, some three years ago Dean Penegar instituted an Alumni Advisory Council to advise, inform, suggest, and yes, even criticize (constructively and benevolently we believe) the posture of the law school as it relates to the areas raised by the questions above. This dialogue has been most beneficial. On the one hand, the college has been induced to take a hard look at existing policies and procedures in the light of council scrutiny. At the same time, we have been provided with an opportunity to explain our actions to persons interested in the welfare of the college and to ask for their advice and counsel.

This process, in turn, has enabled council members to explain to other alumni and interested parties the reasoning behind law college decisions and to encourage alumni support.

Council contacts are both formal and informal in nature. Each year the Council meets at least twice in Knoxville at the law college. In between these meetings, contact occurs continually between the Dean and his staff and members of the Council.

Appointments to the Council are for an indefinite term with new members being appointed periodically to bring new ideas and commentary to the group. At the October 10 meeting, a number of new alumni were added to the membership.

The role of the Council is important to the well-being of the college of law and we appreciate the time, effort and dedication of members both past and present whose names appear on the following list.

ALUMNI ADVISORY COUNCIL DINNER

(L-R) Allen Wade, Bruce Fox, Sylvia Brown, Susan Hartzog, Paul Campbell, Martha Campbell.
(L-R) Mr. Howell Sherrod, Mr. and Mrs. Francis Stewart.

(additional pictures on page 2)
NEW ADDITIONS TO THE FACULTY

This year at the College of Law we have four new additions to the faculty. The two visiting professors are Jerry Black and Roger Stetter. Jerry Black is a graduate of Vanderbilt, class of "68." Since his graduation he has served as staff attorney for the legal services of Nashville, Director of Clinical Legal Education and Administrator of Clinical programs at Vanderbilt Law School. In 1972 he was named as an assistant professor of Law at Vanderbilt. Jerry will be teaching Legal Clinic his first quarter here at the U.T. College of Law.

Roger Stetter received his J.D. in 1971 from the University of Virginia. Following his graduation, he served as Staff Attorney for the Legal Aid Society of Roanoke Valley. Presently, Roger is an assistant professor of Law at Louisiana State. This year he will be teaching Legal Clinic and Criminal Law.

The two permanent additions to our faculty are Patrick Hardin and Jerald Wilkerson. Pat is a graduate of the University of Chicago, class of "65." He was in private practice in Chicago for two years, and then left to accept a position as trial attorney for the Civil Rights Division of the U.S. Department of Justice. In 1969 he was the attorney-in-charge for the New Orleans Field Office, Civil Rights Division, U.S. Department of Justice. In 1970, he was Chief Counsel to the Chairman for the National Labor Relations Board. The following year he held the position of Associate General Counsel with the Division of Enforcement Litigation, National Labor Relations Board. Pat will be teaching Legal Process, Labor Law and Evidence this year.

Jerry Wilkerson comes to us from private practice in San Francisco, California. He was an associate with the firm of Cooley, Godward, Castro, Huddleston & Tatum and worked principally in the firm’s litigation division.

Jerry is a graduate of Washington University in St. Louis and Yale Law School. While in New Haven, Jerry served on the Board of Editors of the Yale Law Journal and found time to teach and do research under Professors Fleming James, Arthur Leff and the late A.M. Bickel.

Jerry's areas of interest are torts, criminal law, civil practice and procedure, evidence and comparative law.

We welcome Pat and Jerry and their families to Knoxville.

ALUMNI ADVISORY COUNCIL DINNER

Mr. Robert Worthington and Mrs. Robert (Judy) Worthington.

Don, Cohen, Dean Penegar, Elvin Overton
Mr. Ray Mosley, Jerrald Becker, Charles Miller
Francis Stewart, Joseph King.
DISTINGUISHED VISITOR

While the spotlight focuses on decisions of the U.S. Supreme Court, the work of competent jurists at the state and local level often goes unnoticed. But few of us who attended law school in the 1950's and 60's will forget the seemingly endless array of landmark decisions in the fields of constitutional and criminal law handed down by the California Supreme Court. More often than not, the decisions were signed, Traynor, C.J.

The name associated with the legend is that of Roger J. Traynor, former Chief Justice of the California Supreme Court. Justice Traynor began his career in the law as a law professor at the University of California at Berkeley. After some ten years he was nominated as an associate and served in that capacity from 1940-64. In 1964 he was elevated to the position of Chief Justice, a post he held until his retirement in 1970.

Since 1970, Judge Traynor has been engaged in teaching at the Hastings College of Law and at various law schools and colleges both in the United States and abroad.

Returning from a visiting lectureship at Cambridge University, Justice Traynor and his lovely wife, Madeline, joined us for a week this summer as our Jurist-in-Residence.

Arriving in Knoxville on Saturday evening, Judge and Mrs. Traynor had little time to rest before the start of a very busy week. Monday began with a visit to a class in Federal Courts followed by a luncheon with the law faculty.

When not involved in a scheduled event, he spent a large portion of his time in informal discussions with students, faculty and other visitors to the college. These small group encounters were well received by all in attendance.

The week was highlighted by two major addresses. The first was concerned with the judicial process, both reflective and prospective, the second, with thoughts and impressions on conflicts of laws. The latter is an area of current interest and concern to Judge Traynor as evidenced by his research and teaching at Cambridge.

Exposure beyond the law college was provided by a series of luncheons and receptions to which members of the Knoxville Bar, Tennessee Judges, and other departments of the University were invited.

Students heard him lecture in Civil Procedure, Constitutional Law, and Criminal Procedure in addition to meeting him informally at lunch and in the faculty lounge.

The college was certainly enriched by this visit and we are privileged to have served as host to a distinguished legal scholar.

FACULTY ACTIVITIES

Professors Dix W. Noel and Jerry J. Phillips sent their manuscript to West Publishing Company in September 1975 for a book of cases and materials on products liability. The book should be published by March of 1976. Professors James J. Gobert and Neil P. Cohen sent their manuscript to West during the same month for a book of problems in criminal law and a teacher's manual to accompany the book. Their materials should also be published by the spring of 1976.

Professor Jerry J. Phillips is addressing the ALI-ABA continuing legal education series in New York on October 18 and 19, on the subject of "Recent Constitutional Developments in the Law of Defamation and Invasion of Privacy."

Assistant Dean/Assistant Professor Donald Cohen has been appointed to the project planning committee of the Tennessee Environmental Council (Nashville). The planning committee is developing a series of symposia on "TVA and the Environment" under a grant provided by the U.S. Office of Education.

Professor Toxey Sewell will participate in a forthcoming U.T. continuing legal education seminar on the New Tennessee Uniform Administrative Procedure Act to be held in Nashville, Chattanooga, Memphis and Knoxville. In addition to the oral presentation, Professor Sewell will prepare an article for inclusion in a Symposium edition of the Memphis State Law Review.

Professor Joe Cook has been most active as evidenced by the following publication credits: "Criminal Law in Tennessee in 1974: A Critical Survey," published in the winter 1975 issue of the Tennessee Law Review (42 Tenn. L. Rev 187); Post Trial Right of the Accused, scheduled for publication in 1976 by Lawyer's Co-operative Publishing Co.; "Effectiveness of Guilty Pleas" to be published as a chapter in Cipes & Bernstein, Criminal Defense Techniques, published by Matthew Bender Publishing Co.

When he's not busy writing, Joe uses his "idle" time to serve as Reporter for the Speedy Trial Act planning group for the federal district court for eastern Tennessee and to lecture at the Tennessee General Sessions Judges Conference (September 25-26 in Memphis).

Colonel MacDonald Gray continues to devote considerable time and effort to his role as consultant for the Criminal Subcommittee of the Committee on Pattern Jury Instructions of the Tennessee Judicial Conference. It is anticipated that the project will be completed by the end of calendar year 1975 or early 1976.

Assistant Professor Zygmunt Plater returns to campus from a research trip to England and Germany (Ford Coal Research Project) where he prepared (continued on page 4)
source material and identified study areas to be utilized by a six man UT Research team in a comparative environmental, health-safety and labor conditions study of the United States, United Kingdom and West Germany. In addition, Zyng has prepared a study of Special Concerns for Multilot Land Sales and Second Home Developments. The 75 page report was funded by and published by the UT Institute for Public Service.

Assistant Professor Grayford B. Gray was instrumental in preparing and serving as a lecturer in a recent public service forum, "Your Laws—Your Right to Know." The program's intent was to make the law more intelligible to the layman. The program was cosponsored by UT's Institute for Public Service and the Public Law Research and Service Program at UT College of Law.

Carl Pierce is on leave this year to participate in the Law and Humanities program at Harvard Law School under a grant sponsored by the National Endowment for the Humanities. Associate Professor Neil Cohen is a fellow at the Institute of Criminology at Cambridge University for the 1975-76 academic year.

Associate Professor Gary Anderson is on leave for one year to teach at his alma mater, the State University of Iowa. Associate Professor Bob Moberly is on leave this quarter at the University of Louvin (Belgium). Bob is teaching labor law.

Professor Durward Jones spoke recently at the Southern Federal Tax Institute in Atlanta. His topic was: "The Gift Tax: Special Transfers and Complexities." In December, he will speak at the Kentucky Institute on Federal Taxation in Louisville.

Associate Professor John Sobieski was appointed by the State Supreme Court as Reporter for the Committee to draft new rules of appellate procedure.

Assistant Professor Martha Crow Black will appear on a U.T. Continuing Legal Education program on November 7 to discuss the Law of Damages in Tennessee.

Associate Professor Fred LeClercq has several articles to his credit. "State Immunity and Federal Judicial Power—Retreat from National Supremacy" appeared in the Florida Law Review (27 Fla. L. Rev. 361); a second article entitled "The Emerging Federally Secured Right of Political Participation" can be found in the Indiana Law Review (8 Ind. L. Rev. 607). Scheduled for publication this fall in the South Carolina Law Review is a work entitled "The Constitutionality of Durable Residency Requirements for Political Candidacy."

**PRACTICE RIGHTS DEFINED (RULE 37)**

The State Supreme Court on November 3 defined the parameters of practice for newly graduated law students in Tennessee who have not yet passed the state bar.

In order to qualify, one must be a Tennessee resident, a graduate of a law school accredited by the ABA or the State Board of Law Examiners and eligible to take the state bar examination.

If these criteria are met, then the recent graduate may undertake the following law office functions: 1. Engage in legal research without limitation; 2. Prepare memoranda of law; 3. Prepare memoranda and briefs for submission to any court under the supervision of any member of the bar; 4. Assist any member of the Bar in any area of office practice; however, one may not advise clients except in their presence and under the supervision of a member of the Bar, nor make any direct charge or receive compensation for services rendered. The firm, however, is entitled to charge an appropriate fee for these services but may not divide such fees between the recent graduate and the supervising attorney.

One may also make court appearances but under the following reservations:

1. Appear in any court which is not a court of record with the permission of the judge but not in any case wherein there is a constitutional or statutory right to counsel; 2. Present argument in any court on motions or matter addressing itself to the consideration of the trial judge but subject to the permission of the trial judge; 3. With supervision by a member of the Bar and with the client's permission, one may engage in any trial or proceeding before any trial court, governing body or administrative agency; 4. One may not (without supervision) appear before any governing body or administrative agency nor charge for his services; however, any member of the Bar with whom he is associated may make an appropriate charge for the time so expanded. Under no circumstances shall such compensation be divided nor shall it be considered in establishing a rate of compensation.

**ORDER OF THE COIF**

New Members
1974-75

DALE CLARK ALLEN
JOHN EDWARD ANDERSON
ROBERT F. BAKER
KATHERINE L. BUTLER
THOMAS MARSHALL COLE
Landon Colvard, Jr.
JOHN CHARLES COOK
THOMAS C. CRAVENS
DON ALVIN DRIVER
WILLIAM L. DUNKER
FRED MICHAEL FITZPATRICK
HARRISON WYNNE JAMES
KENNETH HOWARD KING
WALTER MORRIS KIZER
DANIEL FRANK LAYMAN
ROBERT P. MURRAN
RANDALL M. PAIS
JOHN BOMAN PHILLIPS
RICKEY L. POWERS
PAUL GARRISON SUMMERS
DAVID H. WELLES
ALBERT J. WOODALL

The Order of the Coif is a national law school honor society, election to which depends upon exceptional scholastic attainment. Only these students who, at the time of their graduation, are among the first tenth of their class are eligible. Election is made by the Law Faculty and is the highest honor conferred by the College of Law.
VISITING PROFESSORS

During the 1975-76 academic year, several distinguished visiting faculty members will be on campus.

Professor Allan D. Vestal, Carver Professor of Law from the University of Iowa, joined the faculty for the summer term to teach a course in Federal Courts.

Professor Vestal has been on the faculty at Iowa since 1949, teaching in the areas of federal jurisdiction, land use and practice and procedure. Among his numerous books and articles are Iowa Practice, 1974; Res Judicata/Preclusion, 1969; and Federal Courts, 1972.

In addition to his teaching responsibilities, Professor Vestal has served on the Commission for Uniform State Law since 1964, on the Joint Editorial Board of the Uniform Probate Code, as vice president of the National Conference of Commissioners on Uniform State Laws since 1972, and as an adviser for the Restatement of Judgments, Second.

During the fall quarter, Peter F. Coogan will be our Counselor-in-Residence. Mr. Coogan has been an associate and partner in the noted Boston law firm of Ropes and Gray since 1942. At the same time, he has been a lecturer at Harvard Law School, practitioner-in-residence at Duke University (1973-74), and a visiting professor at the University of Virginia since 1974. Mr. Coogan has been an active participant in continuing legal education, as is evidenced by his work on behalf of The American Law Institute-American Bar Association Committee on Professional Education.

The Dean’s Corner

CHANGE, STABILITY AND FINANCIAL SOUNDNESS

So much of what has been reported to you in these pages in the last few years reflects change and growth. I am happy to report that part of our growth has now stabilized. Our enrollment has leveled off at approximately 600 students per year, our faculty is over 30 in size, and our budget for library acquisitions continues to grow. The profile of our students continues to improve from year to year. Our students continue to do well on the state bar examination—and indeed in every state bar examination they attempt. Our curriculum has been greatly enriched by several years. Indeed there is much that our alumni can be proud of here in these developments. At the same time our alumni should also know that the College of Law faces some real financial stringencies in the next immediate years ahead.

Basically these were the topics presented at our fall meeting of the Law College Alumni Advisory Council on Friday, October 10. The College of Law will need additional sums of money beyond that which the state is likely to afford us, in order to catch up, let alone stay abreast of, or even exceed the levels of compensation, for example, paid to faculty at competitive schools in this region, such as Kentucky, Alabama, Georgia, Florida, North Carolina. We also need additional sums for financial aid for many deserving students who otherwise are forced to dilute their experience here by working more than is good for their studies. These and other points were made to the members of the Alumni Advisory Council. It was indicated that with a substantial endowment, enough funds could be yielded annually to make a difference in these two programs and perhaps others as well.

The membership of the Alumni Advisory Council was very enthusiastic in endorsing the idea of a general appeal to our alumni and friends over the next year or two. This would be an appeal in addition to regular contributions that alumni might be making to the College through the University’s annual giving drive. We hope that we will continue to maintain those contributions as well.

Each of you will be hearing more about the opportunity (not only to give) in this vital work in the months ahead. In the meantime please be assured that planning for such an effort is in the capable hands of your newly elected chairman, William Leech of Columbia. He will be consulting with me and other members of the faculty and of course other members of the Alumni Advisory Council in structuring the plan and the spearhead committee to go ahead with this kind of an effort.

Also in the meantime please remember that in your annual giving to the University that it is possible (and from our point of view desirable) to earmark your contribution to the Century Fund or other particular program of the University’s overall program in favor of the College of Law. The quality of your College of Law depends in no small measure on its financial resources. This is a time of real stringency for public institutions of higher learning everywhere. It would be a pity for this particular institution which has done so much for its College of Law in recent years not to have that additional margin of support which would sustain it in its efforts to increase its quality during these particularly hard times.
Knoxvillians Win Law Prize

UT law students, William Henning and Kenneth Miller of Knoxville, have won the first Advocate's Prize, established in the UT College of Law from an endowed fund honoring six Knoxville lawyers.

The winners were announced at the annual Law Day banquet at the Hyatt Regency. Judge William E. Miller of the Sixth Circuit Court of Appeals spoke.

Mr. Henning and Mr. Miller defeated Deborah Cantrell and Barbara Glustoff in the finals of the appellate moot court competition at the law college to take the honor.

The losing team won the best brief award and Mr. Henning was named the best oral advocate.

The Advocate's Prize honors long-time Knoxville lawyers, John Doughty, Clyde W. Key, Ray Jenkins, William P. O'Neil, the late Frank Montgomery and the late Herbert McCampbell Jr.

The 1975-76 CLE schedule began with a timely program on Commercial Bankruptcy for the General Practitioner. Federal Bankruptcy Judge, Clive Bare, wrote to congratulate the college on its good fortune in bringing to Knoxville three of the country's leading commercial bankruptcy practitioners—Morris Macey from Atlanta, Norman Nachman from Chicago and George Treister from Los Angeles. The program was tape recorded as well as videotaped for use in CLE activities in the future.

Tennessee's new Administrative Procedure Act will receive an in depth examination in a seminar to be held in four locations throughout the state—October 24 in Nashville, November 21 in Chattanooga, December 5 in Memphis, and January 23 in Knoxville. The Act governs practice and procedure before state agencies and it is a new development with which practitioners ought to be familiar.

Two other seminars are on the docket for November. In Knoxville on the 8th, the college joins with the Knoxville Bar to produce a program on Proof of Damages. Conducted by a recognized faculty of trial practitioners, the program is intended to review and suggest approaches to proving damages in specific types of actions—commercial, tort and condemnation.

In Memphis on November 14-15 the College of Law joins with the American Law Institute—American Bar Association to bring Tennessee practitioners a nuts-and-bolts course on Tax Planning for Agriculture. This program is a mini version of a national program which the ALI-ABAS has produced.

The spring schedule is equally full and is appended for your reference.

We have instituted a new registration policy for the benefit of young lawyers with three years or less of practice. All programs will cost one-half the stated registration fee.
Faculty and incoming students gather for fall orientation.

Members of the first year class: (L-R) Robert McCabe, David Eberspachu, Tom McCarthy, Phillip Baddour, and Scott Baker.

A trio of new students (L-R) Al Purdue, Carl Clifford Shirley and Mike Powell.

Dean Penegar (center) and Professor Fred Thomforde welcome George Caudle to the college.

A break in the orientation process.
The University of Tennessee College of Law

FALL/WINTER 1975/1976

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ALUMNI NOTES

Michael J. Diamond ('68) is presently the Attorney General for the State of Vermont. Prior to assuming the Attorney General's post, Mr. Diamond had served as Windham County State's Attorney and as law clerk to the late U.S. District Judge Ernest Gibson.

J. Houston Gordon ('70) of Covington is defense counsel for Lt. William Calley and was instrumental in obtaining Calley's freedom (federal district court). Recently, the 5th U.S. Circuit Court of Appeals reinstated Lt. Calley's court-martial conviction and Houston indicated he would appeal to the U.S. Supreme Court.

Richard D. Shapiro ('69) Chief of the Special Prosecutions Division of the United States Attorney's Office in New Jersey has been selected by the Federal Bar Association as one of its 1975 Young Federal Lawyer Award Recipients. While at the College of Law, Mr. Shapiro was Editor-in-Chief of the Law Review and elected to the Order of the Coif.

Thomas M. Donnell, Jr., ('72) has become a partner in the Nashville firm of Steart, Estes & Donnell.

C. Claiborne Carter ('73) announces the opening of his office in Nashville for the practice of patent law.

Brent E. Zepke ('73) presently with the Gulf Oil Company in Philadelphia has published a book entitled, Products and the Consumer. Brent credits Dix Noel with providing the impetus for his effort.

Ray H. Mosley ('51) was recently selected for membership in the American College of Trial Lawyers. The College is a national association whose aim is to improve the standards of trial practice and administration of justice and the ethics of the trial branch of the profession. Membership, which is a post of honor, is by invitation of the Board of Regents.

David S. Engle ('71) announces that he is now engaged in the general practice of law in Atlanta, Georgia.

Louis W. Kershner ('74) announces the opening of his office for the general practice of law in Virginia Beach, Virginia.

John C. Baugh ('37) general counsel to the University of Tennessee and Secretary to the Board of Trustees retired September 1. Many of you will remember that John taught at the law college from 1947-65.

DEAN VISITS ALUMNI GROUPS

During the late summer Dean Penegar made visits to a seven-county area in south-central Tennessee. He visited with individual alumni and groups of alumni at luncheon meetings in McMinnville, Manchester, Winchester, Shelbyville, Lewisburg, and Tullahoma. Through these visits Dean Penegar was able to relate individually details of developments here at the College of Law and to listen to alumni views about the program of the College of Law, how its graduates were faring, and the prospect for future professional employment of its graduates.

In early October the Dean was the principal speaker at a luncheon meeting of the Kingsport Bar. During the same visit the Dean had individual conferences with various law firms in Kingsport.

Later in the fall Dean Penegar expects to visit towns and cities in northern-central Tennessee including the Clarksville area.