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Taylor Times (February 1991)

University of Tennessee College of Law

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February

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February 1
26th Amendment enacted, 1971

February 2
National Moot Court team members leave for New York to compete in the nationals. Their first round is at 5:00 p.m. on February 5th against New York State University School of Law. Good luck, Mark, Lane, and Scarlett!

February 6
Groundhog Day

February 7
May 1991 Graduates Meeting
11:00 a.m. - Room 118
Topics to be covered include hooding, commencement, cap and gown orders, etc.

February 11
Judicial Clerkship Seminar
11:00 a.m. - Moot Court Room

February 13-16
Frederick Douglass Moot Court team competes in New Orleans, Louisiana. Team members are Cheri Beasley (second-year) and Brian Quarles (second-year). Professors Peter Morgan and Carl Pierce are team advisors. Good luck!

February 14
Valentine's Day

February 15
Second Annual Susan B. Anthony Celebration featuring Gloria Steinem 7:00 - 10:00 p.m. at the Tennessee Theater. $30 for full-time faculty and $15 for full-time students. For further information contact Lynn Collings, Class of '86, at (615) 673-0868.

February 18
Washington's Birthday (Observed) or Presidents' Day

February 24
Marbury v. Madison, 1803

February 25
16th Amendment enacted, 1913

1991 Judicial Clerkship Seminar
Wednesday, February 6
11:00 a.m.
Moot Court Room
Professor Carol Mutter and Associate Dean Richard Wirtz will chair the panel discussion which will feature:
Andy Tillman, Class '89;
David Kleinfelter, Class of '89, and Janet Morrisett Kleinfelter, Class of '89.
Mr. Tillman clerked for Judge Theodore Milburn of the U.S. Court of Appeals.

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TAYLOR TRIVIA: When did Taylor Trivia begin as a feature in Taylor Times? Answer to last month's Taylor Trivia: Taylor Times began publication February 5, 1986 with a 6-page edition filled with faculty, moot court, and calendar news. The first issues were done on a typewriter and then cut and pasted. Taylor Times today is prepared by using a desktop-publishing program. It's come a long way! Look out Pulitzer! (Old issues of Taylor Times are located in the College of Law archives in Suite 14.)
The Second Annual Susan B. Anthony Celebration of Women's Rights Under The Law

Friday, February 15, 1991
7:00 p.m. - 10:00 p.m.
Tennessee Theater
604 South Gay Street.

Presented by the East Tennessee Lawyers Association for Women (ETLAW)

Featured speaker: Gloria Steinem.

Proceeds will be donated to ETLAW's Susan B. Anthony Scholarship Fund at the College of Law.

Tickets are $30 for full-time faculty and $15 for full-time students and are available at the Knoxville Civic Coliseum and all Ticketron outlets. Tickets may also be charged by telephone 1-800-225-7337.

The program includes “View from the Bench” with Justice Lyle Reid, Chief Justice of the Tennessee Supreme Court, Justice Martha Craig Daughtrey, Justice of the Tennessee Supreme Court, and the Honorable Julia Gibbons, Judge for the United States District Court for the Western District of Tennessee, and “The Perfect 36” which depicts the struggle for the woman’s vote in Tennessee with live dramatic skits, contemporary accounts, and original songs featuring Candace Anderson. Ms. Anderson wrote, produced, and directed “American Women in Radio and Television” which was selected as the “Best Documentary of 1989.” Remarks by Gloria Steinem will conclude the program. Ms. Steinem is co-founder of New York and Ms. magazines. As one of the country’s most widely read and critically acclaimed writer and award-winning editor, she has been selected by World Almanac as one of the “Most Influential Women in America” for nine consecutive years.

There will be a reception and signing party following the program. The reception area will also feature suffrage and equal rights campaign memorabilia. ETLAW will also have copies of its publication, The Legal Rights of Women in Tennessee, available.
Inns of Court

The "Let's Go For It" Section for Law Students

(1) The Community Associations Institute Research Foundation announces its 1991 Award Program for students and faculty. The winning paper which focuses on condominiums, cooperatives, or homeowners associations will receive a prize of $1,000. Deadline: February 20, 1991.

(2) The Medicine and Law Committee of the Tort and Insurance Practice Section of the American Bar Association announces a writing competition with cash prizes. Papers may be on any topic pertaining to medicine and law. Deadline: May 1, 1991.


(4) The American Bar Association's Special Coordinating Committee announces a writing competition. Papers should address the following: "There are principles of professionalism and enforceable rules of ethical conduct that apply to all lawyers. How do you distinguish between the two and effectuate these rules and principles in your personal and professional life?" Winning papers receive cash awards. Deadline: March 1, 1991.

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THE ROSCOE HOGAN ENVIRONMENTAL LAW ESSAY CONTEST NEEDS YOUR ENTRY!

Papers should address "The Toxic Waste Dump: What Are the Remedies in Tort?" or "Citizens' Legal Remedies Against Toxic Waste Dumps." Enter today to win cash prizes!

For further information, see the Contest Bulletin Board or Dean Mary Jo Hoover.

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Inns of Court

Goal- to promote excellence in legal advocacy by improving skills, ethics, civility, and professionalism. Objective- better lawyering and more civility in the profession. Inns of Court movement smooths litigators' rough edges. Each meeting provides a demonstration on a particular aspect of a trial, such as voir dire, opening statement, closing argument, direct examination or cross-examination of an expert witness, etc.

This national organization was founded eight years ago when then-Chief Justice Burger, after visiting with members of the Inns of Court in Great Britain, conceived the idea of a similar organization in this country which would bring together experienced lawyers, judges, law teachers, and law students in an effort to enhance advocacy skills and ethics. The Knoxville American Inn of Court consists of approximately 55 lawyers and judges, and there are openings for 12 third-year law students next fall. The Inn meets monthly during the school year, and at each meeting a group of lawyers, judges, and law students conducts a demonstration related to an aspect of trial or appellate advocacy.

One of the purposes of the Inns of Court is to provide a forum in which experienced practitioners and judges can pass on knowledge and skills to less experienced lawyers and law students. Student members of the Inn will not only learn from the monthly demonstrations and discussions, but also will be assigned to "pupillage teams" and should get to know the lawyers and judges assigned to their teams in less formal settings. Not only should students receive some excellent training in advocacy skills and get to know many of the leading members of the local bar, but Inn membership is both a local and national honor.

The following students have been selected as student members of the Knoxville American Inn of Court for the 1990-91 academic year and were selected based upon their interest and achievement in legal advocacy. They are: Barry Abbott, Scarlett Beaty, Daniel Berexa, Wynee Hall, Dale Cantrell, Kristin Ellis, Carol Ann Estes, Carla Fox, Kelley Gillikin, Robert Horton, John Lippl, and Jere Ownby.

Introduction to the Concept and History

The Concept

Each American Inn has a maximum of 65 members and consists of three membership categories: (1) Masters of the Bench (which includes judges), master litigating lawyers, and law professors (2) Barristers (attorneys with 3 to 15 years litigating experience), and (3) Pupils (third-year law students, or lawyers with less than 3 years litigating experience, or a combination of the two).

Presently, there are 133 operational American Inns of Court throughout the U.S., located in 39 states and the District of Columbia. There are several noteworthy factors. First, while American Inns often include third-year law students, this is not always the case. Of the 133 chartered American Inns, approximately two-thirds have law students (generally 16 per American Inn); and one-third do not. Secondly, there are metropolitan areas in which multiple American Inns exist, including: Los Angeles, Chicago, Tampa, Houston, and Salt Lake City with three Inns each. The Washington, D.C. area has eleven American Inns. American Inns are located in medium-sized cities such as: Spokane and Tacoma, WA; Peoria and Rock Island, IL; Oxford, MS; Farmington, NM; Martinsburg, WV, Akron, OH and in smaller cities as well. Lastly, we are beginning to see a movement toward specialized American Inns. While most American Inns concentrate on general civil practice, there are others that specialize in areas such as: criminal practice, federal tax litigation, administrative litigation, white-collar crime, and bankruptcy litigation.

The following is a brief summary of what the American Inns of Court movement is all about. The primary concept of (Continued on page 4)
(Continued from page 3) the American Inns of Court is to improve the skills, professionalism and legal ethics of the bench and bar. The American Inns have adopted the traditional British model of legal apprenticeship and modified it to suit the specific needs of the American legal system. Our goal is to cultivate higher levels of excellence, professionalism, and ethical awareness among trial and appellate lawyers and judges. An American Inn is often affiliated with a law school or bar association and holds eight to ten meetings per year. Membership ranges from 44 to 65 members in three categories: (1) Masters of the Bench, (2) Barristers, and (3) Pupils, described at the beginning of this section.

Members are grouped into “Pupillage Teams” which consist of two to three of each member type. Each pupillage team is responsible for conducting one demonstration for the Inn per year (i.e., the Charles Fahy American Inn of Court in Washington, DC has eight pupillage teams and holds eight meetings per year with each team being responsible for one demonstration).

The American Inns of Court movement succeeds in helping lawyers become more effective advocates of the American legal system with a more acute ethical awareness. They learn side-by-side with the most experienced judges and attorneys in their community. Younger attorneys become especially more effective trial and appellate advocates by learning from more experienced judges and attorneys. Judges, master litigators, professors and Barristers are learners and teachers, benefitting from each others’ experience and insight. Like the British Inns’ model (or the American Medical model), the novice attorney is assigned to a more experienced attorney or judge who serves as a mentor. The novice and the mentor meet on at least a monthly basis, in court, in deposition, or in the office, to observe and discuss pertinent legal issues.

One last note of special interest: the ABA Commission on Professionalism strongly endorsed the American Inns concept in its final report.

Efforts are underway to develop and foster relationships between younger and more senior lawyers... One such example is the American Inns of Court program, founded in 1980, which seeks to create intimate, local societies of judges and lawyers, law students, and law professors who meet on a regular basis and discuss ethical issues and the quality of legal advocacy in America. Voluntary programs of this kind should be encouraged and expanded.

The History and Growth:

In the late 1970s members of the United States Anglo-American exchange of lawyers and judges, including Chief Justice Warren E. Burger, and Ninth Circuit Judge Clifford Wallace held a discussion which later led to the development of the American Inns concept. Chief Justice Burger later invited Dean Rex Lee of the Brigham Young University School of Law and District Judge A. Sherman Christensen of Salt Lake City who agreed to examine the American Inns concept. As a result, in 1980 the first American Inn of Court was created in Provo, Utah. In 1981 the second American Inn was created in Salt Lake City, with law students from the University of Utah. 1982 saw the creation of two more American Inns: Honolulu, Hawaii, and Oxford, Mississippi. Then, in 1983 American Inns were created in Washington, DC and Brooklyn, New York. By 1985 there were 12 Inns nationally.

Chief Justice Burger formed a committee of the Judicial Conference of the United States in 1983 to explore the plausibility of the American Inns concept for the administration of justice in the federal courts and to determine the feasibility of a national organization. The response of The Committee to the Judicial Conference was affirmative. As a result, a national organization was proposed: the American Inns of Court Foundation. The Judicial Conference approved these recommendations and further endorsed the concept and the Foundation. In 1985 the American Inns of Court Foundation was commissioned.

There were 19 American Inns chartered by the annual meeting in May 1986; by May 1987 there were 31; by June 1988, 62. As of the Sixth Annual Meeting in June 1990, there were 124 chartered Inns. By the end of the 1990 calendar year, there were 133 American Inns of Court in operation around the country. American Inns of Court membership has grown to some 8,000 active judges, trial lawyers, and graduating law students. An additional 10,000 or more are alumni or emeritus members.

(Compiled from Inns of Court publicity)

Class of '91 Selects Gift

The Class of 1991 has selected an academics scholarship as its class gift. A pledge drive will begin in February to start fund-raising efforts.


Happy Valentine’s Day

“Law School Burn-Out!” For other summer job opportunities, see the Summer Job Newsletter posted on the vending machine area bulletin board under Law School Notices.
Practice makes perfect
Law Clinic presents to students what classrooms can not teach
by Kris Leydig
(reprinted with permission from The Daily Beacon)

Law students are getting to practice, practice, practice.
At the UT Law Clinic, third-year law students can actually practice law to prepare for their law careers. The Clinic offers legal counseling to low-income clients with the services performed by law students "under close supervision of (law) faculty," said Dean Rivkin, director of the Clinic.

Work at the Clinic is considered participation in a class at the law school, Rivkin said. Students can choose to be involved in civil or criminal advocacy.
"I don't think law school, in general, prepares you to practice law," said Bob Gorham, a student attorney in the criminal advocacy program. "The Clinic gives you real client contact. We're representing real people."

Abbie Phillips, who does administrative work for the Clinic, said that "students get to work with a lot of different agencies... they get an idea of what agencies are available to help the indigent."

"You could tell the clerks who had 'had clinic,'" said Zane Daniel, a Knoxville attorney. "They were much more self-assured in dealing with the court: they had already been exposed. It really does make a difference."

"We view the work that we do here as predominantly educational, but we never lose sight of the public service," Rivkin said. "We feel strongly that (the Clinic's) representation that is closely supervised is as high a quality representation as a person can receive."

Students at the Clinic "learn by doing, learn by thinking," said Gary Anderson, who teaches in the Criminal Advocacy program at the Clinic. Anderson said the Clinic will bring in prosecutors to lecture "give a prosecutorial perspective" since many students are interested in being prosecutors and the Clinic is involved only in defense. This semester Knox County Assistant District Attorney Robert Jolley and prosecutor Leon Franks will lecture at the Clinic. Franks is a former UT law student who also worked at the Clinic, Anderson said.

Students are permitted to practice law through the Clinic, even though they have not yet passed the bar exam because of the Tennessee Student Practice Rule. This rule, passed by the Tennessee Supreme Court, gives the student "all the rights and responsibilities of a practicing attorney, as long as they are supervised," Rivkin said.

"Most states now have (a student practice rule) in recognition of the value of clinical legal aid." The students at the Clinic are all certified by the Supreme Court, he said.

The Clinic was involved in more than 300 cases during the last academic year, Rivkin said. He described the Clinic program as "a demanding academic and practice experience." He added that all of the 17 students at the Clinic this semester are "highly motivated."

Since the students are involved in the actual practice of law, Rivkin said that there is "no excuse for anything less than an A performance."

The Clinic is a well-established part of the legal community, Rivkin said. It has a large number of referrals from around the country and "the demand is significantly greater than our ability to meet it." The Clinic has students in every court in Knoxville, including juvenile, general sessions, circuit and federal courts, Rivkin said. One student at the Clinic just prepared a brief, or written memorandum of a case, to argue before the U.S. Court of Appeals in Cincinnati. "This will be the first time we'll have a student go there," Rivkin said.

Clinic: One of GCT's Best-Kept Secrets (reprinted with permission from The Daily Beacon)

One of this law school's greatest assets remains somewhat of a secret from most of the students attending classes here.
In the bowels of George C. Taylor lies the Legal Clinic, the chance for us law students to leave law school with more than a lot of ethical theories bouncing around in our heads. We don't have to learn the ropes of the legal profession the hard way, getting drilled by other, more experienced attorneys after we get out in the streets. No, we have the chance to learn the ropes (at least some of them) before we graduate, and if we pass up that chance, it's unfortunate, not just for us, but for the miserable souls at whose expense we obtain our on-the-job training after graduation and the Bar.
Technically, Legal Clinic is an eight-hour course taught by professors of the University of Tennessee. But, much more than that, Legal Clinic is an experience that ties together everything you've learned since day one in law school, and, just as importantly, it's taught by real lawyers, and you learn many lessons in real courtrooms—not mock courtrooms. You deal with real clients with real problems—not classmates reading from scripts.
Clinic demands a lot of time, just as real practice demands a lot of time. Over this period all clinic students are involved in a crash course on Trial Advocacy—only you don't get an entire semester to take the course. Consequently, class time runs at least four hours a day, five days a week over this period, and the reading and class preparation demands the rest of your time. For this reason, it is recommended that no more than one other class be taken with Clinic—you just simply won't have time to do your classes or Clinic justice.
For some reason, however, no one seems to know about Clinic. The sections were not full this semester, and each section only holds either six or eight (Continued on page 6)
students, depending on whether it's civil or criminal. Surely more students here intend to try cases when they graduate. Having witnessed individuals trying their first cases without the benefit of clinic, it borders upon an ethical violation to pass up a chance to take clinic.

Former Clinic professor, Carl Eshbaugh, now in private practice, likens the Clinic experience to two years of actual practice, but without the price exacted by learning through mistakes which lose you cases and clients. He agrees that the Trial Practice course also offered here is helpful in preparing the law student for the cold, cruel world, but points out that all the material covered in Trial Practice is covered in Clinic in the first four weeks. The additional worth of actually functioning in the legal system is invaluable, Eshbaugh stressed.

And he's right. It's difficult to get a feel for lawyering until you've actually been handed a case and told it's YOUR case. The decisions are yours (unless they're blatantly stupid that the attorney overseeing supervising your handling of the case stops you) and, win or lose, the outcome is yours, along with your client's, of course. You're not playing lawyer, you are a lawyer, but you've got a safety net in case you stumble.

I, for one, cannot understand why the value of this course is not stressed to the student population. It is the single most important course for the student contemplating any type of trial practice, yet all students are being required to suffer through a four-hour tax class, 85 percent will never use (except to fill out their own 1040 forms).

Neil Cohen ...
... has signed a contract to author a book tentatively titled Criminal Procedure: The Post-Investigative Process for The Michie Company.

Tom Eisele ...
... had a article, "Our Real Need: Not Explanation, But Education" published in the July 1990 issue of The Canadian Journal of Law and Jurisprudence.

Pat Hardin ...
... has been commended for his lecture in a University Studies Course on AIDS.

Joe King ...
... will have an article, "The Standard of Care for Veterinarians in Medical Malpractice Claims," published in 58:1 Tennessee Law Review (Fall, 1990).

Fred Le Clercq ...
... is a part of a growing UT Faculty Development Award for Scholarship/Research and will go to Germany for three weeks this summer to enhance and develop the speaking skills he and eleven other UT professors learned during an intensive program. Professor Jeff Mellor and Christine Prough spent two afternoons a week teaching Deutsch fur die Fakulpat (The Faculty) here on campus. Professor Le Clercq also took additional undergraduate German classes for three semesters so he will be sure he can communicate to Germans as he visits their public amusements.

... will visit the University of Bonn this summer to plnf a series of seminars on American constitutional law.

Jerry Phillips ...
... had a book, Tort Law: Cases, Materials, Problems, with Teacher's Manual published by The Michie Company and will be available in February.

... is working on a revision of his Products Liability Casebook.

... will write a critique of the ALI Compensation and Liability for Product and Process Injuries Final Report.

... is the co-editor of a special issue of Anglo-American Products Liability Law Review.

Glen Reynolds ...
... has assisted Knoxville Journal reporter Robert Womack with a series on the amendments to the United States Constitution. Professor Reynolds explains the amendments in layman's terms.

... had an article, "Sex, Lies and Jurisprudence: Robert Bork, Griswold and the Philosophy of Original Understanding," published in the Georgia Law Review.

... had an article, "Space Law in the 1990s: An Agenda for Research," published in the Fall 1990 issue of Jurimetrics.

... received the Outstanding Public Service Award for 1990 from SpaceCause, a space interest group.

... was interviewed on Wisconsin Public Radio about the Augustine Committee's report on restructuring NASA.

... has received another favorable review on his book, Outer Space: Problems of Law and Policy, co-authored by R. Merges, from Edward S. Binkowski in the Fordham International Law Journal.

Barbara Stark ...
... has received a UT Faculty Development Award for Research. Professor Stark will do a study of The International Covenant on Economic, Social and Cultural Rights which is a statement of rights to health, food, and shelter.

Jim Thompson ...
... has received a UT Faculty Development Award for research into the legal implications of the Public Trust Doctrine as it applies to the ability of the State of Tennessee to control its water resources in view of the control historically and presently exerted by federal agencies - particularly the Tennessee Valley Authority.

Marilyn Yarbrough ...
... spoke to the Bradley County Bar Association in Cleveland on January 14.

... received the "Key to the City" from Cleveland Mayor Bill Schultz. As of January 14, 1991, Dean Yarbrough is an honorary citizen of Cleveland.

... spoke to the Bedford County Bar Association at a January 29th luncheon in Shelbyville.