Court Whiz: Ralph

Thirty-Third Year of Publication

VIRGINIA LAW WEEKLY

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Minorities Sought: Other Applicants Flood Admissions

by Steve Adnopoz

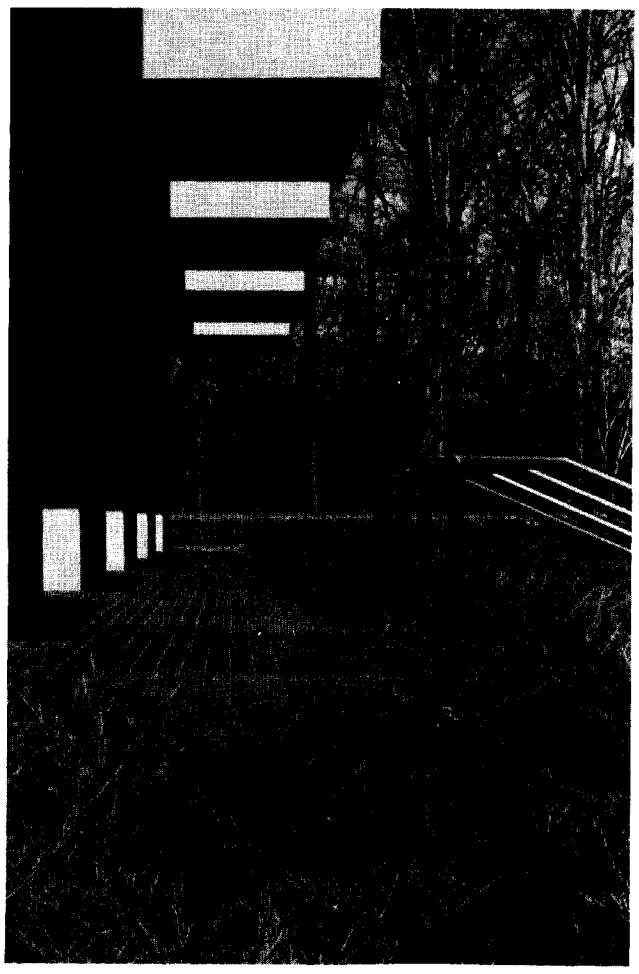
The Law School this year will probably receive the highest number of applications for admission ever, predicts Jerry Stokes, director of admissions.

Already 4133 applications have been received, and the final tally should exceed the 4300 mark reached for the class of 1981. To process the applications more rapidly, the size of the faculty admissions committee has been increased. "It is a particularly strong committee," said Stokes, "as all members have had experience with this law school's admissions system or other selection processes."

Minority Applications

So far, 119 minority applications have been received, and Stokes expects that number to increase "by at least 100." Even still, that total is far short of what the admissions office would like it to be. In order to attract more minority applicants, the admissions office has been "considerably energized" and student participation has been increased. "For the first time," commented Stokes, "I visited all five black schools in Atlanta." In addition, faculty members have been traveling more to meet with college students and BALSA has coordinated recruiting with some of its activies. Funding from the federal government and foundations is being pursued and recognition of relatively modest scholarship funds is being done more overtly. Assistance from alumni is also being sought.

(Please See Page 2, Col. 3)



Jellins Photo

Even schools have hangovers.

Revised Rape Bill Passes Va. House

by Fred Heblich

Four years after it was first introduced, a bill to reform Virginia's sexual assault laws was passed by the state House of Delegates last January 28.

As drafted by Law School Assistant Dean Lane Kneedler, and chief sponsor Sen. Rick Boucher (D-Abingdon), the bill limited the introduction of evidence relating to the complaining witness's sexual history to three specific categories.

But the House Courts of Justice Committee added another category and a floor amendment by Del. Ted Morrison, a defense attorney from Newport News, further expanded the scope of admissibility.

Now, supporters of the bill are worried that the amended bill does not offer enough protection to rape victims and that the amendments have provided a loophole for introducing evidence of past sexual behavior.

The committee amendment allows the defendant to introduce evidence which is "constitutionally required to be admitted."

Kneedler, who spent several hectic days in Richmond lobbying for the bill, said, "Theoretically, I don't believe the amendment makes any difference. As a practical matter, however, I think it opens the door to abuse."

The Morrison amendment allows evidence to be introduced which is "relevant to show a motive by the complaining witness to fabricate the charge against the defendant."

Morrison argued that he was protecting the rights of the accused. Otherwise, "You would say upon indictment you have a conviction and forget the trial altogether."

The original bill limited evidence of past sexual behavior to: (1) previous sexual acts between the complaining witness and the accused; (2) previous sexual acts which provide an alternative explanation for physical evidence of the offense; and (3) previous sexual acts offered to rebut evidence of prior specific acts introduced by the prosecution.

One supporter, Del. J. Samuel Glasscock (D-Suffolk), said that the bill was so weakened "we may be better off without it."

The bill now goes to the state Senate where it is expected to be further amended, possibly to remove the House amendments, setting up a conference fight between the House and Senate.

VLW Expands On New Self-Image

by Kathleen Kloiber

There is more to life than potluck suppers.

At least, there is more to the life of a Virginia Law Women member than social events balanced on assignments of a salad or entree. Unfortunately, the group suffers an identity crisis, according to President Sally Nan Barber. She and the other members of VLW are taking steps to provide information to the law school community and act upon the suggestions of those interested in improving the organization.

"Many people still think of us as a social club. Others, self-made women, don't want to be classified as feminists, and avoid us for being 'too radical,'" Barber commented. Secretary Ellen Distelheim agreed, adding "we are slandered by lack of information; people don't understand the group because they are not involved. The tend to discount the value of the social activities—these bring the women together to talk with one another. We're infiltrating a male-dominated profession and it helps to get together—and it's not to exchange recipes."

Redefinition and Growth

Presently, VLW is redefining its goals while attempting to adjust to the needs and interests of the law

(Please See Page 3, Col. 1)

Visiting VIP Chair, Lectures Endowed

by Joanne Barker

The Law School has recently received funding to support two programs to bring distinguished people to the school. Shortly before Christmas, John A. Ewald donated over $400,000 to fund the John A. Ewald, Jr. Distinguished Visitors Chair in honor of his son, a member of the class of 1953, who died in December 1979. The income from the endowment will be used to bring someone of special distinction or unusual background to the law school on a short-term basis.

Dean Richard Merrill stated, Stanford which has a similar chair, has attracted such people as Judge John Wisdom and former Attorney General Edward Levy. Merrill explained that the program would "try to attract people we couldn't get to come and spend a lifetime in the academic community who bring a special skill or practice which wouldn't be represented on the regular faculty—people who wouldn't be able to come for perhaps more than a few months."

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Sharpe's World Encompasses God, Gissel, And Grades

by John Mitchell

Given the popular opinion of lawyers today, the layman might not see many similarities between the clergyman and the attorney. However, one of the Law School's newest assistant professors was two-thirds of the way to becoming minister when he decided to change plans.

Calvin Sharpe, 35, one of a group of faculty who has just started this semester, says he had had a "deeply entrenched" ambition to become a minister since his childhood as the son of a Methodist minister.

"I made a promise (to my father), when I was 6 or 7 years old to be like him, and part of that was to become a minister also," he says. The desire survived re-examination through high school and Clark College in Atlanta, where Sharpe obtained degrees in philosophy and religion, and two years into the Chicago Theological Seminary.

"I guess I made a decision at one point that I would be useful in another area," Sharpe recalls, noting that the "social utility" of the law appealed to him—"it really has an impact on the way we live as a society. In that sense, choosing the law was not inconsistent with some of my own deeply held religious beliefs.

"Legal education is a further extension of that. I'm helping people to help. It's probably an indirect way of achieving the same results."

Sharpe says he had intended to teach, eventually, even upon graduation from Northwestern Law School in 1974. He had taught, between college and law school, in a school district in Brooklyn. But upon graduation, he wanted practical experience in the legal field.

Sharpe started that experience as a clerk for Illinois District Judge Hubert Will. From there, he moved on to an association with a Chicago law firm, and finally to the field he says is one of his chief legal loves—labor relations, as a trial attorney for the National Labor Relations Board.

Jellins Photo

Prof. Calvin Sharpe

Sharpe spent three years with the board, operating from Winston-Salem, N.C. As a trial attorney, he had myriad jobs in the process of trial itself, from the initial interviewing of a complainant to the resolution in the courtroom. In addition, staff attorneys were inves-

(Please See Page 3, Col. 2)

Wadlington

DICTA: Artificial Conception: Legislative Responses To Family Law Problems

by Walter Wadlington

Extensive media coverage following the birth of Louise Brown through *in vitro* fertilization (IVF) in England during 1978 has provoked widespread interest in artificial conception generally. Debates on the subject between ethicists and philosophers now spill beyond scholarly journals into the popular press. Television viewers are treated to testimonials from would-be or actual surrogate mothers through artificial insemination, and one can learn about the possibilities of cloning by reading the comic strips.

By comparison, the complex legal issues emanating from artificial conception practices such as IVF and artificial insemination (AI) have received considerably less attention, even though there is the dilemma between a perceived need for controls of some sort and concern for the potentially sweeping impact of such regulation on current family-law rules and their conceptual underpinnings. This brief article will examine the general scope of current state laws dealing with the family-law aspects of artificial conception and point out some of the difficult issues which must be faced in further expanding such regulation. Possibly applicable laws dealing with fetal or other experimentation will not be considered.

Although no state legislature has yet dealt specifically with the family-law problems of IVF, many of the problems which this practice presents are similar or identical to those accompanying AI, on which twenty states have now enacted some limited form of legislation. Other existing laws, including some designed primarily to regulate adoption practices, may have further impact. Before examining these, a brief explanation of the various medical practices seems in order.

The Practice of Artificial Insemination

Artificial insemination today is largely a matter of individual medical practice. There are several basic approaches. In heterologous artificial insemination (AID) a woman is impregnated with semen from a third party donor. One donor's semen can be used for multiple impregnations and can even be frozen and kept for future use, which has led to establishment of sperm banks. Recently, the press alerted us to a California sperm bank designed for deposits by Nobel laureates. Sperm banking gained earlier recognition with the announcement that United States astronauts might use it to guard against possible mutations caused by radiation in outer space. Unlike its counterpart in the financial world, sperm banking is virtually unregulated by the states.

Homologous artificial insemination (AIH) utilizes sperm of an impregnated recipient's husband; it might be indicated for either medical or psychological reasons. In a third variation, sometimes designated as confused artificial insemination (CAI), a recipient's husband's semen is mixed with that of a third party. CAI has little or nothing to commend it over AID medically, and has recently become less popular. Some suggested that it might afford psychic satisfaction by allowing an infertile husband to rationalize himself into the role of biological parent. Others regarded it as a means for assisting judicial paternity decisions involving AID to favor a donee's husband. Some practitioners now suggest instead that married couples should have intercourse near the time of donor insemination, but the issue of paternity may still be confounded by using sperm from different donors sequentially with one donee in a single cycle.

The term "donor" is generally a euphemism because it is widespread practice for donors to be remunerated. AID record-keeping often is minimal, in keeping with a general practice of insulating each donor's identity from anyone but the physician. This lack of detailed record keeping and the secrecy typically accompanying AID have made it difficult to do more than generalize about specific practices and the exact extent of AID. Some believe that this reflects the medical community's concern that if all were revealed, the legal responses would be unduly complicated or confused, if not wrongheaded. Past use of CAI illustrates a form of medical gamesmanship designed to deal with possible legal obstacles.

Walter Wadlington is James Madison Professor of Law at the University of Virginia Law School, and Professor of Legal Medicine at the University of Virginia Medical School. He teaches courses in Family Law, Law and Medicine, and Children's rights, and is a coauthor of Cases and Materials on Domestic Relations, *and* Cases and Materials on Law and Medicine.

AID Practices Studied

A recent study published in a prominent medical journal[1] gives us some insights into contemporary AID practice. From a pool of 711 physicians deemed likely to be performing AID who were sent questionnaires, 379 of 471 respondents acknowledged performing AID. Although the primary reason was the husband's infertility, some 40 percent also used it for other purposes, including patient concern for transmitting genetic disease. Almost 10 percent of the respondents indicated they had used AID to provide children for women without male partners. According to the study, it was by far the usual practice for doctors to use donors selected by themselves or other medical associates. Donors did not represent a random

(Please See Page 2, Col. 3)

Inadequate Council

The accountability of its elected representatives is the key to any democratic system's credibility, and ultimately to its viability. Without oversight, a governing body's actions become little more than fiats, undirected by the will of the electors. The Law Council, the Law School's elected governing body, is currently suffering from a failure of accountability. The Law Council operates within a limited province ceded by the administration, but it has failed to exploit the possibilities within its powers.

Several symptoms indicate the underlying disease. Council meetings rarely are attended by anyone except the representatives themselves. Minutes of meetings are not posted, nor are accomplishments publicized. Council business comprehends little more than the motions of a few trying to allocate the limited perquisites granted by the administration, and the vain attempts of the representatives to vindicate their campaign promises. While the decisions affect many, few feel the results directly, and very few care what the Council does or what it has the potential to do.

We propose certain reforms to cure these problems. First, notice of all meetings of the Law Council should be placed in the Daily Docket, the *Law Weekly,* and in some conspicuous place in the lobby. This is a minimal measure to inform students and to spur student involvement. Second, notice of all meetings should be posted in a designated spot no later than two days after the meetings and also published in the *Law Weekly*. Third, a box for student complaints and suggestions should be available so that those unable to attend meetings or to find a representative may have a voice in Council business. Last, and most important, each term of Council business should begin with a statement of Council goals and conclude with a statement of accomplishments. Engraving aims and achievements will give current and future students a chance to gauge their positions' strengths and weaknesses over the years. In this way, we think that the Law Council may be transformed into a representative body, through which all students may contribute to the improvement of the Law School environment.

Peabody Award

We need to express our appreciaion to Bruce Peabody for all the thankless tasks he has undertaken in the past three years. Bruce started on the Student Admissions committee his first year here—so, more than conceivably, some proportion of the second-year class may owe their presence here to him. For what he has done in the last two years, *all* classes owe him a debt. In his role as social czar, Bruce has run Happy Hours, overseeing the beerfest's move from the Darden gardens to the Law School courtyard. He has organized the law school's September parties, Halloween parties, and Christmas parties. This past year he was a key force behind the new Wednesday-evening Study Break concerts—a cultural event long needed, and which we've all enjoyed. Bruce has not only planned social policy, but also carried it out: he has stared at ID's, inked wrists, taken quarters, and dispensed beer tickets. Here at the *Law Weekly,* too, he has done more than the ordinary student's share: for the past year, Bruce was the mainstay of our reporting on Josh Henson's tribulations and trials.

"I always figured, if I wasn't doing something else, I'd have to study," Bruce explained. We grant him that motive, but we think there was some other reason. To describe it would mean using approximations like *social responsibility* or *public spirit* or *generosity* or *unselfishness*—so we'll just skip naming it, and say thanks again.

Letters

To the editor:

Mystery of the week:

Who/what died in Cafe North and why has it taken so long to find/remove the body?

Tom Hillsperson

To the editor:

On behalf of Virginia Law Women, I am extending an open invitation to all law students and other members of the law school community to become actively involved in this organization. Under our constitution membership is open to "all students, faculty, staff, spouses, and any interested members of the University community [without regard to race, creed, sex, or sexual preference.]" We anticipate an active semester and need support for the various projects with which our 13 committees are involved.

Notwithstanding the fact that we are involved in numerous activities, we wonder if we are focusing on areas that interest you. We are in the process of redefining our purpose and goals as an organization. We need your help to accomplish this and ask that you attend a meeting later this month to discuss the role of Virginia Law Women within the context of the law school and the larger legal community. We hope to make positive changes within the organization, and this task will be less difficult if the silent majority speaks up. So go ahead, SPEAK UP!

Sally Nan Barber
President

Briefs

Need Rm Riv Vu?

If you will be needing lodging this summer . . . or if you have an apartment you'd like for someone to sublet this summer . . . several national law schools are working out an apartment-swapping scheme among their students. New York University's Placement Office is coordinating a nationwide list of summer apartments for rent. This Placement Office has forms you must fill out to sublet or seek an apartment; please come by there immediately, because the deadline is February 27.

Achtung!

A German table (*Stammtisch*) will meet Monday at 1 p.m., and a Russian table Tuesday at 1 p.m., both in Cafe North. All are welcome; there is no cost. (*Es kostet nichts.*) For further information, call Milan Ganik at 973-1740.

Play Ball!

There will be an NGSL meeting for all softball team captains on Monday, Feb. 9, at 1 p.m. in Room 101.

Admissions . . .

(Cont. from Page 1, Col. 1)

"We've done things more intensively than last year. More people are visiting more and different places," Stokes explained.

Individual Recruiting

Stokes's special assistant for minority recruiting, Markita Cooper, has helped "to design specific procedures for admitted minorities," according to Stokes. Cooper is not a voting member on the admissions committee. The procedures include individualized recruiting, in which alumni who live in the applicant's area contact the applicant. Also, Prof. Sam Thompson will continue individualized recruiting activities representing the faculty and the university. The overall objective is to achieve careful monitoring of the progress of each applicant.

The goal of the Admissions Office is to increase the yield of minority applicants. The yield is the ratio of applicants who actually enroll in the Law School over the number offered admission. Last year, of the 53 minority students admitted, only 20 chose to attend Virginia. Stokes said he would like to double the number of minority students here, and would be "delighted if we can get people as qualified as those already here but in greater numbers."

Additional Plans

A full-scale revamping of the Law School catalog is under way, as the present version "does not present the ambiance of the law school as effectively as it could. The text is antiquated and inaccurate, the photo selection is poor, and in general it is not a particularly effective recruiting device," commented Stokes.

Admissions interviewing ended January 30, by which date nearly all requests for interviews had been accommodated. Interviews will now be granted only at the initiative of the admissions office. "We hope to have all decisions out on or near April 1," said Stokes.

The Admissions Office, in turn, receives assistance from students. Members of the Student Admissions Committee give prospective fellow students tours of the facilities and spend several hours a day manning a Hotline, answering queries about the life of a Virginia law student. First-years who are interested in helping may contact Kerry Notestine, at 977-5988.

DICTA . . .

Cite as "Wadlington," VIRGINIA LAW WEEKLY, *DICTA* Vol. 33, No. 13 (1980)

(Continued from Page 1)

population sample; medical students and hospital residents were the most popular.

Although only 66 percent responded to a query about the maximum number of inseminations produced by one donor, most of those answering used a donor for no more than six pregnancies. In one case, however, a donor had been used for fifty. The incidence of genetic screening of donors was limited. Almost 95 percent said that they would reject a Tay-Sachs carrier, but less than one percent tested for the disease. Only 29 percent indicated that they performed biochemical tests beside blood typing on donors.

In Vitro Fertilization

While AID offers a possible solution to couples who cannot have children because of the man's infertility, *in vitro* fertilization and embryo transfer have the potential for allowing some infertile women to bear their own children. The techniques also could permit couples to have their own biological child conceived *in vitro* and then carried to term in a surrogate mother's womb. The latter approach could be medically indicated, though it also could be used for such reasons as career pressures or sheer convenience. This form of IVF surrogate motherhood should be distinguished from situations in which a couple contract with another woman to bear the husband's offspring conceived through AID and then relinquish the child to them.

IVF is of greatest importance to the woman with blocked or missing fallopian tubes. Ova are removed from the female through laparoscopy, a surgical procedure involving the insertion of a tube through which follicles containing mature ova can be visually located. The ova are placed in a laboratory medium with the male sperm for fertilization. After several cell divisions the embryo is then placed in the uterus of the female donor of ova or of some other woman whose hormonal cycle is at roughly the same stage as the donor's. If everything goes well, implantation, development, and birth of a child will follow.

Less than a half dozen births through IVF have been reported, but there are an estimated 6,000 to 10,000 children born annually through AID.[2] That number seems more dramatic when compared with a current estimate that the annual number of nonrelative infant adoptions in the U.S. declined from 89,000 in 1970 to 25,000 by 1977. The smaller pool of potential adoptees seems an obvious reason for current interest in AID, including surrogate motherhood through the process.

Space does not permit a review of the various court cases dealing with AID, many of which have not gone beyond the trial level. They have focused on issues, such as whether the practice constitutes adultery (with courts divided on the result), support duties, and custody rights. A 1977 New Jersey case[3] deserves mention because it adds a special dimension to the problem of limiting access to AID. An unmarried woman, after not being accepted for AID by a physician, inseminated herself with semen from a male friend. Over the objection of the mother, the donor sought and obtained visitation rights to the child so conceived. The court held that "if an unmarried woman conceives a child through artificial insemination from semen from a known man, that man cannot be considered to be less a father because he is not married to the woman."

The Legislation Today

No specific statutes have been enacted to deal with the family-law aspects of IVF, though a model statute to clarify the legal status of children born through IVF was encouraged in a 1979 report of the Ethics Advisory Board of the Department of Health, Education and Welfare.[1] Georgia adopted the first AID statute in 1964 and 19 additional states (including Virginia) now have legislation, sometimes quite limited, on the subject. Georgia's law illustrates the basic approach of seeking to fix the status of children born to married woman through AID. If the husband and wife consent to AID in writing, any child conceived by the wife as a result is "irrebuttably presumed legitimate." Only a licensed physician can legally perform AID in Georgia; others who do so risk a felony conviction. Georgia's statute is unusual in providing that physicians who perform AI with written concent from married couples are relieved from civil liability to them or any children so conceived by the wife, except for liability arising from negligence in administrtion of the procedure.

Though the 20 current laws on artificial insemination generally reflect concern for legitimating a child conceived through AID by a married woman when she and her husband have consented, on other issues the laws vary in scope and approach. Some are silent as to whether the consent must be in writing, while others require that consent must be filed with some state agency or even a court. If filing is required, generally there is a provision for confidentiality. Whether AID must be performed by a physician also is unclear in some laws, though it might be deemed a medical procedure within the broad limitation of state medical practice acts. Some statutes, perhaps following the model in §5 of the Uniform Parentage Act (1973), contain language making clear that a donor of semen provided to a physician for inseminating a woman not the donor's wife will not be deemed the legal father of a child so conceived. Unlike most, Washington's statute does not seem to be directed only toward married women, though it provides for the typical fixing of parental relationship in such instances. Its language for cutting off a donor's rights and duties is unusual:

> The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived unless the donor and the woman agree in writing that said donor shall be the father.

Oregon has enacted the most inclusive of the current AID laws. It provides for the usual status fixing for children born through AID to a married women when she and her husband consent. It also prohibits

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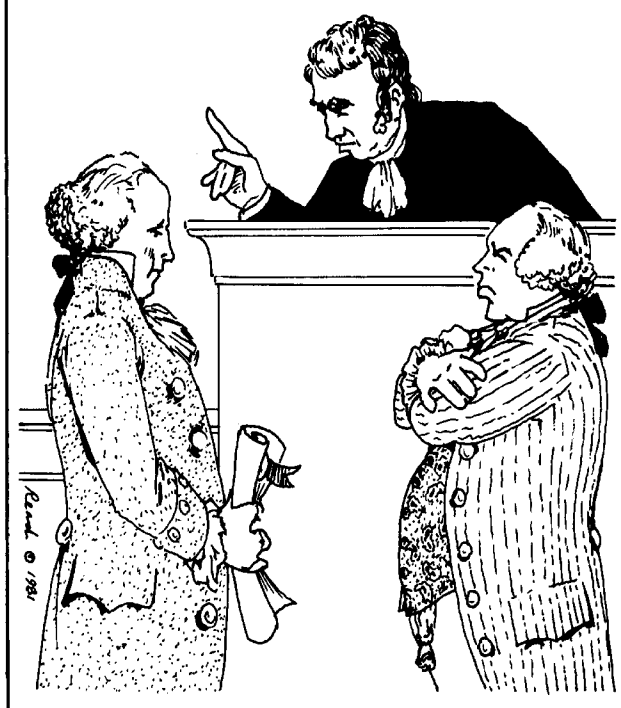

When Jemmy withheld a commission
Marshall issued a bench admonition.
"I won't issue mandamus
For non-delivery heinous,
I'll just kill the enabling provision."

Marbury. v. Madison, 5 U.S. (1 Cranch) 137 (1803).

VIRGINIA LAW WEEKLY

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Law Women . . .

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school community. The founding purpose of the 10-year-old group is to "equitably integrate women into the legal profession." To this end, VLW sponsors conferences and speeches, assists the Law School administration in admissions and placement, and works with a multitude of groups in the community, all through a network of Law Women in various committees.

Males are not excluded from the organization. This year, about 160 women and 23 men are voting (dues-paying) members. This semester, VLW announced the appointment to its Executive Board of the first male, Kevin Doyle, who serves as Male Representative. The president cites the new position as an example of VLW's policy of flexibility. "The men in the organization saw a need for representation, and after discussion, we created the position, for a trial period."

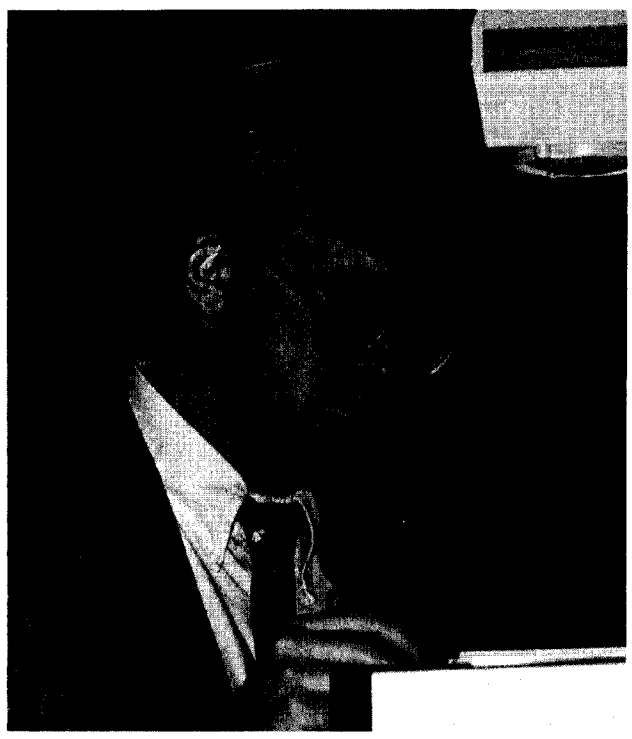
Although the group is at its highest membership ever, its president isn't satisfied. "There are still many more people we'd like to reach and become involved with. We're trying to broaden our reach and serve not only in the Law School, but in the legal community and the community at large," states Barber. The Board will hold an open meeting in late February to redefine goals, field complaints and suggestions, and attempt to correct misconceptions. In the meantime, the schedule for the next "action-packed" months is already underway:

- Working with the Continuing Legal Education Department, VLW is seeking people to teach a course on women's legal rights in Virginia. The course will be taught in three or four cities or counties during March or April. Each topic will be taught by a team of teachers who will receive reimbursement of travel expenses as well as a small stipend. Carol Brittain has further information on the project.
- On March 6-7, VLW is sponsoring its annual conference at the Law School. This year's subject is "Women's Health Issues: A Legal Perspective." Discussions will include the topics of "Hidden Malpractice," "Body Image," "Mental Health," "Child Bearing," and "Contraception." Volunteers are needed to help with publicity, fund raising, and logistics. Contact Melissa Lackey.
- The Public Affairs Committee is raising funds for the 12th National Conference on Women and the Law, which will be held in Boston April 3-5. VLW plans to send four representatives, hopes to send more, and encourages all interested to contact Nancy Bader, Suzanne Spaulding or Barby Rest. The same committee plans to sponsor a debate on abortion. Suggestions for debaters will be accepted by Kevin Doyle.
- The Alumnae Committee is publishing an Alumnae Newsletter and seeks articles, cartoons, and other suggestions. Chairpersons are Heather Mitchell and Emily Vrieze.
- The Placement Committee is compiling information on women who have experienced questionable incidents regarding sex discrimination during the interview process. Chairpersons Suzanne Israel and Kathleen Miles will be working with Dean Merrill and the Placement Office in revising the guidelines for interviews.
- The Speakers Committee sponsored a speech by Dr. Nancy Joyner, Director of ERA America, last Thursday and is planning a panel on two-career marriages. Suggestions for panelists will be accepted by Gail Ehrhart and Alison Lazerwitz.

Other committee activities include:

- Admissions Committee: looking for people to write letters to prospective woman law students, explaining what it is like to attend school at Virginia and encouraging them to attend. Contact Robin Balthrope and Barbara LaVerdi.
- Education Committee: preparing to teach an undergraduate course on women's rights; needs aid in research and teaching. Contact Jody Greenstone.
- Sports Committee: playing in the intramural basketball league; hopes to begin a squash or racquetball league. Contact Jackie Gordon or Martha Jones.
- Community Committee: works with Charlottesville women's groups, supports Dave Virrill's self-defense class, and is concerned with safety problems around the University. Contact Elaine Claar, Lisa Aaron, or Kathleen Ferrell.
- Faculty Committee: interviews prospective women faculty members and makes suggestions as to the hiring progress. Contact Chris Hughes and Anne McClelland.
- Handbook Committee: researches, writes, and markets the VLW publication "Your Legal Rights as a Woman: A Handbook for Virginians," and is now preparing for a revision of the second edition. Contact Anne Camper.
- Married Students/ Parents Committee: support group for interested women law students. The committee currently is compiling a babysitting list and has information on scholarships for women. Contact Molly McLuer and Carolyn Thompson.
- Social Committee: offers a wine tasting party and another potluck supper or picnic this semester. Contact Kerri Martin, Jan Pitterle, or Barbara Spudis.

While keeping the Law School informed with its Bulletin Board (near the student lounge) and notices in the Daily Docket, VLW hopes to hear from the Law School, as well. By encouraging all to participate in the range of activities, Virginia Law Women plans to prove that women need not live on potluck alone.



Martin Photo

Jeff MacNelly interprets a cartoon for the Virginia Legal Forum.

Accreditation Look To Focus Inward, Examine Problems

by Arlene Schler

"We will attempt to identify the Law School's current strengths and weaknesses and to anticipate the problems it may have over the next decade." That statement, coming from Prof. Walter Wadlington, sums up the purpose and activities of the Law School Self-Study Committee.

This committee, formed late last semester, will engage in a self-evaluation of the Law School. The report is required in order for the school's accreditation to be renewed; the American Bar Association and the American Association of Law Schools require such evaluations every seven years. It will focus on the general operation of the law school—on the curriculum offered, the structure of teaching loads, the size variety, and quality of the library, and the operation of the placement office, among criteria.

Wadlington chairs the commit-

(Please See Page 4, Col. 6)

Grants Given For Oceans, Security

by Nat Chapman

The University of Virginia and the Center for Oceans Law and Policy have recently received two grants totaling more than $120,000 according to Sandra S. Hodge, administrator of the Oceans Law Center.

The first grant, for $38,000, is from Sea Grant, part of the National Atmospheric and Oceanic Administration in the Department of Commerce. The funds are earmarked to develop a two-volume reader and a casebook in oceans law and policy that reflect the interface between U.S. domestic and international oceans law and policy. Professor John Norton Moore, director of the center, will write the books. They will be used in introductory courses in oceans law and policy in law schools and graduate programs of marine affairs.

A grant of $99,500 from the Andrew W. Mellon Foundation, will be used to assemble archival material on the United Nations' Conference on the Law of the Sea. Begun in Geneva in 1958, this conference involves more than 150 nations, making it the largest international conference in history. Moore was U.S. Ambassador to the Conference from 1973 to 1976.

The Mellon grant is also meant for use in assembling taped oral histories from diplomats who participated in the conference collecting legislative histories on major oceans legislation; gathering foreign materials on oceans law. That project is scheduled for completion in two to three years. Such a collection would be unique in the United States.

Another grant to Professor Moore is for $883,000. These funds, from the Scaife Family Charitable Trusts, are to establish a Center for the Study of Law and National Security under the direction of Professor Moore. The grant would establish the center on a three-year experimental basis and would be for conducting a range of programs in teaching, research, conferences on the legal aspects of law and national security issues. The planned center hopes: to encourage legal study in the national-security field through scholarships; to design and teach law school courses in the field; to develop an interdisciplinary approach which considers the role of law in national security analysis; to provide training for lawyers, legal scholars and government officials in aspects of national security law; to hold summer schools to prepare law professors and scholars in related fields for the teaching of law and national security; and to establish a Visiting Scholar program, which would invite prominent lawyers, law professors, and scholars to study national security issues at the center.

Clinical Ed Panel Search Advances

by Dorothy Heyl

The Dean's Committee on Clinical Education held its first meeting December 15. Student committee member Patty Dondanville reports that she is encouraged by the positive steps taken by the committee since its inception last spring.

The committee's report on the structure of the proposed clinical-education program should be ready to submit to the faculty by the end of the month, Dondanville says. The report will outline the relation of clinical courses to the curriculum, and establish the faculty status of new professors hired to administer the program.

The committee has been searching for candidates with expertise in teaching practical courses emphasizing skills. Several applicants may be recommended for visiting appointments next year; one in particular has impressed the committee as a possible candidate for a tenure-track appointment.

The clinical-education program envisioned by the committee involves a combination of teaching models. According to committee member Graham Lilly's three-pronged structure, the proposed program will include courses involving classroom simulation, small clinical programs, and seminars based on a traditional field of law, such as the Antitrust Practice Seminar. Only the limited-enrollment clinical programs provide students with actual trial practice, but a faculty-intensive course, such as Graham Strong's Criminal Practice Clinic, is extremely expensive and has limited opportunities in Charlottesville. Classroom simulation, which allows large enrollments and permits trial practice outside an actual courtroom, is the only kind of clinical training not presently available for academic credit.

Dondanville hopes that the concurrent activities of the committee—drafting the report while searching for teachers—will resolve the conflict she sensed between the committee's students and faculty. Before the December 15 meeting, student supporters of clinical education feared that if a person to run the clinical program were appointed before the faculty had determined the program's structure and scope, the necessary ambiguities of the professor's job description would allow the administration to abandon clinical education. Now, with the search for instructors and the plans for the program running in tandem, this possibility no longer worries Dondanville. The drafters of the committee report can build the program according to the strengths of the potential job candidates.

Sharpe . . .

(Cont. from Page 1, Col. 6)

tigators for the board. Sharpe says, "That put the labor attorney in the neutral position of determining, in the first instance, whether a violation (of the National Labor Relations Act) had been committed. Then, he'd have to change hats and become the advocate."

Sharpe's work for the board consisted of handling complaints that employers were preventing employees from participating in union activities or any activities directed toward improving job conditions. He says the textile and furniture industries are the most prevalent in the region now, but other machinery and manufacturing companies are heading toward the Carolinas, partly because of "the more favorable labor conditions"—from the employer's point of view.

"People," Sharpe says, are "working for less money without union organization. The level of union organization is lowest in North and South Carolina, and there's a correspondingly low level of manufacturing wages in those two states."

One of Sharpe's interests in labor law is in the law growing out of *NLRB v. Gissel Packing Co.*, which deals with extraordinary remedies that can be granted if employers widely overstep their legal bounds. "If the labor board," Sharpe illustrates, "decides that unfair practices were so egregious that a fair election was not possible, and if there has been a majority showing by the union of employee support, the board will issue an order forcing the employer to bargain with the union, even though the union might have lost the election." Sharpe plans to do research and writing in this area.

He also has plans to research further the law of evidence. As he has taught Evidence so far, he says, there are many new areas opening up to him that he wants to explore further. Sharpe will eventually be teaching courses in all his main interests. This fall, he expects to start a course in trial advocacy, and a labor law course will follow.

The picture looks dim in labor relations now, Sharpe says, because with the country's sluggish economy, job security is tight. Unions cannot provide job security, and so employers have an advantage in their struggle against the unions. Sharpe says employees have become afraid to join unions, and he doesn't know what can be done legally to balance the situation.

About his own future, Sharpe speaks much more definitely. After heading toward the ministry, private practice and public-interest work, he says he sees teaching as a permanent job. "I think this is probably my niche; this is where I want to be," he says. "That is not to say that I won't do other things in addition to teaching and scholarship, but basically, that's my calling."

Chair . . .

(Cont. from Page 1, Col. 3)

According to Merrill, the chair need not be filled each semester, if persons who fit the desired qualifications are unavailable.

David Ibbeken, executive director of the Law School Foundation, stated that the income from the endowment would support the chair. Therefore, in order to let the income accrue, it will probably be more than a year before the first visitor arrives. The faculty has not yet taken action to plan for the chair. Merrill hopes to organize "an informal group of three of four faculty members to think about how we ought to approach it, how often to fill the chair, and to make a list of potential candidates."

The Law School has also received a gift from a member of the McCorkle family which significantly advances the target of a $25,000 endowment to fund the Claiborne Ross McCorkle Lectureship, named in honor of an 1910 graduate. The purpose of the lectureship is to bring distinguished people to the law school to discuss contemporary topics. Professor A.E. Dick Howard is chairing a faculty committee to further define the purposes of the lectureship. Howard stated that he feels the McCorkle lectures "can be of the prestige and quality of the Storr Lectureship at Yale. We are shooting for absolute top-flight quality."

The lecturer will deliver a paper, or a series of lectures, dealing with seminal issues in the development of the law. The lectures will later be published as monographs and perhaps bound in hardcover. The subjects will be law-related but the speakers need not all be lawyers; Howard believes that they might be prominent philosophers, scientists, political theorists, or theologians. He speculated that the lecturers will participate in law school activities beyond the formal lecture, but such activities are yet to be determined. At the outset, the lectures may be biannual. The first lecture probably will not be given until 1983.

University Judiciary Committee Actively Occupies Many Roles

by Lloyd Bowers

On the fourth floor of Newcomb Hall, there exist three student representative groups. The first two, the Honor Committee and the Student Council, have gained notoriety through their respective dealings with Josh Henson and Birdwood. The third group receives minimal press and little notoriety, yet offers some of the most tangible benefits. That group is the University Judiciary Committee.

The Committee is a part of the University Judicial System. It has appellate jurisdiction over cases heard before the First Year Judiciary Committee, the Inter-Fraternity and Inter-Sorority Judiciary Committees, and the Family Housing Council. The Committee holds original jurisdiction over complaints brought by any University student concerning an infraction of the Univerity Standards of Conduct.

The Standards were adopted by the Board of Visitors in October 1970 and are based on the premise that in a community of learning: ". . .willful disruption of the educational process, destruction of property, and interference with the orderly process of the University or with the rights of other members of the University cannot be tolerated."

Eleven guidelines are listed to narrow the activities that could constitute an infraction. A copy of the Standards of Conduct are available from either the Judiciary office or from the Law School members.

Two representatives from each of the ten schools of the University are elected to serve on the committee, and seven of those members sit on each trial panel. One of the main criticisms voiced by law students is that student representative committees are staffed only by 19-year-old politicos. With the 1980-81 Judiciary Committee, half of the representatives are from either graduate schools or schools with graduate programs, and the average age is 23.

Another complaint often voiced is that a student-run judicial system nurtures a "Big Brother" environment. This is not true of the University Judiciary Commitee. It may only convene when a complaint is lodged by a student, or a case is transferred by the University Police or the local Commonwealth's Attorney. Further, a student convicted in a case based on original jurisdiction may appeal to the University Committee on Students, which is composed of three faculty members (two of whom are from the Law School) and one student.

Aside from its function as a trial panel, the committee oversees two valuable services offered to University students. The first is the Landlord-Tenant Arbitration Board which assists students in resolving lessor-lessee disputes. The board is composed of both area landlords and University students, and has recently gained respect within the Charlottesville/Albemarle community as a preferred method for handling claims. The second service is the Bail Bond Committee, which provides financial assistance with bond fees to any University student who is arrested. It is a 24-hour service that only ceases during University breaks.

The 1980-81 representatives for the Law School are Mary Foil and Lloyd Bowers. If you have any questions concerning the committee, or need to avail yourself of any of its services, they can be reached either through their mailboxes or by calling the Judiciary Office at 924-3453.

DICTA . . .

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persons other than physicians not only from performing artificial insemination, but also from selecting AID donors. If the physician who performed the AID does not deliver the child, the consenting married couple must give the initial doctor notice of the child's birth. That doctor in turn must file a copy of the request and consent for AID with the State Registrar of Vital Statistics. The statute forbids donation of semen for use in artificial insemination by one who knows he has a transmissible genetic disease or defect or a veneral disease.

Child Trafficking Statutes and Surrogate AID Parentage

It is not uncommon for state adoption or child welfare statutes to ban money payments which might be deemed selling or trafficking in children. Although not designed specifically for the situtation, such laws are regarded as key obstacles to the use of surrogate AID mothers who receive payment for their participation. A Michigan trial court has held that state's ban on payments in connection with adoption placement applicable to surrogate parentage cases in which the child is to be relinquished to the semen donor and his wife for adoption.[8] Even in the absence of such a statutory ban, there is strong doubt that contracts for surrogate mothers to bear children and relinquish them will be judicially enforced in the absence of enabling legislation. Persons entering such arrangements should know that at this point there are many legal problems and few clear answers. It is possible, for example, that a surrogate AID mother might refuse to relinquish the child born to her and seek support from the biological father. If the surrogate mother is married and her husband has consented to the process, existing AID statutes might cut off the donor's rights. Also, presumptions of paternity might make it difficult for the donor to establish the child as his. The extent to which such problems can be resolved by contract in advance of a child's birth is unclear.

The Problems of Further Regulation

One might at this point ask for the reasons against just doing nothing. Some describe this as "maintaining flexibility," which is another way of saying let the courts see if they can work it out. This takes time, and the problems are compounding in the meantime. And due to the many potential legal complexities associated with artificial conception, coupled with further scientific developments, this seems unsatisfactory—particularly when we realize that it is the children born through the process who will bear a substantial part of the impact.

In the absences of a statute dealing with AID there is significant possibility, if not probability, that a child so born can be found illegitimate, or that his legal paternity can be put in question. Sperm donors may have rights and duties toward the children they sire through AID, in view of such cases as *Stanley v. Illinois*[9] and *Gomez v. Perez*.[10] Availability of new means for assisting in the affirmative establishment of paternity, such as the human leucocyte antigens (HLA) test, further compounds the problems. Ironically, this is another example of the potential impact of scientific change.

Another possible purpose of regulation to protect legal status would focus on how many children a given donor should be permitted to sire. The key concern here is incest. Current AID statutes do not speak to this problem, but it is quite common for state statutes to pronounce that brother-sister marriages, whether by the half or the whole blood, are void. This can mean that no legal process such as annulment is needed to establish their invalidity. Children sired by the same donor to multiple donees would be siblings by the half blood. Some studies have indicated that intermarriage between such siblings is highly improbable from a mathematical standpoint. But the odds could be changed by certain physician practices. If one donor sires 30 or 40 children of approximately the same age in a relatively small community to mothers in a roughly comparable social grouping, it could be a much different story. Should there be a specific statutory exception for siblings of the half blood by AID? Though it sounds fair to the children, such a provision might in effect undermine marriage proscriptions for non-AID siblings. Another alternative, of course, is record keeping which would identify the biological father. This is strongly contrary to existing practice and it might discourage both semen donations and even AID usage. On the other hand, we can see a related analogy with the case of adopted children who in increased numbers today seek to learn their true biological origins. Still another record keeping concern focuses on the need for genetic information for subsequent medical and genetic counseling purposes. The "Catch-22" element is that lax record keeping (and even practices such as CAI) is intentionally being used to attempt to avoid legally establishing parenthood in the donor of semen.

In adoption cases, the adopting parents must face some screening to determine their legal suitability. Should there be something similar in cases of AID? A few existing statutes provide for registering the AID consent with a court or an administrative agency, but they do not actually provide for an evaluaton of the suitability of the AID mother or her husband, if she has one. The practical difficulties of such an approach in cases of AID was illustrated by the New Jersey case cited earlier. IVF, which requires more significant intervention, would be easier to regulate in this regard.

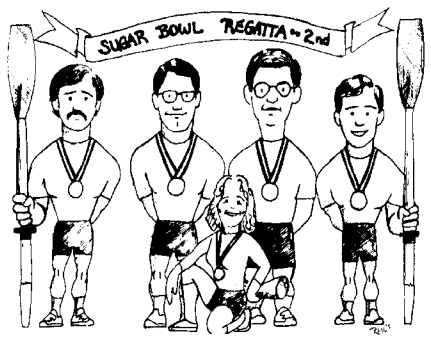
If space permitted, one could continue to list what would be potential legal problems if nothing were done in states which have nothing now, as well as in those with limited statutes on the subject. The biggest obstacle may be that further legislation will require difficult policy determinations which may have far-reaching effects on existing rules basing legal rights on biological paternity, or on whether a right to procreate is included in the constitutional right of privacy and, if so, whether this extends to artificial procedures such as AID or IVF. The possibility of something akin to parent licensing might even be considered if a state seeks to limit access to AID or IVF. Some would rather see the determination of such issues avoided at almost any cost at this time. But the cost may well be deemed too great with the recognition that those most likely to be affected by inaction or inadequate steps are the infants conceived through artificial conception.

[1] Curie-Cohen, Luttrell, and Shapiro, Current Practice of Artificial Insemination by Donor in the United States, 300 New Eng. J. Med. 585 (1979).
[2] *Id.* at 588.
[3] C.M. v. C.C., 152 N.J. Super. 160, 377 A.2d 821 (1977).
[4] See Report and Conclusions: HEW Support of Research Involving Human *In Vitro* Fertilization and Embryo Transfer 113, May 4, 1979.
[5] Ga. Code Ann. §74-101.1.
[6] Rev. Code Wash. 26.26.050(2).
[7] Ore. Rev. State. §§109.239-247, 677.355-370.
[8] *Doe v. Kelley*, Civil Action No. 78 815 531 CZ, Wayne Couty Circuit Court, State of Michigan, Jan. 28, 1980.
[9] 405 U.S. 645 (1972).
[10] 409 U.S. 535 (1973).

Rowers Contest Cajuns On Bayou

by Craig Reilly

Softball is not the only sport avidly pursued within our law school community. For the past two years, there has also been a large and enthusiastic group of rowers. Though cloaked now in business suits, and in some cases, 20 extra pounds of buoyancy, these oarsmen still yearn for a quiet afternoon of graceful rowing on a still river. It was with the spirit of adventure that five residents of Edifice Lex left the stinging cold of Charlottesville in late December for New Orleans' Sugar Bowl Rowing Regatta.



Crew members, l. to r., Reilly, Rutherford, Sink, Blount, Wilson

There had been rigorous training late in the fall semester—both practices were quite intense. We knew we could rely on our poise, determination and experience to make up for lack of aerobic conditioning.

The trip down was long and tiring with the 4-man racing shell strapped atop a mud-splattered Volvo. It was not just a trip through time and space, though, but a journey into a new and alien culture. Indeed we had traveled a "fur piece" from New York. There was even one nasty brush with Southern hospitality when an unwanted helping of grits was forcibly returned to the restauranteur.

The 22-hour drive ended in the early morning of December 28, as we crossed the causeway over Lake Ponchatrain into New Orleans Parish. The lovely vista of the orange sun rising against the mauve sky, its rays glinting off the rippling bayou, and the glistening, rich color of the evergreens bathed in dew, were all but lost on our bleary-eyed carful. What was not lost on us, however, was the stark reality that the race—so we were informed upon our arrival—would take place in just a few hours.

We hastily rigged our racing shell and retrieved our coxswain, Debbie Sink, from the airport mere minutes before the starter's commands were to be given. Calmly, though, we stood on the dock prior to launching, listening to the strains of our national anthem. The static popping of the recording on the portable phonograph sounded like the gunfire on the fateful night that this majestic anthem was penned. The tall, brawny crew we were to face looked like clones, which was close to the truth. Eight members of their tenman contingent were sons of the host team's proud coach.

As for the race—well, the *Times-Picayune* put it gently: "It was barely a contest...the host crew dominating both races...soundly defeating the University of Virginia team."

After the embarrassment on the water, though, we came into an embarrassment of riches. We were given medals, commemorative T-shirts, dinner and drinks, free Sugar Bowl tickets, and offered a place to stay for free. Our sleeping arrangements thereafter were a delicatessen delight of various "sandwich combinations" of our crew and friends, as many as eight of us, in one hotel room.

New Orleans' French Quarter was lazily toured for several days. The first evening, Jeff (Bubba Gumbo) Blount shared some thoughts on the culinary dimension of Cajun culture. Bubba's theory was that gumbo was not a mere dish, but a "method of preparation" reflecting other aspects of the local lifestyle. That gumbo could include both shrimp and sausage was telling. Unfortunately, we never again got enough alcohol into Bubba for him to finish his dissertation.

Food was but a part of the French Quarter: live jazz, riverboats, street artists, lacy wrought-iron balconies and narrow cluttered streets made the Quarter a very special place. Much of the rest of the city was unattractive and unsafe, so we saw little of that. The Quarter also included several topless bars and female impersonator shows. Robbie Wilson, intrigued by this latter diversion, managed to catch a glimpse of some of the "girls." As always, he was skeptical—"It was okay," he said, "but I think that they were cheating and using real girls."

Though not the Mardi Gras, New Years' Eve in New Orleans is a spectacle in itself. This year had its own special flavor from the Georgia Bulldogs and Fightin' Irish fans. All imaginable combinations of red and black and green and gold were on display. By then we could all manage a fairly convincing "How 'bout dem Dawgs!" and Bubba even led a Georgia fraternity in a D-A-W-G chant and bark along.

New Year's Day found us in the Superdome for the Sugar Bowl. President Carter was there along with us to see his home state's team come away victorious. We were uncertain, though, about much of the goings-on the field. This was in part due to the location of our seats; we were so high up that punted balls did not even reach eye level.

The long, painful ride home seemed more so, untempered by the anticipation felt on the trip down. C'ville and law school are still the same, and once again we rely for escape on memory, now freshly infused with life.

Lambert Photo

The thin blue-and-orange line of the Good Headers, putting the toe to it.

Self Study

(Cont. from Page 3, Col. 6)

tee. Other members include professors Ernest Gelhorn and Douglas Leslie, Law Library Director Larry Wenger, Associate Dean Alfred Turnbull, students Phil Sprinkle and Alison Mearns, and alumnus Allen Goolsby.

After compiling a detailed document describing the operation and policies of the Law School, the committee will submit its findings to the American Bar Association and the American Association of Law Schools. Representatives from these associations—typically, law faculty from other schools and law librarians—will conduct an on-site inspection of the Law School, after reviewing the committee's report. The inspection and review conducted by these accreditating associations will be directed at ascertaining whether the Law School meets the minimum standards of competency.

Wadlington emphasizes that the law school faces no danger of losing its accreditation. The comments by representatives from the ABA and AMLSA are useful, though, in directing the attention of the administration to areas needing emphasis. For example, the association's representatives would assess whether, relative to the size of the law school, current faculty-student ratios are reasonable.

Wadlington intends to complete the self-study report by the end of this semester and expects the on-site inspection and review for accreditation within the next two years. The committee met once last semester and discussed admission policies, the need for increasing financial aid, and adequacy of library facilities. Future meetings will deal with, among other topics, the problems of contemporary legal education, focusing on the structure of Virginia's clinical program.

Wadlington expressed gratitude for the cooperation of the heads of student publications who have already submitted to the self-study committee reports describing the interests of the publications and the anticipated financial needs for their operation.

Committee members this semester will be occupied in gathering and synthesizing information about the Law School and researching comparable statistics and information published by other law schools. Because the committee desires information from members of the Law School community outside the committee, and wishes to keep the community informed about the progress and concerns of the evaluation, the committee will issue periodic requests during the semester for outside responses and summaries of their discussions.