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Vol. XV, No. 5

The Villanova Law School
April, 1978

Lawten and Baker are golden in Silver Jubilee Reimels

Frederick J. Lauten and James M. Baker were judged winners of the eighteenth annual Reimel Moot Court Competition in the final round of arguments held Saturday, April 8, in the law school.

The judgment in favor of the respondents in the case of Demars v. Commonwealth of Villanova was announced by the three judge panel, consisting of the Hon. Byron White, associate justice of the United States Supreme Court, the Hon. Leonard I. Garth, circuit judge of the United States Court of Appeals for the Third Circuit, and the Hon. Robert N.C. Nix, justice of the Pennsylvania Supreme Court.

The team of Christine O. Boyd and Joan C. Luech argued what proved to be the losing side, in representing the respondent in a case involving two specific constitutional issues.

Hairline Difference

The panel of judges required approximately fifteen minutes of deliberation to reach its decision between the two teams, which, as Justice Nix later commented, were separated by only a "hairline difference."

All three of the judges, after the decision was announced, expressed, from the bench, their congratulations to the participants and their compliments for the quality of performances displayed in the arguments.

Justice White, who announced the result, indicated that the "excellent arguments" were an indication of how much law schools have improved in the fifteen years that he has been participating in moot court competitions. He said that excellent performances are not infrequent among the high quality students of oral advocacy in law school today.

Judge Garth remarked that "in many respects, the briefs and arguments were substantially better than we (the third circuit judges) normally get."

Respondents Manhandled

He also indicated that the difference between the two teams might have been that the judges were able to "manhandle" the respondents more than the petitioners, although the problem he thought, somewhat lent itself to that.

He also complimented those who drafted the case, which he termed a "magnificent problem," one that was interesting and "heavily weighted." Prof. Leonard Packel devised the problem, with the assistance of Susan Rhodes, co-chairman of the moot court board.

Justice Nix, who spoke after Judge Garth, said that the advocates "can take great pride in the effort they have placed in their participation." Justice Nix, an alumna of Villanova University, remarked touchingly that he had served on the Philadelphia common pleas court with the late Theodore Reimel, in whose honor the annual award has been dedicated by his widow. Judge Reimel, he added, had been the godfather for his youngest son.

The argument began, just a few minutes after three, when Frederick Lauten approached the podium to argue on behalf of the defendant, Martin Demars, that, as a juvenile, he had been deprived of procedural due process in his conviction of robbery, larceny, possession of offensive weapons, and conspiracy.

Lauten argued that, under a Villanova statute that granted to juvenile courts the "exclusive jurisdiction in any proceeding" concerning an alleged act of juvenile delinquency, the defendant was given a right by that statute to the benefits of the juvenile court system, which could not be divested without notice and a hearing.

Thus, he argued, another Villanova statute that gave the district attorney authority to withdraw an action from juvenile court, when a juvenile over the age of sixteen commits an act that would constitute, murder, rape, robbery, and to institute criminal action against the juvenile would deprive the defendant of due process, if it was used, as it was in this case, without giving the defendant notice or a hearing.

Subject to Discretion

The bulk of questioning from the court was directed to this (Continued on page 4)
Proposal no answer

A proposal for a potentially significant change in the law school’s admissions policy has been submitted to the Admissions Policy Committee by George Sheehan, one of the student members on the committee. Because of the seriousness of the issue and the nature of Mr. Sheehan’s recommendations, this proposal demands careful consideration.

The basic effects of the proposal, if adopted, would be two-fold. First, it would result in a law school to which a student applicant would have access. Second, it would create a perception of the school and a respect for moral thought.

But such an effort is not profitable, because it raises more problems than it solves. Any attempt to make discrete categories of ethical and functional values will be either hopelessly vague or arbitrary. The strength of the philosophical tradition of utilitarian ethics virtually precludes such a distinction, apart from one made on the basis of a specific notion of right or wrong.

Similar problems abound in connection with the school’s admission policy and the preference for those interested in “social betterment.” The most concise reference to whom this standard is directed is the following: “The school seeks those individuals who desire to use their legal education for the betterment of society.”

While we share some of Mr. Sheehan’s concerns and, to a certain extent, sympathize with his objective, we cannot endorse his recommendations.

Proposed by George Sheehan

On April 3, 1978, a proposal for changes in the admissions policy of law school was submitted to Professor Walter Taggart, chairman of the Admissions Policy Committee, for the consideration of the committee. The proposal has two principal aspects: one focuses on the character of the applicant, the other on the profession’s admission for a certain kind of applicant.

The proposal argues that it is important that an institution of such responsibility as a law school make a determination, at least in basic terms, of the worth of its applicants in terms other than of academic accomplishment. Such a determination will require that each application be read with that in mind.

All applicants are currently required to submit basic information concerning criminal record, academic disciplinary action, dismissal by employers, and the like. This information is used to discover any possible impediments to an applicant’s eventual admission to the bar. It is also a cognitive moral responsibility to be aware of and act upon any questions raised by these considerations.

But the proposal is not so much an effort to determine the character of the individual. It is argued that this procedure is impractical. The proposal, however, makes it clear that it is not sufficient for a law school to use a minimal standard of character for its prospective students. The responsibility of a law school to the profession, and to society, is too great to permit a cursory examination of character based on past incidents such as crimes or academic violations.

The proposal suggests requiring that questions be answered to give an idea of how an individual goes about resolving difficult questions with moral aspects. It is not proposed that individuals be admitted, or refused admission, because of particular beliefs, whether religious, political, or other. The thrust of the proposal is to determine an individual’s opinion on a particular subject, but rather to see what factors the individual considers to be relevant to the individual recognizes the broad significance of the problem, or merely thinks in terms of bias or pragmatism. No one would be denied admission merely because of the beliefs espoused. The proposal makes it clear that diversity of beliefs among students and faculty alike is essential to a diverse and vigorous intellectual community. Homogeneity of beliefs is to be avoided, but it is nonetheless important that there be a common standard of good character. It is proposed that the standard should be a cognitive moral responsibility and a respect for moral thought.

In addition to seeking to produce good lawyers, it is argued that the school should give special consideration to those applicants who have indicated an intention to use the skills they will acquire for the betterment of society. It is proposed that in the school’s tradition of social responsibility, there is a place for those who are interested in using the law to help the poor, who work toward the betterment of society.

The proposal states that this objective is both desirable and necessary, and cites an evidence of the need the law school has to deal with. It states that Villanova Law School should be such a school. While the proposal has led to discussion, the issue is in what question should be asked.

Our position is that the school should make a determination of the character of the individual. No process is perfect, but what is proposed makes it clear that diversity and inclusiveness are essential to the legal profession and, ultimately, to the betterment of society.

(Continued on page 12)
Student govt.'s lacks leadership not friends

In our short tenure at Villanova, student government has rapidly declined in the number of important functions it performs. In fact, it has become largely a conduit for channelling money from the university to various law school organizations and nothing more.

Actually, this wouldn't be so bad if the SBA's distribution of those funds, some $6000 each year, were not so lopsidedly in favor of bahana as opposed to most things intellectual.

Before the Alaskan pipeline was even started, the SBA pipeline was a reality and the huge ICC super-tankers could be seen chugging in and out of a very safe harbor, laden with beer.

Now, while sums as high as $500 a semester were spent on beer and parties, other organizations were going begging. The highly regarded movie series of the 1977-78 school year was one casualty. The SBA saw fit to grant the series sponsors a mere $75 — enough only for one film!

The Law Forum, bringing speakers to VLS for lunch-time programs ranging from the Eagles GM to a Rabbi speaking on Soviet dissidents, provided plenty of food for thought.

One wonders how an informed choice on any other front.

The recent elections are a prime example of a lack of leadership. Not only was there no publicity, there was also no chance to meet the candidates, no chance to do anything more than ratify more of the question — after all, the SBA's reputation made organizers feel as if this merely compounded the or­

The law is not so ephemeral or plastic...

But the law is not so ephemeral or plastic as to assume a form of its molder's intent. Instead, while responding to social change, the law still maintains the twain of neatly separated, but for purposes of this discussion I wish only to ad­

The point here is that initially, the attitude that the law is "up for grabs" is antithetical to a certain legal philosophy and to the positing of a philosophy in general. For Cardozo, the law could never start. It started when, above all else, a living process and yet we are not to find a living law in every gust of fancy that would blow to earth the patterns of history and reason.

Totem and Taboo

Beyond philosophical pref­

Freud looked at the develop­

Gentlemen:

Monthly, I get your fine paper. I have found it very interesting and look forward to receiving future editions.

Best wishes on the continued success of your publication.

Sincerely,

Joseph F. Weis, Jr.
Faculty seminar charts school's curriculum course

"We are trying to show you our concerns," Professor Donald Dowd announced to the audience of a Graduate's Day seminar on the law school's curriculum, held on April 6, 1978, at the University of Chicago Law School. Dowd, Packel, Cannon and Taggart in a small room at the university where questions were clearly welcomed. The curriculum 'round table' was to illuminate VLS, as to "where we are and where we might go in the future," Dowd told them.

Curriculum

Professor Dowd told those alumni present (a small but inquiring lot) they would find the core of the curriculum relatively unchanged, although he noted the addition, in first year, of the two credit Free Speech and Association, along with First Amendment problems.

The major change, he said, has come in the greater increase in the number of electives, reaching what he termed "a proper mix" of subjects. He also pointed to the recent development of clinical programs and related courses.

Limits Put Forth

Before turning to the discussion over to Professors Packel and Cannon for more particular insight into the development in the curriculum, several limits upon development in general were put forth by Dowd to give alumni a conceptual framework within which to view the possible solution to the process of making a curriculum to meet current educational demands.

The most obvious restraint was financial. "We’ve tried to see ways to stretch dollars and spend them better," Dowd said. The school has grown to rely on a certain number of adjunct teachers but the presumption is that students should be taught by full time staff. Dowd painted a picture illustrating the tug and pull of reconciling various legitimate needs.

Professor William Valente enjoys the Giannella Lecture

Furthermore, the law school must be consonant with what other law schools are doing and the interests of particular professors must be somehow fit into a common curriculum.

"Fugman Does It"

Dowd turned the program over to Professor Packel who, in a rather suspect manner, had come to read certain passages in the legal paper of John Adams, as he unabashedly shared with the audience his personal concerns.

Most students know Packel from his Evidence course, where the words, "Fugman does it," are common fare. Admitting that he didn’t think trial practice could be taught when he came to Villanova, Packel told the audience, "I’ve been completely turned around.

Speaking both of his trial advocacy course (Evidence and Trial Practice) and his Juvenile Justice Program, Packel pointed out that these clinical courses use classroom instruction to solve real problems, and thus students learn that "if I use it and use it right it will work." Classroom instruction is reinforced by the clinical experience.

Those clinical programs have come about because "now staples of the law school’s diet; follow the curriculum third-year students for instance, taking Evidence and Trial practice.

The spotlight next switched to VLS grad John Cannon whose area of specialization is the election system of the upper years. Cannon was immediately hit by the question of whether, due to an increased offering of electives, students were not being forced to needlessly specialize at the expense of a broad base of knowledge.

He responded by pointing to the so-called "category requirement" and stated that this was really only a "trick of the trade of the school provided sufficient exposure to the study of due process arguments. Cannon supported this with two facts. First, he stated that students were satisfied and even with the category requirements

by Robert A. Federico

"The Constitution is not a tabula rasa upon which the Supreme Court can scribble at will." This and other irrelevant observations on the Court were made by Professor Philip Kurland of the University of Chicago Law School at the second annual+i Giannella Memorial Lecture April 6, 1978, Professor Kurland, formerly clerk to Justice Felix Frankfurter, addressed a gathering of about 250 on "The Jurisprudence of In Con­ stitution: The Religion Clauses of the First Amendment."

Seeking to debunk any notion that the First Amendment Religion Clauses, are either consistent or compatible with each other, Professor Kurland announced his belief that personal preferences of the Justices lie behind the decisions. He defined the central problem: how should the Court decide cases when provided with no guidance from the language of the Constitution or from the intent of the Framers as derived from historical record? The answer is disturbingly simple: the Court decides as it pleases.

Professor Kurland traced the development of the Religion Clauses language found in the Constitutional Convention, indicating that these were designed to preserve the occurrence of evils from English history such as the favoring of a single church. It was thought that a multiplicity of religious factions would act as a check upon the power of any one.

Asurance of equality of treatment is the underlying proposition of the Religion Clauses, according to Kurland. The question before the Court had been whether the right to have counsel at trial, the right to be heard, and the right to appeal were protected by the Sixth Amendment or, rather, by the Equal Protection Clause.

Kurland emphasized three aspects of the Religion Clauses: the restraint is only upon the federal government, the government cannot establish a state religion; and the clauses are uni­ fied conceptions, not isolated. Thus, what the Constitution provides is this: a religious establishment or religious delinquency would be protected. The exercise and establishment clauses rather than as a unified whole would be treated as so many different issues, not as one.

Question of what was the nature of the charge in the case and whether by the two statutes in question. Two of the judges asked whether, whether both of the statutes were read together, the defendant had a right to be in juvenile court — a right subject to the prosecutor’s discretion to withdraw the case.

Professor Kurland believed the First Amendment is not a reason for them, but only an excuse. "Judicial discretion controls the result, not Constitutional mandate." Kurland rejected Justice Douglas’ belief that deep political division among religious lines in remote, and that the Religion Clauses are directed at evils which no longer threaten.

The Court has developed a three-prong test for statutes which seem to contravene the Establishment Clause: Does the statute have a primary secular legislative purpose; Does it primarily advance or advance any religion, and Does it foster government entanglement with religion?

The Kurland analysis identifies the Constitution as the trans­ modification of the First Amendment Religion Clauses and the decision of the Fourteenth Amendment. "Would the American body politic seems to contravene the Establishment Clause: Does the statute have a primary secular legislative purpose; Does it primarily advance or advance any religion, and Does it foster government entanglement with religion?

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The Gospel of the Mass related the story of the Good Samaritan.

The rector of Campus Ministry, addressed the Red Mass that is to invoke the protection of the Holy Spirit, traditionally a time to celebrate the blessing of scholars.

Raymond Jackson, O.S.A., Dean of Nova University, and other prominent Augustinians of the Order, who also composed the music for the Ordinary of the Mass. The event was an address entitled, "The Homilist, the Reverend O.

Following the Mass, Harold Gil Reuschlein gives Red Mass speech.

The elections of March 30th and 31st signalled the changing of the guard in the Student Bar Administration office. David Webster has been elected as the new president. The other incoming officers are Dan Satriani, vice president, Kate Buttolph, treasurer, and Stephen Jackson, secretary.

The Homilist, the Reverend O. Raymond Jackson, O.S.A., Director of Campus Ministry, addressed himself to the purpose of his Eminence, John Cardinal Krol of Philadelphia, the beauty of the school can be attributed to the presentation of the Homilist, and the purpose he was there to fulfill.

Cardinal honors Jubilee Red Mass

The school celebrated the traditional Red Mass on Saturday, April 8, which is to invoke the protection of the Holy Spirit, traditionally a time to celebrate the blessing of scholars.

Dean Reuschlein spoke warmly of the Law School and of his colleagues. He called upon the Law School to not only celebrate a Jubilee, but also to continue its mission of integrity to the legal profession, and to deal with contemporary problems and corruption.

In closing, Dean Reuschlein expressed his hope that he always remain a part of Villanova. The warm, resounding applause that greeted his concluding remarks was an indication that his hope was a mutual one.

Students elect reps; answer questionnaire

by Hank Delcato

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Time constraints involved

The March 1978 "Employment Opportunities Survey of Governors" was conducted in the placement office in bender 87.

**VLS grads find success**

The first annual Four In One Job Fair was held on Saturday, April 8th at the University of Pennsylvania Law School. The four schools that cooperated to "only a start," by Villanova Placement Director, Joan M. Beck. She launched a large response from area students looking for jobs, while employer response was not. All those present were limited to the presence of law students who had indicated early on that they were interested in the job market. This was out of a total of 12,000 invitations extended to attorneys in the third year in Pennsylvania and New Jersey.

Upon registration, students were given a list of employers with whom they would be interviewing for the day. Students congregated and compared notes with their fellows and spreading the "word" about one firm or another.

Employers saw students preliminarily in the morning, making second interviews with some students, filling employers who were interested in the job fair. The day appeared to the students and employment officers that there was no cold calling on the part of any employer.

**VLS grad is just a start**

by Joan M. Beck

The Class of 1977 employment statistics are in. They prove the success of Villanova Law graduates. Of the responding class, 90% were employed by February following graduation. The figure is slightly higher than the national average for law schools which is 92%.

A breakdown by job category shows that private practice continues to be attractive to approximately half the class or 45%. The national average is 52%. Obtaining judicial clerkships appears to be Villanova law grad- uates. Of the respondents, 8% were employed in third year law student positions and 23% of the Class of 1976 were employed as clerks. The national average is 9%.

Corporate legal departments absorbed 14% of last year's grad- uates. The national average is 10%. These departments are becoming desirable grounds for both the strengths of their staffs, and the competitively high salaries and benefits. In government and public interest employment, Vill­anova Law graduates placed 18% (national 18%) and 9% (national 9%).

A noteworthy growth in a job category appears in advanced aca­ demic positions. A full 14% indicated interest in teaching and fellowships. The increase was from 17% in 1975 to 25% in 1976 to 3% in 1977.

The Class of 1977 experienced the difficultly faced by law graduates, specifically that of identifying job opportunities. Their approach was to conduct a legal job search in a professional manner while actively recruiting support from faculty, friends, alumni and the legal community is to be applauded. 90% is success in anybody's market.

The Docket • April, 1978
Scenes of the Jubilee: (upper left) Dean J. Willard O’Brien and Founding Dean Harold Gill Reuschleining (upper right) Professor Donald Dowd catches the spirit with noted constitutional law expert, Professor Phillip Kurland, this year’s Giannella Memorial lecturer; (center left) Tina Verbo and Adjunct Professor, Judge Prattis show winning smiles; (center right) James McFough, chairman of the Law School’s Board of Consultants, addresses the dinner gathering of alumni (below left top) some of those ladies who worked so hard to insure that the Jubilee went smoothly, holding the paperweight momento and program distributed to celebrants; (from l. to r.) Mary Carroll, Peg Smith, Maura Buri, Mary O’Donnell, Betty Murphy and Nancy Kueyney; (below left bottom) the newly elected Law Review Board; (first row l. to r.) Amanda Shav, Nina Gusack, Lisa Hunter, Hank Evans, Steve McLain, Cathy Kalida, Cathy Jason, Marianne Robinson, Jennifer Burke; (second row) Ken Jacobsen, Dan Callaghan, Wendy Wallner, Dieter Strazyna, Randy Lawrance; (below right) a scene from the Red Mass, celebrated in the main University Chapel.
Court reverses on Rothman; Prof. is con-law pain-in-neck

by H. Arell

Special to The Docket

The U.S. Supreme Court today decided that the First Amendment protects course advertising by law school professors. The case, Rothman v. Faculty of the School of Law, concerned a member of the faculty who sought to increase course enrollments by advertising the job-related benefits of the courses he teaches.

Calling Rothman's conduct "crass commercialism" and "dubious hucksterism," the faculty voted to prohibit course advertising, and to punish Rothman by stripping him of his reserved parking space. Responding to the faculty's action, Rothman brought suit challenging the First Amendment right of his students to receive information about his courses being taught under the doctrine of Kleinheister v. Mandel, 605 U.S. 567 (1957). The Board of Regents of the University of California, in San Antonio v. Rodriguez, 411 U.S. 1 (1973), the First Amendment does not protect the students' right to receive the information, and (2) as a private institution, no state action was involved in the law school's disciplinary action.

In reversing the lower courts, the Supreme Court, in an opinion by Chief Justice Warren Burger, held that it was not necessary to rule on the question of whether "educational speech" was constitutionally protected. Instead, the Court rested its decision on the ground that Rothman's advertising was truthful commercial speech which was protected by the Court's decision in Virginia State Board of Pharmacy v. Virginia Citizens Council, 425 U.S. 749 (1976). Justice Burger brushed aside the law school's "state action" defense, and held that the adversity existed under the circumstances. It was evident, said the Chief Justice, that the law school's disciplinary action of depriving Rothman of a parking space constituted a substantial interference with an instrumentality of interstate commerce and an impermissible invasion of Fourteenth Amendment freedoms to travel under Shapiro v. Thompson, 394 U.S. 618 (1969).

In response to the Court's decision, the Board of Regents of the Dental College of Oral Surgerists has decided to adopt new advertising guidelines to prevent deception. Moreover, the Board of Regents of The Docket, said that course advertising must be truthful and, related to the case, the professor. Rejected, he said, would be any advertising that employs sex discrimination in employment advertising that employs sex discrimination in employment.
Sensing a void in legal
work to the firm. They may not
We haven't been hiring
formance and think that there's a
do you look at his law school per­
have a prejudice in favor of high
privacy in controlling her own body
Second, prostitution laws are an
have surfaced that may dispense
COYOTE challenges tired ethics
Best and brightest - not always successful
you regardless of the courses you
take in any case.
A: At Well, I would say that for­
not have been the most successful
when she was hired.
are the lower edge of our academic
for summer; we hire at the end of
A: That's what he said and it's
to make it is to clash.
Q: I hadn't heard that one, but
that's a good one.
Q: It's situation like Yat's,
to be filled nearly
we're hiring for more
generalised areas.
A: I'm getting at the question of
was elected to the Order of the Coif, the na­
that prostitution is not an important source of venereal
disease. Ms. Weidner stated that
This statement is borne out by
we are, not a uniformly favorable. Seattle
Washington alone spends ap­proximately $1 million a year to
prosecute and negligence suits. Ms. Weidner be­
tered in this topic, when a woman called her because she had
been arrested for prostitution eight times in six days and hadn't
had enough time between arrests to do anything. One may argue
that the police time and money in­
volved in making these arrests is
well spent because the woman will
be arrested for prostitution that
white counterpart, although
women comprise 60% of the total
prostitution population.
Weidner stated that unfortunately
that give laws that many police
people that have come to us and
haven't worked out because we
lack imagination or an honest appraisement of
our own legal system.
Weidner stated that unfortunately
the police have become so preoccupied
with enforcing the prostitution laws that
the police time and money in­
vested in enforcing these laws
are often more time consuming
than the actual arrests.

Best and brightest - not always successful

New faculty members

Q: Has that been because of the
tony clashes?
A: The quality of their work. We
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Q: What has that been because of the
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Partner X stumps the stereotypes

by John Sparks

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that an athlete's failure to perform as expected is attributable to the team's strategy and not to personal or individual factors.


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Much as Freud thought children to develop. Early events shaped later in the boy's society, in its institutions.

Thus, in Totem and Taboo, Freud identifies the quite simply an example of a psychic development and consequently, much as freedom and justice as a result of the concept of the anal, the crimal sex of a father's son, who suddenly found themselves in some sort of social organization, according to the concept of the introduction of the concept to the toddler surrounding certain institutions.

Freud also explained the adoption of the boys of those laws given to the same lines as in Totem and Taboo, and that to adopt Moses' code but killed him before entering the Promised Land, and afterwards, the trauma, after having been repressed was partially returned, leading the Jews to adopt Moses' laws once more.

Now, these points are not really in a form of Freud's hypothesis, which are contested by many psychoanalysts as being too reductive of the human experience, in the form of such social organization, according to the concept of the introduction of the concept to the toddler surrounding certain institutions.

Up for Grabs

Philosophically, of course, we have many psychohistorians as being too reductive of the human input. However, I offer Freud as a statement, at least, of the deeply felt perception of the psychological needs by law and its concepts.

In Figure 1, I offer a Marilyn Monroe's blonde-haired blue-eyed image, there's a certain appeal. Sometimes, I relfectively get angry if you did get three or four blacks.

As No, the only possible thing along those lines is you might have people who are musing rather safely, especially with the bright, new WASPs gone? Why don't we see more WASPs? What's going on? And what other things?

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If you think it would be to your advantage, as the person who has the knowledge, as the buyer of the product, if the law schools made some attempt at needling out the reasons applied to you?

As No, the only possible thing along those lines is you might have people who are musing rather safely, especially with the bright, new WASPs gone? Why don't we see more WASPs? What's going on? And what other things?

We don't really have any frame in that sense. I'm not really expert in that... I tend to live with what we get out of law school.

Q: Are you happy with the way that you are feeling?

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You always aim for the best and your are picking from much of what is out there.

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Villanova Law Review announces new editors

BY TOM McCARGILE

On Monday, March 27, 1978 the Administrative Board of Volume XXIV of the Villanova Law Review announced the selection of Henry D. Evans, Jr. to chair the Open Writing Committee. Evans, a practicing attorney with strong ties to both the Villanova Law Review and the legal profession, was named to the position of managing editor for Volume XXIV.