

The Opinion – Volume 25, No. 6, April 1983

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The Opinion will endeavor to consider fully and thoughtfully all material to determine its relevance and appropriateness before publication. Such consideration will be made with the assumption that freedom of the press within the law school is no less a fundamental right than outside the law school, and in view of the Opinion's recognized responsibility to the members of the student bar, practicing attorneys, and faculty and administration of the law school. The opinions expressed in this publication are those of its editors and do not reflect the opinions of William Mitchell College of law, its employees, or Board of Trustees.

Editorial

Opinion urges changes in attitude

With the number of personnel changes, shifts in college staff job descriptions and the addition of the new dean it is becoming increasingly rare difficult to tell exactly what is really going on here at William Mitchell. Over the past three years alone there have been three different library directors and three different development directors, the last of whom is being replaced by yet another dean. College staff seem to be continuously moved from one job to the next, leaving staff and students confused about just who is in charge of what.

There is, among students, a general awareness that there are abuses and a great deal of perceived unfairness in the way the administration has been dealing with some staff and students.

One of the problems in reporting student, staff and faculty dissatisfaction with some dissatisfaction with some administrative actions is a fear of reprisal Staff members especially fear a change of position, or loss of a job. Many are willing to tell us their stories but not for publication.

In addition, The Opinion has had considerable difficulty in getting accurate information from the administration. For example in preparing our story on the budget for this issue, the administration refused to give us a copy of the college's financial statement. This refusal to give information creates an atmosphere of suspicion and distrust. Ultimately, it divides the entire college, forcing us to work against each other when all should be working for the same goal: a good legal education, at a place where people are dealt with fairly.

Only when there can be open discussion, and an exchange of information will students, staff, and faculty be able to work for constructive change.

Letters to the editor

To the Editor: Prof. Neil Hamilton's appointment as distinguished professor of administrative law is an appropriate tribute to a dedicated, diligent legal scholar. Both the endowment of the chair and the selection of its first incumbent reflect to the credit of the college.

I applaud Prof. Hamilton's reported plans (The Opinion, March 21) to use "this opportunity to establish new programs that will reflect this school's special role in the community." Surely, however, the specific programs Prof. Hamilton mentioned will be but the initial steps in his effort to serve the community.

The news article reports that Prof. Hamilton will initiate "quarterly seminars in administrative law for corporate counsel representing the area's major firms." Further, it reports his plans to write and edit "a bulletin on administrative law and regulatory policy which will be sent to corporate counsel."

So far, so good. But corporate counsel represent only one segment of the community -- and only one side in the adversary contest that is today's typical administrative-law proceeding. Corporate counsel represent, for example, the polluters, but not the homeowners whose wells have been contaminated. They represent regulated industries eager to pass all costs on to ratepayers, but not elderly people whose fixed incomes cannot cover utility bills swollen by the costs of public-relations campaigns and superfluous generating capacity. They represent trade associations seeking to preserve favorable pricing and financing schemes, but not consumers who would benefit from real competition and disclosure.

I trust that no conditions were attached to the \$280,000 endowment (the source of which was not reported by The Opinion) that made the new chair possible. I look forward to reading of additional programs, which will enable other groups with a stake in the administrative process to benefit from Prof. Hamilton's scholarship -- and will thereby "reflect this school's special role" in the entire community. -George McCormick, January 1983 graduate.

To the editor: My name is Charles Whitfield and I am an inmate here at Denel Vocational Institution. I would like someone to correspond with. Would you please place my ad in your campus newspaper, or on your bulletin board? Your cooperation is appreciated! Thank you.

Sincerely,

Charles Whitfield

My ad:

I am a 34-year-old black male at D.V.I. I have a year and a half left to go. I would like it very much to correspond with someone. It gets very lonely in here. All letters will be answered.

My name and address:

Charles Whitfield - C01119

P.O. Box 600 H. 313

Tracy, Calif. 95376

Image

Photo by Otto Shutter depicting five members of the Opinion staff sit together.

Opinion staff: Happy to have been here.

Image

Single panel comic by Lala. Two men with AALS buttons pass in through a room decorated with hanging plants. One comments, "I'll tell you this much Frank, it was worth battling that snowstorm to see a "Better Home and Garden" all in the same room..." The other responds, "Sort of a "from cafeteria to Casablanca" motif, eh Joe?"

Top of the News

Fourth dean to take charge of student affairs

By Steve Patrow

Starting next year there will be a new dean for students to contact for academic, personal and scholastic problems. James H. Brooks will be the assistant dean and the dean of students at William Mitchell.

Brooks, who is currently teaching at Brigham Young University, was the associate dean of students at the Catholic University of America in Washington D.C. He graduated from Wake Forest University with a B.S. in mathematics, received a Master's degree in education and counseling from the same college, and received his Doctorate of Education at the Catholic University.

Dean Geoffrey Peters said that Brooks' duties will include developing a sound admissions program, recruiting students, and helping current students with problems that affect their education at Mitchell.

Some complaints have been made that the addition of a new dean to the college is a frivolous expenditure in face of tuition increases and shortcomings in areas of college development. But the addition of a new dean is necessary and will serve an important purpose at the college, Peters said.

"The position was created to fill a certain need," Peters said. "Students are not getting the attention at the administrative level that they need: competition for prospective students has increased in the last few years in anticipation of declining enrollments; academic affairs are in need of a person who can devote full time to confronting and solving problems. The new position will include dealing with such problems."

Peters said that students who have problems usually bring them to faculty members or Assistant Dean Melvin Goldberg, who has been performing the task of counseling students.

"Mel (Goldberg) has other jobs that have to be done that can't be done when students take up most of his time," Peters said. "We realize that students must have a contact with the administration and we

need to help them through school. But Mel also has to work with the faculty in developing new programs such as the addition of an L.L.M. program in taxation."

Peters said that the administration will be more efficient if it has a member who can devote his full energies to helping students with problems. He said that the addition of the new dean will serve a need that has been inadequately dealt with up to this time.

Peters said that complaints about the new dean are inappropriate. He saw that the word "dean" is just a title that many people misunderstand to mean the equivalent of a college president or university chancellor.

"What you really ought to look at is functions," Peters said. "What we've done is hire someone for an administrative job. The title "dean" doesn't give him special powers. If you wanted to carry that thought further, we could give the legal writing director the title of dean, or the comptroller the title of dean of college finances."

Peters also said that students do not use the Faculty advisor system at the college past their first year of school and that the new dean will advise students with personal problems allowing faculty more time to work on classes and advise students about class work.

[Matt Downs to replace Madeleine Wilkin](#)

By Lea Souza

Matthew P. Downs will be the new Library Director beginning sometime this summer, replacing Madeline Wilkin. Downs is presently the acting assistant dean and assistant professor of law, and law library director at Valparaiso University, School of Law in Indiana. He received his Law Degree in 1978 from Pepperdine University School of Law in Malibu, California. Downs has had some teaching experience, which is what the Library search Committee was looking for.

Dean Geoffrey Peters said, "We were very particular with the kind of person we were looking for as a permanent director. He added, "We were looking for somebody who could be a legal educator and a member of the faculty, as well as a librarian." The main objective, Peters said is to integrate the library with the educational process at Mitchell, he said that Downs can achieve this objective. "Matthew Downs has a strong commitment to legal education," Peters said. "He is concerned about the education that students receive and wants the library to play an important part in the education of the students."

Downs replaces Madeleine Wilkin, acting library director and assistant professor of law. When Wilkin was hired last summer on a one-year contract, there was an understanding that the Library Search Committee would continue its search for a permanent library director, Wilkin said. Wilkin said that they were looking for someone with teaching experience, "which I don't have." Dean Peters said of Wilkin, "She done a fine job for the year, she has made significant improvements in the library."

Wilkin previously held positions at the University of Texas Law Library, Austin, and at Western New England College Law School, Springfield, Mass. Her plans for next year are uncertain. She said she is trying to decide whether to stay in the area and see what job opportunities arise."

When asked about Matthew Downs, Wilkin said, "He looks like a very promising candidate, his experience is top notch." She added, "I hope he is a hell of a fighter and can stand up for the needs of the students and the library...it is a hard road ahead." Wilkin said she wishes Downs the best of luck.

Image

New Library Director Matt Downs will begin this summer.

Eversole fails to 'dominos effect'

By Lea DeSouza

Dian Eversole, hired last May as Development Director will be leaving her post at William Mitchell this month. Before coming to Mitchell, Eversole served as Development Officer for the Minnesota Medical Foundation at the University of Minnesota. She has worked in fundraising and grant solicitation since 1978. Eversole was given a budget of \$100,000 to work with over this year. According to her estimates she has spent well under that amount; the current funds raised by Eversole include \$35,000 for the new Student Loan Fund and an additional \$15,000 for the "Partners in Progress" Fund. She has also closed two bequests, one for a half a million dollars and the other of unknown value at this time.

On the day that Eversole closed the half-million dollar bequest, a decision was made not to renew her contract. Dean Geoffrey Peters explained that Eversole was hired on a one-year contract, with a specific beginning and ending date. "We did not want to engage in another one-year contract with her or anyone else," Peters said. "We did not fire her, her contract just ran out. She has done what was set out for her to do." In deciding not to renew Eversole's contract, Peters said a "cost/benefit analysis" was used. "We just had to decide what we could afford and what we couldn't," he explained. Deans Oliphant and Peters will be taking over the development work, according to Peters. He said that this will be made possible through the hiring of the new Assistant Dean, Jim Brooks, who will be in charge of Admissions, Recruitment, Financial Aids, and Placement. What Peters described as the "dominoes effect" is expected to occur: Assistant Dean Brooks will free Dean Goldberg from some of his duties. Goldberg in turn will take over some of Oliphant's and Peter's duties, leaving them free to take over the developmental duties. Eversole stated that it is "extremely naïve of them to think that an active fund raising program can be run by two part time people with no fund raising experience or professional background, with students doing the research." She added that the college "badly needs capital." Eversole said that a large part of the fund raising burden will of all on the shoulders of the Board of Trustees. She said that the Board of Trustees are a "by and large active and involved board...if a board can do it, this board can, but they are very busy people."

Eversole's plans for next year are uncertain at this point. She has had several job offers – she is the number one finalist for the Planned-Giving Assistant Director position at Carlton; she has been sought out by McNally, Dunavan & Lund, a group of professional consultants in the corporate world that deals in charitable estate planning; she has been offered a management position in a corporation, and she has been talking with the administration at the University of Minnesota about a Development Director position, and says they have been very receptive. (Eversole turned down that position at the University last year.)

Image

Photo by Jeanne Anderson.

Former Development Director Dian Eversole.

Mitchell institutes private loan program

By Jeanne Anderson

In response to a four percent drop in available federal funds for the Guaranteed Student Loan (GSL) program, William Mitchell College is instituting its own private student loan fund to provide low interest loans to Mitchell students.

The program, which is scheduled to go into effect for next year according to Developmental Director Dian Eversole, is intended to aid students who fail to meet the income test required to qualify for the GSL. "We are encouraging people to first try to get money through the GSL," said Eversole. "This program is meant to be a supply of funds here the GSL funds are unavailable - it's for people who fall into the gaps."

The GSL income test was added to the program in 1982. It requires students with a family adjusted gross income of \$30,000 or more per year to disclose their financial situation and meet a needs test.

In addition to this new requirement, a 5 percent origination fee was instituted in 1981 and a 1 percent guarantee fee tacked on to the GSL, so the dollar amount loaned to students has decreased. As a result of these and other factors, the percentage of Mitchell students using the federal loans dropped 16 percent from last year; currently 68 percent of the student body participates.

Another factor, said Davis Shryer, who was in charge of administering the GSL at Mitchell until recently, is that, "People are gun-shy about even applying for the GSL. Less students participated this year who could have gotten loans. In a way it's the college's fault for not encouraging people to apply, but we were in the dark until last July about the future of the GSL program."

Others, Shryer said, are simply unable to qualify for the federal program anymore. "Thirty second year students didn't return this year and we really don't know why. No one has called them and asked them, but I think for some of them it may be because they weren't able to scrape up the funds." He added, "I know of one student who went through extreme hardship to get the funds to come back. She failed to automatically qualify this year so we broke down all of her financial needs into specific identifiable parts to show the government that she really needed the loan to be able to attend law school."

The new program is expected to provide a maximum loan of \$2500 per application for up to thirty people and is being patterned after the federal program. The loan can be repaid over 5 years after the student graduates at well below market interest rates, Eversole said.

The Board of Trustees recently passed a resolution mandating that program funds go to seniors first because they have had to bear the sharpest tuition increases over the past few years. Although Mitchell's tuition is in the bottom 15 percent of the nation's private law schools, tuition rose 58.5 percent in the last four years, and is scheduled to increase another 9.9 percent next year.

In a fact sheet prepared for a press conference held earlier this year, Eversole estimated that if a part-time student was able to make \$15,000 per year, only \$11,700 would be left after taxes. Tuition for part-time students this year was \$3,270, a figure most students find burdensome.

Eversole said that the board is concerned about keeping tuition low and helping students finance their law school education. She also said that, "One of the reasons for the private loan fund is to keep the costs of repaying loans down. The board is concerned about students having large debts to repay after graduating, especially in light of the fact that Mitchell has traditionally produced graduates who go on to serve low-income clients. Students with large debts may not be able to afford to repay."

Funds for the new program are expected to come from private sources and alumni. The recent phone-a-thon, directed by Alumni Director Judge Ronald Hachey, produced over \$40,000 from alumni for the fund. Eversole spearheaded a major kickoff dinner for the new loan fund on April 8 at the Radisson South. As of this writing the \$100 a plate dinner was raised over \$33,000. (See related article.)

Eversole said that the administration plans to hold benefit dinners annually to attract funds for the new program, although she is uncertain about future plans for funding. Students who are interested in the new program and other ways to finance their education should consult Placement and Financial Aid Director Peg Reihm, now administering all financial aid for the college.

Image

Photos by Jeanne Anderson.

Davis Shryer: People are gun-shy about even applying for the GSL.

Eversole spearheaded the kickoff benefit dinner.

[D.C. Judge Scalia urges flexibility in law](#)

By Beth Culp

Judge Antonin Scalia, of the District of Columbia Circuit Court of Appeals, came to St. Paul in late February to conduct a seminar for corporate counsel on developments in administrative law. The seminar, sponsored by William Mitchell and or organized by Professor Neil Hamilton was the first in a series planned for the corporate counsel of the area's most prominent firms.

Judge Scalia is uniquely qualified to address topics in the field of administrative law. He has served as an Assistant Attorney General of the United States served as Chairman of the Administrative Conference and has done extensive research and writing in the field. Appointed to the bench in August by President Reagan Scalia refers to him as a 'baby judge' and says that he was reluctant to depart the real world and assume the role of a federal judge. Scalia said that he has had some trouble adjusting to the neutrality he believes is required of the judiciary, and though he said that he never discusses substantive legal topics with reporters, he made an exception in the course of his interview with The Opinion.

At the outset Scalia was asked what he thought of the conception of a 'super-court of appeals' as proposed by Chief Justice Burger as a method of resolving conflicts among the Circuits and reducing the Supreme Court's caseload.

"I'm not a fan of the proposal," Scalia replied. "I believe that resolving conflicts between the circuits is one of the most important functions of the Supreme Court. I'm afraid that as a result of transferring this function there would be greater activism in other fields. The effect would be more than simply procedural, it would fundamentally alter the nature of the court -- making it a constitutional court. I am concerned about the substantive effects, it won't simply free up time but it will make the Court less of a 'meat and potatoes' court."

In response to the argument that the new court is necessary to ease the high court's caseload Scalia said, "There really is no caseload problem where the majority of a court's jurisdiction is by cert -- in most cases it is more important that a conflict be resolved than it is that it be resolved correctly. To

paraphrase Justice Jackson's famous quote, 'We're not the court of last resort because we are always right, but we are always right because we are the court of last resort.'

Scalia was also forthright in his criticism of Senate Bill 1080, commonly referred to as the Bumper's Amendment which among other things would require more stringent judicial review of agency action by the judiciary.

"I'm not a fan of that proposal either," Scalia said. "It will do no good and may even do positive harm. It will take away from the agencies the broad discretion that Congress has given them, through vaguely worded statutes and give that discretion to the courts. The goal is to curb the 'run-away' agency but its effect will be to take power away from the rascals you throw out and give that power to rascals that you can't throw out."

"I'm a great believer in the political process; in the power of elections. If the courts go awry there is no remedy other than to amend the laws and I think it is basically wrong-headed to take discretion from the agencies and give it to the courts."

"It is difficult for me to understand how a congress, that has been so skeptical of the courts in some areas -- viewing the courts as adversaries -- in this respect, resorting to the courts to 'save the world'."

Scalia is undisturbed by the kind of agency vacillation which has been one motive for the reform movement reflected by Senate Bill 1080.

"I think it's terrific," he said. "The law shouldn't be 'unchanging and enduring' where an agency is authorized to act in the public interest, necessity, and convenience. Those elements will change and the agencies must be flexible enough to adjust and reflect that change."

"If the political process is going to work, ideally, the people's representatives, the congress, ought to make these political judgments. But the congress has written statutes which leave these societal judgments to the agencies, and those judgments should be left at that. One of the things that troubles me most is that people seem to have lost faith in the political process -- we are not dealing with laws that have been handed down from Mount Sinai. Of course, in the area of adjudication agencies should not be allowed to shift with the wind, but that doesn't seem to happen. The administrative Law Judges are relatively independent, and the courts should intervene in their decisions only when they are not consistent with the underlying policies of the act. "

In support of his argument that agencies should be allowed the latitude to respond to changing conditions Scalia cited the experience of the Environmental Protection Agency.

"Twenty years ago we believed that we were an affluent society with unlimited resources," he said, "with the advent of OPEC we learned that this was not true. The changes in environmental protection reflect the society's realization that we do not have unlimited resources."

Scalia is intrigued by the recent emphasis on administrative law, but rather than viewing it as a continuing trend, he believes it is the result of a natural pendulum.

For years professors of administrative law were wilting in the shadows, only recently did they start coming into their own," he said.

Although there is increased interest in the area of administrative law, and regulatory reform, to Scalia it is interesting that these developments have led to a decline in the number of lawyers working in the field. "It is a pendulum," he said. "It is true that now there are fewer lawyers practicing administrative law in Washington, due to the regulatory reform, movement and the general decline in regulation."

"In the last five years everything has changed," he said. "The day after (Reagan's) inauguration he appointed a task force on regulatory reform headed by Bush and in less than 30 days Executive Order 12291 was issued."

For the corporate counsel who attended the seminar conducted by Judge Scalia, this regulatory reform was more than welcome. However, Scalia cautioned them that the changes mandated by the executive order, including the cost benefit analysis required for major rules, were only a reminder, and not a new substantive command.

The effect of the new procedures reflected in the requirement of conducting a 'Regulatory Impact Analysis' prior to issuing a major rule, is, to Scalia, little more than a general command to "do good and avoid evil."

"Agencies don't make good decisions in isolation," he said. "But it is doubtful that any rule could survive the arbitrary and capricious standard of review if the agency found that its benefits weren't outweighed by its costs ... The problem is that if you can't reduce the issues to mathematics, there are no real constraints on the agencies. They may determine that the benefits outweigh the costs, but then, it isn't their money. The idea of cost-benefit analysis is essentially illusory," he said. "It is really only ~ W{IY of saying, 'do it better.'"

Scalia is also skeptical of the idea of a 'legislative veto' which would require major rules to meet with the specific approval of Congress before they could become effective. "I think it is unrealistic to expect Congress to act more specifically," he said. "A legislative veto power would create a whole new bureaucracy, if Congress doesn't have the time or desire to act specifically initially, it won't have the time or the desire to act specifically after the fact either."

It is the public's perception of a lack of popular control that Scalia views as responsible for the 'groundswell of grass roots antipathy' that has created the regulatory reform movement.

"There is a loss of faith in the technocrat," he said. "There are no right or wrong answers, there are only political calls and we are most comfortable when those political decisions are made by elected officials."

"The only solution to the real problems that gave rise to the call for regulatory reform is statutory amendment; there must be a better legislative description. Our only real alternatives are to obtain better defined legislation or to learn to love bureaucrats. You can't expect the courts to save you by taking you out of the frying pan and putting you into the fire."

Image

Photo by Steve Patrow: Reagan appointee Judge Anton Scalia of the District of Columbia Court of Appeals.

[Meshbeshher says insanity defense rarely successful](#)

by Kate Santelmann

"The insanity defense... is a crazy defense," said Minneapolis attorney Ronald Meshbesh. Meshbesh spoke before a group of Mitchell students on March 16, addressing the topic of the value of the insanity defense and its pragmatic use to the attorney.

"My one success with the insanity defense was seven years ago in Pine City," said Meshbesh. "The man was accused of murdering his wife, child, two neighbor children, and his wife's lover- the next-door neighbor. "Although the murders were all committed within three minutes of one another the jury came down with very dissimilar verdicts. The jury found the defendant guilty of murder in the first degree: murder in the second degree: murder in the third degree: manslaughter: and finally with respect to the killing of the neighbor-lover, not guilty by reason of mental illness. Said Meshbesh, "Doug Thompson later explained the verdict...they found that the first four killings drove him nuts!"

The case, and the resulting verdicts, illustrates not only the typical case in which the insanity defense is used but also the difficulty juries have in understanding and applying the defense. But despite the difficulties Meshbesh strongly believes in the value of the insanity defense. "The object of law is not to punish people for things for which they are not responsible," said Meshbesh. "We must look to the intent of the actor.... the requirement of mens rea, a guilty mind, is at the heart of all criminal laws. As Oliver Wendall Holmes once said 'the insanity defense is the hallmark of a civilized society.'"

To Meshbesh one of the most important factors to consider in selecting this defense is that of public opinion. According to Meshbesh the public perceives it as a defense which is used all the time and with a high success rate. "In fact it is probably the most rarely used defense in criminal law ... and the success rate is very low. If there is any other way I could go," said Meshbesh, "I would choose it."

After a brief discussion of the tests for insanity used by the court, Meshbesh went on to discuss the practical problems of spotting and using the defense. "In spotting the defense I first look to the nature of the crime," said Meshbesh. "Was it a senseless crime with no motive? Was it violent? Were there multiple victims? Then I look to the nature of the defendant. Does he have a history of prior psychiatric treatment or a prior criminal history?" Lastly Meshbesh looks to the defendant's behavior after the crime and during the client interview.

Once he thinks insanity may be a viable defense, the next step according to Meshbesh is a thorough investigation. "First I get all of the details. Let the client ramble ... you may get a very important fact which may help at trial." Next Meshbesh interviews the jailors, and other prisoners, family, friends, and neighbors. "It is also extremely critical that you have a psychiatrist examine him immediately, before the prosecution's psychiatrist," said Meshbesh. "Make sure your psychiatrist has spent many hours with your client. You can always use this fact at trial - stressing to the jury that the prosecutor's psychiatrist has made his diagnosis after spending maybe only fifteen minutes with your client."

Once the decision has been made to use the defense, and all efforts to work out a plea have failed, the real work begins. "School and hospital records must be reviewed," said Meshbesh. "Friends and co-workers from as far back as possible must be interviewed." Selection of a psychiatrist is also critical. He or she must be Board certified, and have a good reputation in the community.

After the case is prepared, and witnesses are lined up tactical decisions must be made. One of the decisions is the choice between a bifurcated trial or a unitary trial. Explained Meshbesh, in a bifurcated trial the jury first decides the question of guilt. All evidence regarding the psychiatric exam is

eliminated. "I choose a bifurcated trial when I think I can beat 'em on the evidence, without the insanity defense," said Meshbesh. "It allows me to avoid arguing and jurors deciding that the defendant didn't do it... but even if he did he was insane." Bifurcation may also have a cathartic effect noted Meshbesh. After finding the defendant guilty, the reasoning goes, the jurors may feel more comfortable with judging the defendant insane. Whether the attorney chooses a bifurcated or a unitary trial, when dealing with the insanity defense, says Meshbesh, every portion of the trial becomes extremely important - especially the voir dire.

"All in all it is a difficult defense," concluded Meshbesh. For all the publicity the defense has received, Meshbesh admits it is rarely successful. "My only success is that one little 'not guilty by reason of mental illness' in Pine City."

[Image](#)

Photo by Phil Goldman: Minneapolis attorney Ron Meshbesh.

[Students organize Mitchell NLG chapter](#)

By Jeanne Anderson

Earlier this month a group of approximately 25 Mitchell students met here to reactivate a local chapter of the National Lawyers Guild (NLG). The national association was originally founded in 1937 as an alternative to the American Bar Association in response to the ABA's refusal to admit black attorneys and its opposition to social reforms of the New Deal. Its purpose as described in their motto is, " ... to the end that human rights shall be regarded as more sacred than property interests."

Second year student Ellen Baudler, who is actively involved in setting up the local chapter said that the students who are forming the organization see a need for a more progressive alternative to the ABA.

"There is a need at William Mitchell for a group that will allow people of certain political inclination to band together to work for social and economic justice," Baudler said in a recent interview. "We see this as a chance for people who are interested in that kind of work to have a support group and we hope to establish a network of people who want to use their law degrees toward dramatic social change."

What the Mitchell chapter of the NLG hopes to accomplish here Baudler said is to act as a consciousness raising group for students and as a 'mouthpiece' for questioning acts and 'decisions of the administration.

"There needs to be more accountability from the administration. It's partly the students' fault for not speaking up, so we want to be a group who will address these concerns in an organized manner," Baudler said. "Students are well served by the SBA but we want to be a place where students can come if they feel they have been discriminated against or have been dealt with unjustly by the administration. We are looking at what the national Guild has done for union rights, civil rights and protecting the right to political affiliation.

Thus far the Mitchell NLG has planned a workshop on the issue of the use of first strike weapons for national defense, and they recently collected over 200 signatures for a petition in support of the childcare center. The petition is being sent to the board of trustees, commending the board for their past support of the center and urging continuing support for the student service. Baudler said the petition was well supported by the faculty.

"Part of being a lawyer is taking responsibility for, and being aware of the social conditions around us," Baudler said. "It's easy to forget those difficult big questions in law school; it's easy to forget why we came here in the first place. We live in a critical time - there's a lot of oppression and injustice in the legal system and the NLG is working to fight against it.

"Our political inclination is that human rights are more sacred than property rights. It's a radical idea to this country and to the legal profession. I think there was a real spirit at our first meeting. We want to make William Mitchell an even better place to go to school. "

Baudler said that the group will meet over the summer to plan activities for next year, including a workshop on alternative legal careers. Students who are interested in joining should contact Ellen Baudler, Tsippi Wray or Jack Caan.

Placement a priority of Mitchell students

Majority of students will find jobs

By Jeanne Anderson

It's that time of year when seniors who don't have jobs yet are getting the jitters. And with finals approaching and the prospect of spending the first half of the summer preparing for the bar exam it is indeed a gloomy time for some.

One senior said he plans to stay with his present job at a bank, "until something comes up." Something like an associate position. Another says he knows of only one person who has a position so far and that person graduated in December and has been looking for a long time. Still another jobless senior laments, "I may go back to teaching."

But the jobs are there, says Peg Reihm, Mitchell's Placement and Financial Aid Director -it's just taking longer to find them. Although the statistics are not yet compiled for the class of 1982, 88 percent of the 93 percent responding from the class of 1981 found jobs, according to an employment record prepared by Reihm last year. (Most law student placement surveys are done ten months after graduation to allow students time to take the bar exam and find employment.)

"Hamline reported about 82 or 83 percent - all three law schools figures are pretty consistent," said Reihm. "But we have 300 students graduate at a crack and the other schools have only 150 or 175, so I think we're coming out ahead. We are putting more bodies into jobs."

"People who don't have jobs before they graduate shouldn't be alarmed," Reihm said in a recent interview. "I think what's scaring them is that it's taking longer to get a good job. Students are asking, 'Should I take the first one or should I wait?' They can afford to be somewhat choosy."

Of those who reported to have jobs from the class of 1981, about half went into private practice; 18 percent are employed by corporations; government positions were filled by 12 percent of the class or 1981; ten percent landed judicial clerkships; and the remaining seven percent found jobs in the military, teaching publishing and other fields.

Reihm said that some students are currently employed in executive and other professional positions who are interested in furthering their present careers with a law degree and not seeking other employment when they graduate.

Most graduates will find employment in the Twin Cities and surrounding suburbs. Of the total number in the class of 1981 (299), 104 are working in Minneapolis and 94 in St. Paul. Another 29 graduates are working in outstate Minnesota and 18 former students found legal jobs out of state, including Superior, Wisconsin and Tucson, Arizona.

Graduates who do get jobs can expect salaries ranging from \$16,000 to \$32,000, the large corporations and large law firms paying the highest salaries and the smaller firms typically paying lower salaries. Reihm qualified that by saying, "A lot depends on how established the firm or corporation is and what type of field they practice in." The average salary for the class of 1981 is \$19,908, according to the survey.

On the national level, faster than average growth in employment of lawyers is expected through the 1980's, according to the Occupational Outlook Handbook, a kind of job placement horoscope. The publication attributes this growth to various factors including an increase population, business activity, and government regulation the growth of legal action in the areas of consumer protection, the environment and safety; an increase in the use of legal services through pre-paid legal services by middle-income groups; and growth in the number of law courses at colleges and universities, creating more part time teaching jobs for lawyers.

The handbook warns, however, that the great increase in the number of law school graduates entering the market every year has created sharp competition for jobs, and predicts, "While the number of graduates is expected to level off during the 1980's, competition for jobs will remain intense."

Reihm said she is not aware of any discrimination in hiring practices on the basis of sex or race. She said, "There was a time when this may have been true, but I haven't specifically noticed women having a problem anymore."

Statistics from the National Association for Law Placement indicate that overall, 5.7 percent of male law graduates, minority and non-minority, were still seeking employment as of July, 1982. For women, both minority and non-minority the figure is 9.5 percent, and 7.8 percent of minority graduates, including men and women were still seeking employment at that time.

Over the past few years there has been some discussion among students that some law firms won't hire Mitchell graduates. That, Reihm responded, is "total fabrication. Probably just the opposite is true. Over the past five years we've seen a 33 percent per year increase in firms recruiting on campus here. That shows they're making a serious effort."

Mitchell students have the edge, she says, because most find law-related jobs during their law school career. "Our students are getting a foot in the door early and proving themselves. We are putting out quality students and employers recognize that."

The last time the figures were collected on employment of students (1980-1981), 18 percent had law related jobs in their first year of school, while 72 percent of fourth year students had law related employment.

Reihm concedes it's a bit late to advise seniors who will graduate this spring but she has many tips for first and second year students. "Ideally students should work hard their first year and get good grades. I'm not a great advocate of first year students working -grades are pretty important," she said. "Second

year students should try to get research positions with the faculty and third year students should look for clerkships. If you do all of these things you'll have it made, you'll have such good credentials."

Students should start thinking early about what they want to do when they graduate, according to Reihm. "Grades are really important to large firms and large corporations. Most won't even consider you unless you are in the top fourth of your class or the top third and have experience. But small firms are more interested in the student's research experience. Some recruit here because of that. But people in the bottom half are getting jobs."

Faculty are a good resource for students trying to pinpoint what type of job they want to go after, Reihm said and emphasized that students should talk to her. In addition, students should attend the employment seminars sponsored by the Placement Office. Last fall one program featured employers who spoke to students about the type of candidates they are seeking. For the first 2 weeks 20 students attended, but only 2 people showed up the last two weeks. "I get discouraged," said Reihm, "Students are only hurting themselves by not coming. To me it's as important as your career so students should find time."

(The Placement office is offering another program this month sponsored jointly with the State Bar Association, Young Lawyers Division and the Mitchell Student Division. The seminar is slated for April 26 at 6:30 p.m. in room 202.)

"Getting a job is a lot of hard work. People who've made a serious effort are the first to get jobs. You have to know what you want. You can't be too selective but you can't be too vague either. You want to convince the employer in the interview that that's what you want to do - you can't convince them if you don't believe it."

Reihm advises that students be willing to relocate. But the best thing to do, she says, is to use your connections. "As many people get jobs through people they know as those who get positions that are advertised. Even if you see an ad, find out if you know someone at that firm - that's some of the best advice I can give students."

It is possible - there are jobs, says Reihm, "But there's lots of competition so you have to pull out all the stops."

Images

Photo by Kathy Peippo: A student on graduation day. Graduates can expect fierce competition in the job market.

Photo by Jeanne Anderson: Reihm said Mitchell grads have an edge.

National survey: trend toward private firms

By the National Association for Law Placement

New Orleans -Even with a 7 percent increase in the number of law school graduates, more than 93 percent found employment within nine months after graduation, according to a survey conducted by the National Association for Law Placement (NALP). Out of the 22,119 graduates in the Class of 1981 who were eligible for employment, only 1,530 remained unemployed at the time of the survey. These figures from the "NALP Class of 1981 Employment Report and Salary Survey" indicate that for the fifth consecutive year unemployment has remained below 7 percent for the recent law school graduates.

Three-quarters of the Class of 1981 responded to the NALP survey of all graduates. The NALP survey was conducted in March of this year to allow 1981 graduates the opportunity to take the bar examination and conduct a job search. The data for the NALP survey is contributed by law school placement offices which complete one-page employment forms for each graduate. The information is then compiled by NALP, a nonprofit educational and research organization of law school placement officers, lawyers and legal recruitment administrators.

According to the "Employment Report," 57 percent of the young lawyers joined law firms, a trend which has been steadily increasing since the survey was first conducted in 1974. Small firms with two to ten lawyers remain the most popular career choice with 40 percent of the graduates in private practice choosing this size firm. The second most popular choice for lawyers entering private practice is the opposite; 20 percent of the lawyers chose very large firms of more than 50 attorneys. One quarter of the lawyers entering private practice are associated with firms having 11 to 50 attorneys, and only 7 percent of the recent graduates are solo practitioners.

Eleven percent of the graduates accepted positions in business of which most are employed as legal counsel in corporations. Judicial clerkships attracted 10 percent; the military attracted 2 percent, and higher education attracted 3 percent of the recent law school graduates. Only 2 percent of the graduates chose jobs in nontraditional areas.

Dwindling from the employment picture is prepaid legal services at less than 1 percent. Also attracting fewer graduates are government, public service, and public interest organizations. Only 12 percent of the recent law school graduates are employed by the government compared to 18 percent in 1975. Employment in public service and public interest organizations peaked at 6 percent in 1978, and it is currently attracting only 3 percent of the graduates.

Contributing to the decline in employment in government, public service, and public interest organizations is the increased hiring by the private sector of women and minority law school graduates. Five years ago, the government attracted 34 percent of the Black, Hispanic and Asian law school graduates, more than any other field of employment. The "Class of 1981 Employment Report" shows that private practice has replaced government as the top employer of minorities since 35 percent are attracted to private practice and only 22 percent enter government service. For women, government employment has declined from 22 percent in 1976 to 13 percent in 1981. In the same five-year period, the number of women in private practice has increased from 41 percent to 52 percent.

According to the "Class of 1981 Employment Report," the Northeast proved to be the most popular region in which to locate. The Northeast accounted for 33 percent of the graduates compared to 15 percent in the Southeast, 24 percent in the Great Lakes and Plains, 13 percent in the southwest, and 12 percent in the West. Although the West attracted the fewest graduates, it also attracted the most in one particular area -private practice. The West drew 62 percent of its lawyers into private practice, while the Northeastern firms, contrary to stereotypes, only attracted 53 percent of the recent law school graduates.

The urban areas chosen by graduates are not confined to any particular region of the country. The cities where the largest number of graduates are employed are New York City, Chicago, Washington, Los Angeles, Houston, Boston, Minneapolis-St. Paul, Philadelphia, Detroit, San Francisco, Denver-Boulder, and Dallas-Ft. Worth.

While the ranking of most states remains stable, the state of Texas has been attracting an increasing number of recent law school graduates. Since 1980, Texas has moved from fifth to fourth place in the ranking of states attracting the greatest number of law graduates. Dallas is now ranked 12th instead of 13th in popularity, and Houston's ranking has moved from 8th to 5th.

Image

Photo by Kathy Peippo: In a recent survey, 95 percent of those responding were employed.

Library improves convenience for students

By Steve Patrow

The William Mitchell library has undergone substantial changes in the last school year -walls have been knocked down, and rooms have been expanded or created.

Part of the reason behind the changes is that the Board of Trustees and the administration have recognized that the library needs improvement or expansion, said Associate Dean Robert Oliphant. He said, however, that the library improvements were made mostly for the convenience of the student; major improvements are not planned for the near future.

Oliphant said that there has been a recognition made to the Executive Committee of the Board of Trustees to establish an ad hoc committee to study library development. He said that the Board wants to acquire data on library needs such as additional shelving and study tables before committing itself to any definite development plan.

"We have to be careful in evaluating exactly what the library needs are for the future," Oliphant said. "There is concern about the computerization of the library; we don't want to build a library that will be obsolete in five years."

Oliphant said that the library is running out of shelf space but to build a new library wing without considering other alternatives would not only be expensive, but wasteful.

Madeleine Wilkin, acting law library director, said that the library improvement is a major concern to everyone involved with the college and that there seems to be some movement in studying library needs.

"It really looks as though something's going to happen," Wilkin said. "There is a definite plan afoot to do a feasibility study, to decide what would be the best out of all development alternatives."

Wilkin said that before any development plan is formulated, the college must concentrate on passing the ABA and AALS inspections. She said the school has already spent approximately \$30,000 for renovating the library, providing more seating, and establishing conference rooms and a lounge.

"The most significant amount went into building a new microform room," Wilkin said. "That room may also be air-conditioned. We made improvements in the collection: we bought 25 additional state Shephards and we will probably buy the rest of the Shephards at the end of the summer."

Wilkin said she thinks the library will "look very good" for the ABA/AALS inspection and that the improvements made at this point have made the working environment at the library much more pleasant for students.

"I think major things have happened to make this a better environment," Wilkin said. "We used every possible space – we shifted faculty offices from the library to other rooms in the school to create rooms for the library lounge, copy machines and conference rooms. The maintenance men did a wonderful job in converting a storage room into a typing room."

Wilkin said that the changes in the library will complement the already "excellent service" provided to students by the library staff.

"The staff has always been marvelous," Wilkin said. "They're very professional and well trained. The shifting of the reception desk and reserve room to its new location will allow students even more access to the staff."

Wilkin, who will be leaving her position as library director this summer, said that the library will probably continue to show gradual improvement in its services and environment until the Board of Trustees decides on the facility's development future.

Wilkin will be replaced as Jaw library director by Matthew Downs (see related story).

[Faculty aid in pro bono publico program](#)

By Margie Bodas

Mitchell faculty members have volunteered to provide backup research assistance to Minnesota attorneys representing low income clients in civil matters.

These clients will have been referred to the attorneys by locally organized pro bono publico programs. The Minnesota State Bar Association and the Mitchell faculty have undertaken the project to support this pro bono work.

"We latched onto this issue at the right time," Ellen Longfellow, a student member of the Pro Bono Committee said. "The state bar wanted to start an all-out effort in this area. They have really been able to provide resources to our committee. Ann Bartsch has put a lot of work into this."

Bartsch is the Volunteer Legal Services Director for the MSBA. She will act as the initial liaison between the attorneys requesting assistance and the Mitchell faculty.

At the start the project will take requests for assistance from lawyers handling cases referred to them by the Legal Advice Clinics (LAC) of Hennepin County and the Ramsey Volunteer Attorney Program (RVAP).

But professional malpractice insurance has created a catch for the new project - there is no extra money to purchase malpractice insurance. The RVAP and LAC have agreed to put the faculty under their insurance coverage. Dean Geoffrey Peters is reviewing the insurance coverage. If that issue is resolved, the program will go into operation.

"Our first focus is on the faculty," Longfellow said. "The faculty needs to get involved first and establish the program. Then students will be brought in."

A list of faculty volunteers has been compiled. That list includes the professor's area of expertise and designates areas that he or she is willing to accept requests for research assistance. The list will be forwarded to Bartsch, who will have the responsibility for making appropriate referrals. A list of students has also been compiled to assist the faculty.

Mitchell is the only school in Minnesota to undertake the project. The University of Minnesota Law School turned down the proposal saying that its professors were not interested, Longfellow said.

The program's operating procedure will be as follows:

1. The attorney representing an LAC or RVAP client and needing research assistance will be asked to call or write to the state bar's Director of Volunteer Legal Services. With information supplied by the attorney (including the facts of the case, the legal questions presented, and the date by which a response is needed), Bartsch will fill out a research request form.
2. If the matter appears to be one which would be appropriately handled by the Mitchell program, the research request form will be sent to an appropriate Mitchell program, the research request form will be sent to an appropriate Mitchell faculty member. The name of the faculty member will not be given to the attorney requesting the research at this point.
3. The faculty member will decide whether he or she will be able to accept the assignment. If not, another faculty member, or student under faculty supervision, will be sought to handle the request.
4. The faculty member who will handle the assignment will notify Bartsch at the state bar association. Bartsch will contact the requesting attorney to inform him or her that the program will produce the research requested. If authorized to do so by the faculty member; she may give the attorney the name of the faculty member. (The faculty member may also contact the requesting attorney directly at this or any other point in the process.)
5. The faculty volunteer produces the requested research and mails the furnished product to the requesting attorney. Thereafter, the requesting attorney may contact the faculty volunteer directly if there are any questions.

Faculty members may arrange for law students to perform some or all of the research requested of the faculty member. However, the faculty member retains the responsibility for supervising the students' activities, for reviewing the work, and for seeing to it that the final product is sent to the requesting attorney within the agreed upon time limits.

This is an experimental program. Its success will be reviewed at the end of the 1982-83 school year, if the program becomes operative this year. A committee composed of representatives from the Minnesota State Bar, Mitchell, LAC and RVAP will continue to meet regularly throughout the period to discuss the operation of the program and to work out any problems which may develop.

[Burger attends dedication ceremony](#)

Chief Justice Warren E. Burger addressed a crowded auditorium at William Mitchell on Saturday April 8.

Burger, a 1931 graduate of Mitchell, was at the college for the dedication of the Warren E. Burger display case located in the library.

After an opening speech by Dean Geoffrey Peters and a dedication introduction by Board of Trustees Chairman Charlton Dietz, the Chief Justice spoke about the responsibilities of attorneys to avoid litigation and to counsel their clients to compromise.

“Most law schools have put too much emphasis on advancing litigation,” Burger said. “I’m glad to see that emphasis is changing. Law schools should emphasize advocacy, but they should also put more emphasis on teaching negotiation techniques. The true role of a lawyer is to be an advocate, counselor and healer.”

Burger met with school officials, students, and local members of the bench and bar at a reception in the student lounge after the ceremony.

Image

Photo by Steve Patrow; Chief Justice Warren Burger examined the display case containing memorabilia of his legal career.

Have a Good Summer

Image of an open smiling mouth

Divorce mediation a growing trend

By Karen Brenner

Faced with crowded court calendars and costly attorneys' fees, increasing numbers of divorcing couples are choosing a more cooperative alternative to the traditional courtroom battle over the house and the kids, divorce mediation.

Private and court-sponsored divorce mediation is a voluntary process in which the couple and a neutral third person negotiate the issues in their divorce and incorporate the terms of their compromise into their divorce decree. The mediator facilitates the process by introducing techniques of cooperative conflict resolution and making affirmative suggestions to the parties. The spouses develop a fair and legally acceptable settlement upon which they both agree and smooth the path for a restructured post-divorce family relationship.

Mediation is not arbitration. Arbitration is an adjudicatory process in which the parties agree to accept the arbitrator's decision as final and binding. The arbitrator conducts the hearing and renders a judgment. In arbitration, the participants may have counsel present; in mediation, they may not.

Since the mediator represents the entire family, the goal is to maximize the joint and individual interests of everyone. These interests include child custody, visitation, child support and property division.

"The American legal system has come under increasing attack because it pits family members against each other in a competitive struggle for the material spoils of the marriage," writes Lois Gold in *The Arbitration Journal*. Proponents of mediation see it as a healthy alternative to the traditional litigation system. "Mediation is a totally different kind of service than litigating and that's why people should choose it," said Marilyn McKnight of the Minneapolis based Family Mediation Services. "It's a caring way to work out a divorce settlement. The parties are not going into battle and they're not coming out scarred."

Mediation reduces the hostility created by adversarial proceedings, reduces the financial burden of a litigated divorce and relieves crowded court calendars. It embraces a commitment to preserving family relationships after the marriage ends, with primary concern for the children's best interests. The children are not subjected to the psychological strain of the adversarial trial process and aren't forced to

choose which parent to live with because the parents decide. The custody issue is therefore, not determined by a judge who is unfamiliar with the family's needs and interests.

In contrast to the competitive nature of the legal system, divorce mediation is based on a cooperative framework, according to Wayne Caron, a Hennepin County Domestic Services family counselor. "In mediation, if the parties want to be competitive, they have to work against the model."

Divorce mediation can be conducted by private mediators, such as Family Mediation Services, or by court personnel, such as Hennepin County Domestic services.

Family Mediation Services has been operated since 1977 by Stephen Erickson, a former family law attorney, and Marilyn McKnight, a family counselor. Family Mediation Services spends an average of six to ten hours on each case, usually over a one to three month period. The service costs \$70 per hour plus a \$150 administrative fee. Both parties are required to hire post-mediation counsel to represent them in the court process, which McKnight estimates takes an additional five hours of an attorney's time for the petitioner and one hour for the respondent.

Prior to 1976 family court judges or referees could only refer custody disputes to Domestic Services for a custody study. Judges can now order either a custody study or custody resolution. counseling (CRC).

"When a custody study is ordered, the parties are likely not to resolve the issues. But if the court suggests mediation, a high percentage will work out their problems and not go to trial."

However, Caron said, the number of CRC referrals declined by 20 to 30 percent during Delila Pierce's tenure as Hennepin County Family Court judge. Pierce, recently appointed to the district court bench, and Kenneth Gill, her successor as family court judge, both declined to comment on the use of mediation in divorce cases.

The philosophy of custody resolution counseling is that the family knows its needs better than anyone else and must live with the consequences of the custody decision, and thus, should make the decision. In CRC, the counselor acts as a facilitator and helps the parents to decide who should have custody based on the best interests of the family as a unit.

The CRC occurs in three phases which can be completed in three to four sessions of one to one-and-one-half hours. In phase one, the counselor defines the mediation process, helps the family to identify its problems and obtains their commitment to mediation. In phase two, they explore the issues, clarify their feelings and seek alternative solutions to their problems. In phase three, they select their options, clarify the details of their selections, then commit themselves to their agreement. Although counselors' styles vary, Caron said the staff focuses on a problem solving approach, using counseling when issues arise which create barriers to problem resolution.

Generally, counselors agree with the family's resolution. However, if a counselor has strong concerns about the agreement, he informs the court of his concerns and the court makes the final decision, Caron said.

Approximately 85 percent of the dissolution filings in Hennepin County are decided by default said Caron. The other 15 percent go to a hearing for an initial determination of the major issues. "Before mediation, only 2 percent of the parties resolved the issues on their own," said Caron. "Since mediation, 50 to 60 percent of all cases settled without a trial."

"Divorce mediation is ripe for regulation," wrote Ruth Simon in the National Law Journal. Virtually anyone can call himself a mediator and even someone with little experience can offer courses in mediation. Consequently, most experts agree that special training is needed. Under proposed standards of conduct, mediators would be required to ensure that the spouses fully understand the mediation process, particularly the mediator's neutrality, and stress that participants make informed decisions. The mediation should be suspended or terminated if it appears that one or more participant is being harmed by the process and clients should be advised to have the final agreement reviewed by at least one attorney.

Lawyers who mediate face other ethical problems. Can an attorney invoke the attorney-client privilege on behalf of one client if he is called by the other client to testify about the mediation discussions if the case goes to trial? If an attorney and a therapist mediate together, does the former violate the ABA Canon of Ethics prohibiting partnerships with individuals unauthorized to practice law?

Opinions differ on whether attorneys should surmount the ethical obstacles and provide mediation services. Mary Ann Galante writes in The National Law Journal "Malpractice defense attorneys and insurance carriers almost unanimously advise against private mediation." Others suggest several ways to avoid ethical quandaries. Attorneys can participate in training sessions to improve their communication and counseling skills. They can safeguard the confidentiality of the mediation sessions by requiring clients to sign a written agreement providing that mediation discussions will remain confidential and that mediators will not be called as witnesses in litigation proceedings. Attorney and therapist mediators can form a corporation, have their clients pay the corporation and the corporation pay the mediators. Clients can be required to sign consent forms stating that they understand they are not being legally represented and that they are advised to obtain independent counsel.

Despite the ethical considerations, proponents say attorneys should engage in mediation because legal advice is vital in any mediation process aimed at settling property and custody disputes. They argue that there is no problem with conflicting interests because parties enter mediation with the intent of resolving their conflicts, not of litigating them and therefore do not assume an adversary posture.

Image

Photo by Elliot Herland. The first annual Race Judicata was held on a snowy April afternoon.

Peters: tuition increase comparably low

By Steve Patrow

On March 1st, the William Mitchell Board of Trustees approved the 1983-84 college budget, a budget that includes an operating deficit of \$433,717 for next year.

The six month budgetary construction process resulted in a 9.9 percent tuition increase, a seven percent salary and fringe benefit increase for the faculty, and the establishment of three instead of four full-time sections.

The 9.9 percent tuition increase is considerably less than increases in previous years: tuition went up 18 percent last year and 21 percent in 1981-82.

Dean Geoffrey Peters said the low tuition increase (low with respect to the increases of the previous two years) reflected the reduction in inflation rates and the board's recognition that tuition increases were starting to take their toll on students.

"We've had students who have just not come back to school after their previous year," Peters said. "They gave no indication why they didn't come back, but the most likely reason was due to the increases in tuition. There wasn't an alternative to those increases at the time, but we want to provide the service to students that this school is known for –providing a solid legal education for a reasonable price."

Although the new budget will be a deficit budget, projected budgets call for a \$50,851 surplus in 1985-86 and a \$105,202 surplus the following year. Peters said the jump from deficit to surplus will result from more efficient accounting procedures and the anticipation of more outside contributions to the college.

"We've consolidated the accounting process into just a few areas instead of having each department handle its own accounting," Peters said. "We had to do something to stop the negative cash flow. This was one area we worked on to stop that flow; the various departments have been combined or accounting procedures changed to ensure that the college accounts for every expenditure."

Peters said an example of the consolidation process was the expansion of the Publications Department to manage the publications from other departments. He said that before that department was expanded, each department or organization in the college accounted for its own expenditures for copying and printing.

"It used to be that some departments would not accurately maintain their account records," Peters said. "Much of the problem was that departments felt that if one dollar went out but another dollar came in, those dollars cancelled each other out and there was no reason to record that process."

"Accounting at the college has been changed within the last year to eliminate that problem. Now the system is straightforward; now everything is accounted for, except the copying machines in the library. When the bill comes in for the machines the money earned on those machines goes directly to pay for the machines."

Another change which will help build a surplus is an increase in contributions to the college, Peters said. The new budget includes donations of \$120,000 for the college; the actual contributions to the college two years ago was only \$64,547. Peters said if the trend for such increases continues, the college will expect nearly \$130,000 in contributions for, 1984-85.

Peters said that such calculations are arrived at by evaluating trends in college income and expenditures. He said the budgetary process then starts out with the goal of keeping tuition as low as possible, considerations of the effectiveness of the student/faculty ratio and other short and long range evaluations. The new budget includes a cutback of two full-time class sections, one each in the first and second year sections. Instead, the remaining full-time sections will be larger and there will be three part-time sections.

"We reduce income (by eliminating the full-time sections), but we also reduce expenditures," Peters said. "That will make it possible to avoid increasing the size of the full-time faculty staff and to help offset the student/faculty ratio."

Except for the 1982-83 school year, the student/faculty ratio has shown a continuing decline and will stand at 28.53:1 for 1983-84.

Peters said the biggest problem with the budgetary process is with the committee established to construct the budget. That committee includes three faculty members, the director of the clinic program, the legal writing chairperson, two student representatives, and other department heads.

"The biggest problem is in the committee where you have to explain every line item to every person present until he or she understands it," Peters said. "Then you have to justify allocations and explain why some department funds have increased while others have decreased."

An example of the problem is that when the new publications department was established, the allocation for that department increased nearly 100 percent, Peters said. He said committee members who opposed such an increase had to be informed that the increase only reflected the consolidation process, that the publications department had only been reorganized to perform jobs previously performed by many departments separately.

"When you walk into a budget meeting, you have to explain this transfer of costs," Peters said. "When all the departments and organizations usually wind up with allocations below what was requested, that explanation must be made by going through item by item."

Peters said the usual complaint heard regarding the budget is the increase in tuition. Some students think that when they suffer a tuition hike, they are paying for past and future students who used and will use the facility, Peters said. He said, however, that while the complaint is wide-spread it is an inaccurate evaluation of the [text missing].

"The truth is that prior and future students are paying for today's students," Peters said. "Past students paid into a surplus fund that has been used during times of high inflation to offset costs of tuition and operations. Right now the college is operating at a deficit and the student pays only for his education at the college; nothing goes into the surplus fund for future use by students. So in effect the past surplus was used to help the present students, but there will be no surplus established by the present students to help the students of the future."

[Appeal rules revised](#)

The following are the revised Rules for Appeal approved by the faculty January 27.

Authority of Academic Affairs Committee.

A. The Committee shall hear all appeals from the Dean's application of the academic rules of the College resulting in a student's being suspended or dismissed from the College.

B. The Committee may affirm, reverse, or modify the Dean's application of the academic rules resulting in a student's suspension or dismissal from the College.

C. The Committee shall not take any action contrary to the Standards and Rules for Law Schools of the American Bar Association or the standards of the Association of American Law Schools.

D. There shall be no appeal from a decision of the Committee.

Notice of Suspension or Dismissal.

A. Notice of suspension or dismissal from the College must be in writing. The Dean shall give notice to the student and provide a copy of the notice to the chairperson of the Committee.

B. The Dean shall provide the student with a copy of these rules with the notice.

Appeal.

A. To Whom: A student who has been suspended or dismissed from the College as a result of the Dean's application of the academic rules of the College may appeal to the Committee.

NITA trains trial advocates

By Kate Santelmann

Many Mitchell students have encountered video tapes manufactured by the National Institute for Trial Advocacy (NITA) in Trial Advocacy, Evidence, Civil Procedure, or a myriad of other classes. But just what NITA is, is a question which has puzzled law students for years.

Located across the parking lot from Mitchell, in the Legal Education Center, is one of the two national NITA offices. From this small office comes a plethora of audio tapes video tapes, and books -all on the art of trial advocacy.

Founded in 1972, NITA was created by the American Bar Association Task Force on Trial Advocacy, partially in response to Chief Justice Warren Burger's insistence that trial lawyers are often ill-prepared. Its purpose was, and still is, to train attorneys to be qualified trial advocates. Ten years later, and strictly speaking no longer funded by the American Bar Association, NITA has grown enormously. Fifteen NITA programs were held around the country annually. NITA faculty and staff have created and taped over 20 series' and numerous case files and books have been written, all on the various aspects of the trial process. These materials are used by attorneys and law firms, as well as law schools around the country to train the trial advocate.

Geographic location is not the only thing which links Mitchell and NITA. Associate Dean Robert Oliphant is the Administrator-Treasurer of NITA, and head of its St. Paul office. Professors Haydock and Sonsteng have not only written NITA materials, but have also produced and appeared in many of the NITA video tapes. Professors Haugen, Haydock, and Sonsteng have taught at many of the NITA programs, and NITA employs several law students the majority of whom attend William Mitchell.

NITA is perhaps most well known for its method of instruction -the often quoted "learning by doing" method. Translated, this means that law students and attorneys learn best by performing problems, rather than reading cases. Although a leader in its field, NITA's greatest contribution to the law school experience may well be that its video tapes afford Mitchell students the chance to observe certain well known professors play the part of the befuddled witness or the cantankerous judge.

Second 'phone-a-thon' reaches 600 alumni

By Lea De Souza

Last fall 4,500 people were contacted by students and staff members of William Mitchell during the nine day "phone-a-thon." These efforts resulted in donations amounting to \$38,000, an amount that exceeded the goal by \$8,000. From March 21 to 24 a follow up "phone-a-thon" took place to attempt to reach those that could not be reached last fall, about 1,100 people.

Judge Hachey, director of alumni affairs and organizer of the "phone-a-thon," said that "a great number couldn't be reached again. We have problems with getting ahold of attorneys during the day." However, a total of 600 people were reached, and their pledges amounted to \$11,102, again exceeding the goal which this time was set at \$10,000. The returns are expected to come in quickly: "a lot of the money is coming in already," Hachey said.

The first real appeal for funds was made in the fall of 1975 to the alumni and business community for the building campaign. William Mitchell had to move from the College of St. Thomas campus to a different location when St. Thomas needed the space it was renting to Mitchell. The funds from the campaign enabled the law school to move to its present location. In October 1980 the first "phone-a-thon" was organized and has since been an annual event.

Hachey stated that money from the "phone-a-thons" is used for such things as the library, equipment and "emergency things not covered in the ordinary budget" thus alleviating some of the burden from the students' tuition.

Nevertheless, a 9.9% tuition increase has been approved for the 1983-84 school year.

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