

Prof. L. Campbell

THE RING-TUM PHI

BY THE STUDENTS AND FOR THE STUDENTS

VOL. VI

WASHINGTON & LEE UNIVERSITY, SATURDAY, OCTOBER 11, 1902

No. 4

Mass Meeting

Tuesday afternoon at 3:30, the students met *en masse* in Tucker Memorial Hall. Mr. R. C. Lord, of Kentucky, was made chairman, and stated that the object of the meeting was for the election of Final Ball president and officers of the Calyx.

The house was then declared open to nominations and the names of Mr. J. W. Bagley, of Tennessee, and Mr. J. C. Pancake, of West Virginia, were placed before the house for the honored and responsible position of president of the Final Ball. At this juncture Mr. E. D. Ott made his presence known and stated that there was a member of the Senior Law class well equipped for this honorable office. This was a surprise to the house and even more so to the gentleman nominated. However, Mr. Ott has already declared that he did not intend to take part in college politics this year, devoting all his time and attention to the study of law—and Senator's daughters—so the matter was not taken seriously.

Mr. Bagley was elected. Under his careful management and leadership, it may be expected that this feature of Commencement will be as successful as it has been heretofore.

Next in order was the election of the editor-in-chief of the Calyx. Mr. S. A. Witherspoon, of Mississippi, and Mr. O. B. Harvey, of Arkansas, were nominated, Mr. Witherspoon receiving the honor.

Mr. Pancake, of W. Va., and Mr. J. M. B. Gill, of Petersburg, were unanimously elected to the positions of assistant editor and business manager, respectively.

There being no further business the meeting adjourned.

CHAPEL

First of Monthly Gatherings of Student-Body

On last Wednesday morning the regular monthly assembly was held in the chapel. After the opening exercises by the Rev. Mr. Light, the speaker of the morning was introduced by Dr. Quarles, who referred to him as his old teacher, Dr. S. S. Laws, formerly President of the University of Missouri and later Professor in the Columbia Theological Seminary of South Carolina and an honorary alumnus of this institution, having received

the degree of D. D. from Washington and Lee. Dr. Laws addressed the student-body as moral agents, which attribute he said, distinguished man from the lower animals and made him feel responsibility towards his fellow-men. He then went on to discuss the extent of these relations as held by the various philosophers. First, the atheist, the lowest of all, regards only the relations between man and man, and does not recognize any duty to a superior being. This philosophy, he said, was being preached today and he thought those who professed it were sincere in their beliefs.

Secondly, the humanitarians or deists, who recognize the relations to a superior being as well as between man and man, but are not willing to admit the inspiration of the scriptures, merely acknowledging in most cases, that Christ was a leading moral teacher. Thirdly, and highest, those who admitted to the double relation to superior and equal, as taught by the scriptures and who, regarding them as inspired, took them as their counsel and guide.

He closed with a stirring denunciation of evolution, saying that it denied absolute creation and regarded the transforming processes as moving around a circle, so to speak, with no beginning and no end. He considered the partial acceptance of evolution by McCosh and others, who still believe in absolute creation as incompatible.

Law Notes

"Noe action shall be brought upon any Agreement that is not to be performed within the space of one year from the making thereof, unlesse it be in writing," etc. So declares the old English Statute of Frauds. On last Thursday night the Law Debating Society considered a question involving this clause of the statute, the case of Doyle against Dixon, in 12 Massachusetts. Dixon agreed for a valuable consideration not to go into the grocery business for a period of five years. If this agreement is completely performed by the death of Dixon within one year, it is not within the statute of frauds and the agreement should not be in writing. If it is not so performed, it is within the statute. Causey and Bouchelle argued that it was not within the statute, and with

this view Professor Vance concurred. The argument on this side of the question may be summarized somewhat as follows: that, as the defendant does not promise anything after his death, his part of the contract is fully performed with his death during the year. That the accepted rule of law that contracts of personal service for a term of years are within the statute does not apply to the present question, even granting that it may be considered as correct in principle. That this is a contract which cannot descend to the personal representative, and is therefore necessarily performed, not merely terminated with the death of the party. That there is a fundamental distinction between an agreement not to perform for a time and an agreement to perform between a positive and active, and a negative and passive contract, and that the statute refers to the positive and not the negative agreement. That, though the parties stipulated for a term of five years, the real intention was that the contract should run only until death, and that they must have contemplated this contingency when they drew up the contract and determined the consideration accordingly, and if Dixon should happen to die during the year, the object and purpose of the contracting parties is fulfilled just as completely as if the promisor had lived and carried out the terms of the contract for five years. The death of Dixon would operate *ipso facto* as a complete performance of his agreement.

Chevalier and Burks, Jr., were appointed to argue that the contract was within the statute, and with this view the majority of the court concurred, including the chief justice. They contended that if there was any valid distinction between a contract to do a thing and to refrain from doing a thing, the distinction was in their favor. That as a dead man is not likely to go into the grocery business within five years or any number of years, the death of Dixon in this case, so far from rendering performance impossible, would have rendered anything but performance an absolute impossibility, and that while the obligation would be terminated by death, the performance, or rather non-performance, would be neither terminated nor completed within the

year, but would run on to its completion as contemplated by the parties; that this distinction was rather metaphysical, and that the important distinction to be made is between a contract for a definite period of years and a contract for an indefinite period, as for life. That contracts of the latter class are plainly not within the statute, because the plain intention of the parties is that the contract should be completely performed with the death of the party whenever that should occur; but that when the parties contract to do a thing for five years, their evident intention is that the contract should run for this period of time, and that the courts should always consider the intention of parties in construing contracts and disregard any technical distinctions. That death in such a case would be a condition subsequent and not a limitation. That there is no sensible distinction between a contract to refrain from business for a definite term of years and contracts for personal service for a definite period; which are held to be within the statute; for though the performance may be negative in one case, the legal obligation is positive in both. That the question is simply whether a man can stay out of the grocery business five years, before five years have elapsed, and that the rule that "to defeat is not to perform" should obviously apply to this case. The gentlemen who were so unfortunate as to take this position with regard to the question will no doubt derive some satisfaction from the fact that at least one member of the Law Faculty agrees with the logic of this view.

There was an encouraging number of voluntary addresses by the Juniors, and the question seemed to excite more than ordinary interest. Both sides insisted that common sense was their way, while the Court held that sound reason was on one side, and Professor Vance contended that it was on the other.

Columbia football team defeated Fordham College last Tuesday, by the score of 45 to 0, in thirty-five minutes of play. Weeks, the captain, made six sensational end runs each of which yielded a touchdown, thus scoring more than half the points. He played little more than half the game.

The Ring-tum Phi

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All Students are invited to hand in contributions on all subjects of interest to the students or alumni. Such contributions should be handed to the Editor-in-Chief.

All matters of business should be addressed to the Business Manager, and all other matters should come to the Editor-in-Chief.

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Published by H. Miley, Lexington, Va.

The interest and enthusiasm created in football circles by the arrival of Coach Balliet continues, and with the inauguration of snappy practice and new systems of play, a large proportion of the student-body finds that it has time to spare an hour each evening to watch the team at work.

Of course, the pessimist is usually on hand to remind others that Washington and Lee football teams never, or rarely, win, but we think he is keeping more quiet these days than is his wont. We think this season is going to show that we have a team which will satisfy its supporters. By this, we do not mean that we expect an unbroken string of victories for the rest of the season, however much we may hope for this, but we feel confident that if we lose it will only be after a close struggle.

Today, we meet the V. P. I.'s heavy-weight team of veterans. From all indications, Blacksburg has a team the equal of any in the South, and the chances for victory seem against us, but we are by no means without hope.

The student-body acted wisely in electing the editor-in-chief and business manager of the Calyx and the Final Ball president, so early in the session, and we feel that the men elected to these important positions are eminently well-qualified for their duties.

Now that we have a Ball presi-

dent and a Calyx manager, of course it becomes the duty of every student to help them so far as he is able—that is, when the plate is passed around.

Graham-Lee Meeting

In spite of the bad weather last Saturday night the attendance at the Graham-Lee meeting was good. The roll was lengthened by the addition of several new men, who will help greatly to keep the society up to its high standard. There was nothing of especial importance before the society, but the regular program was carried out with much enthusiasm on the part of the speakers. Mr. Pilkington declaimed in a pleasing manner and then came the debate. Messrs. Moffett and McCrum contended that this was a degenerate age, mentally, morally, spiritually, and every other way, while Messrs. Jones and Steves showed to the satisfaction of the audience that in every respect this is a progressive age and a great improvement on anything the world has ever seen. Mr. Duncan, as editor-in-chief of the Collegian, appealed to the men of the literary societies to support the magazine by contributing to its columns.

The Y. M. C. A.

The Y. M. C. A. services last Sunday afternoon were conducted by Mr. D. H. Ralston. Mr. Ralston made a very strong talk on the subject of "Christian Warfare." We are to put on the whole armor of God and fight as becomes brave Christian soldiers, having nothing less in view than the conquest of the world for Christ. The Christian's life is one of continual struggle and conflict. We are first to take the stronghold of self and then to fight for the conquest of other souls for Christ.

The talk was uplifting and inspiring, and one that every man in college would have done well to bear.

Washington Literary Society

Although the reporter for the Washington Society has remained silent for some time this has not been due to lack of something worthy of mention. The Society is starting out upon what bids fair to be one of the most profitable sessions of its existence. Already a large number of familiar names have been entered on the membership roll, which has also been lengthened by the addition of many new names.

The program carried out last Saturday was a very interesting one. Declamations being in order;

Mr. Magruder gave an amusing selection, entitled "Hugging in the Park." Mr. Willoughby followed and then Mr. Hollingsworth delivered a portion of "Maruion" in very good style.

The debate was upon the question, whether or not the topography of a country has more to do with the character of the people than its laws. Irons and Duncan argued the affirmative side of the question, while Arnold, Witt and Lamar espoused the negative.

Football Team

The past week has seen the hardest practice of the season on the football field. Each evening, Coach Balliet has put the eleven through an hour's work in learning new formations and perfecting the old, followed by a short, hard practice game against the scrubs. The scrubs, strengthened by ex-Capt. Smith, have succeeded in making things decidedly interesting for the regulars and one or two touchdowns in fifteen minutes of play, is the average total score of the latter. There have been one or two changes in the line-up, during the past few days. Dawson has been putting up a strong game, both on offensive and defensive work, and will take Meredith's place at end. Conover has been put in at guard, in place of Judy, and is putting up a strong game. Harle was late in coming out, but will make a strong man at tackle or back of the line.

The team leaves this morning for Lynchburg where they play this afternoon against V. P. I. The probable line-up will be as follows:

R. E., Ross.
R. T., Trundle.
R. G., Conover.
C., Stone.
L. G., Sterrett.
L. T., McNeill.
L. E., Dawson.
Q. B., Marshall or Campbell.
L. H. B., Campbell or Dotson.
R. H. B., Haw.
F. B., Walker.
Substitutes: Judy, Harle, Smiley.

REWARD OFFERED

The management of this paper will give a suitable reward for any trustworthy information as to the whereabouts of one W. J. Lauck, editor of the RING-TUM PHI.

When last heard from, he was in Washington, and was expected to leave there for Lexington, October 1.

The business manager also announces the early publication by The Miley Press of a folio entitled "How to run a paper without an editor."

\$105 In Gold

Fifty-two weeks ago tonight, the RING-TUM PHI contained an item stating that a generous friend of W. L. U. had sent Mr. Hogue \$100.00 to be bestowed by him upon some student in the University, and that the money had been offered as a prize to the beginners' class in Greek. There was a close and exciting race for it, between Bays and Harry Hamilton—a race noteworthy, not only for the excellent work done, but also for the generous and friendly nature in which they competed. Bays was the winner, and last Tuesday Mr. Hogue handed him five \$20 gold pieces, with a \$5 gold piece in addition, which was the interest the money had earned in the meantime.

Football Notes

The V. M. I. team is made up for the most part of new material but under the coaching of their old coach, Walker, they expect a stronger team than last year. They play their first game this afternoon with St. Albans.

The captains of the "Big Six," this fall, are: Harvard, Kernan; Yale, Chadwick; Princeton, Davis; Penn., Gardiner; Columbia, Weekes; Cornell, Warner.

Bloomer will not play on Yale this fall, as he has been suspended for "cubbing" on examination.

The Carlisle Indians have an Esquimaux center.

The football scores last Saturday resulted as follows:

Univ. of Va. 15, St. Albans 0.
Georgetown 5, Navy 0.
West Point 5, Tufts 0.
St. John's College 10, Columbia University 0.

Yale 23, Amherst 0.
Princeton 23, Lehigh 0.
Harvard 23, Bates 0.
Penn. 17, State College 0.

Other Scores

Harvard 6, Amherst 0.
Yale 35, Wesleyan 0.
Cornell 56, Hobart 0.
Penn. 18, Haverford 5.
Univ. of Mich. 11, Mich. A. C. 0.
Lafayette 14, Gettysburg 0.

The season of Egyptian darkness in Lexington, owing to the low water, seems to be over. Now, when will the rain stop?

Monday was a big day in town, offering the combined attractions of a circus and court-day. Jack-town was out in force, and even some of the dignified members of the faculty journeyed to the island to see the sights.

Personals

Mrs. W. E. Davis left yesterday for her home in Jellico, Tenn.

J. M. Hutcheson, A. B., '01, is teaching at Fayetteville, N. C.

John R. Ames is studying dentistry at the University of Maryland.

Attorney-General Wm. A. Anderson came home last week to register.

Dr. S. S. Laws, of Washington, D. C., is the guest of Dr. Quarles on the campus.

D. E. Tucker is still quite sick. He has not been able to attend classes this week.

G. B. Shields is recuperating from his spell of sickness last week. He has been able to be out for several days.

"Smut" Smith will leave next week for Poughkeepsie, N. Y., where he will enter the Eastman Business College.

Dr. Wertenbaker has been quite unwell for several days, which accounts for his absences from football practice recently.

Don P. Halsey, of Lynchburg, was nominated for the State Senate by the Lynchburg Democrats, to succeed Hon. Carter Glass.

Meredith, who was laid up for some time on account of an injury received in the Virginia game, is again able to be out. He has not resumed his place on the football field.

The friends of Hon. H. St. G. Tucker in the University are sorry to know that he has decided to move his family to Staunton in the near future, where they will hereafter reside.

W. G. McCorkle, of Charleston, W. Va., spent a day or two here last week, on his way to Hampden-Sidney College. He expects to enter Washington and Lee next year.

Hon. H. St. G. Tucker has formed a law partnership with Jos. A. Glasgow, Esq., of the Staunton bar. Mr. Glasgow was graduated from Washington and Lee with the degree of B. L., in 1891.

Reception

A very delightful reception was given the Daughters of the Confederacy at the residence of Mrs. D. C. Humphreys, on Wednesday evening. A large number of guests were present, including the faculty of the University and the delegates to the convention of the Daughters of the Confederacy assembled in Lexington. Elegant refreshments were served during the evening and the occasion was a great success.

University Directory

General Athletic Association:—President, J. W. Bagley; vice-president, A. Tabb; secretary, T. G. Stone; treasurer, Rob't L. Owen.

Athletic Committee:—Dr. Wm. Wertenbaker, Prof. H. D. Campbell, Messrs. A. Tabb, J. W. Bagley, T. G. Stone, R. L. Owen.

Football Team:—Manager, C. S. McNulty; captain, A. M. Smith.

Baseball Team:—Manager, —; captain, J. W. Bagley.

Cotillion Club:—J. W. Bagley, president; J. E. Price, secretary and treasurer.

Washington Literary Society:—President, E. C. Miller; secretary, W. S. Gruver.

Graham-Lee Literary Society:—President, C. D. Tutten; secretary, M. T. McClure.

Y. M. C. A.:—President, C. F. Spencer; secretary, S. McP. Glas, gov.

Fraternalities:—Phi Kappa Psi, Phi Gamma Delta, Sigma Alpha Epsilon, Kappa Sigma, Sigma Chi, Phi Delta Theta, Kappa Alpha, Sigma Nu, Phi Kappa Sigma, Mu Pi Lambda, Delta Tau Delta, Pi Kappa Alpha, Theta Nu Epsilon.

Student Publications

THE RING-TUM PHI, published weekly by the students.—B. D. Causey, business manager; W. J. Lauck, editor-in-chief.

Southern Collegian, published monthly by the students.—J. W. Warner, business manager; A. M. Duncan, editor-in-chief.

The Calyx, Annual, published by the students.

Rain! Rain!! Rain!!!

Contrary to all expectations, the team did not go to Lynchburg this morning to play V. P. I. The rain was coming down in such torrents as to render playing on the soil at Lynchburg impossible and the result of the trip would have been a large financial loss. It is expected that the game will be played Monday.

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Serious Accident Averted

What might have been a serious accident from a runaway horse was averted Tuesday about noon by the presence of mind and timely intervention of several onlookers.

Mrs. William E. Davis, of Jellico, Tenn., eldest daughter of Maj. and Mrs. F. W. Houston, who has been visiting her parents for several weeks, drove up town alone in a buggy. On returning to the vehicle from the cemetery, the horse became frightened at some flags which she carried and broke the bit to the bridle. It was tied up by Mr. W. S. Hileman, as he thought, sufficiently strong to hold until Mrs. Davis could reach a hardware store, where she expected to get a new bit. As she got in the buggy the horse looked back and seeing the flags became frightened again. He started to run down Main street. At the crossing of Nelson street Russell Stuart, a colored man from Natural Bridge, attempted to stop the horse by grasping the bridle reigns, when the bit again broke. The man was thrown to the ground, but could not stop the animal.

In front of the new postoffice building, Mr. A. F. White, a student from Lewisburg, W. Va., jumped into the buggy from the rear and grasped the lines which Mrs. Davis had firmly held. Pulling with his additional strength the strap across the horse's throat, the animal slackened his speed. At the courthouse corner Mr. Kerby Snider ran out and caught the horse in the nostrils with one hand and by the throat with the other, and thus stopped the runaway.

Mrs. Davis, aside from fright and nervous shock, was unhurt.—*Lexington Gazette.*

College Cullings

Watkins, of Princeton, is coaching Vanderbilt again this year, with M. P. O'Connor as assistant. Vanderbilt expects to win the Southern championship.

It is reported that the University of Chicago has bought the buildings and equipment of two Kansas colleges and will run them as training schools for the University. This is, evidently, very much President Harper's idea.

In the list of undergraduates registered, California takes rank second only to Harvard, enrolling 2,099 to the latter's 2,515; Yale has 1,801; Michigan, 1,747; Columbia, 1,608; Minnesota, 1,155; Wisconsin, 1,508; Chicago, 1,282; Princeton, 1,236; Stanford, 1,106.

California has so many football candidates that the coaches are

working them in two squads, one composed of veterans and upper classmen, which numbers 40 and practices early in the afternoon, and another which contains 70 freshman and keeps the coaches busy until dark.

Latest in Goats

While the big rush is over, a few neophytes are to be noticed on the campus, proudly wearing the pin of their respective fraternity.

Among these, are: Carpenter, Pi Kappa Alpha; Smiley, Kappa Alpha; McCrum, Sigma Nu; Osburn, Sigma Alpha Epsilon; Hobbie, Phi Kappa Psi.

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