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RICHMOND LAW
THE MAGAZINE OF THE T.C. WILLIAMS SCHOOL OF LAW
UNIVERSITY OF RICHMOND
Summer 1990, Vol. 3, No. 2

PARTIAL NORTH ELEVATION - WEST END
SCALE: 1/8" = 1'-0"
The I. C. Williams family coat-of-arms: "Know your opportunity."

cognosce occasionem
\[2\]

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THE ALLEN CHAIR IN LAW

Bringing the Nation's Scholars to T.C. Williams

By Philip M. Cox
Preparing Tomorrow's Lawyers: Building on Tradition, Responding to Change

As I complete three years as Dean, I realize that I've simply arrived at the beginning. Since coming to the Law School, I have devoted a major portion of my time to assessing our needs and developing comprehensive plans to meet them. Now the assessment is complete and the implementation must begin.

This does not mean that little has been accomplished in the recent past. Some of our most pressing needs have been met by utilizing the resources of the University. Six new full-time faculty positions have been filled, increasing the number of professors by one-third. Similarly, we have added more than a half dozen adjunct teaching slots, insuring that our students benefit from the insights and the experiences of outstanding practitioners and jurists. The University encouraged a comprehensive re-examination of the Law School curriculum. Just completed, the in-depth study led to faculty affirmation of the traditional core curriculum and the addition of courses and programs in the skills and subjects required by today's legal practice. We also are in the third year of a five-year, half million dollar effort by the University to boost the acquisition of materials for our Law Library.

University support has not been confined to the needs of the faculty and the enhancement of the academic program. With substantial University funding, our expanded admissions and recruitment efforts have led to a record number of applications in each of the last three years. More important, the quality of student body has soared, from the 57th to the 85th percentile of the national applicant pool. The University helped us launch an innovative Video Interview Program (VIP) that has brought the Law School national recognition in the legal profession press. Designed to showcase our students as they seek summer and permanent positions with small and medium size law firms, VIP projects the outstanding quality of T.C. Williams among lawyers throughout the Mid-Atlantic and Southeast regions.

All of this, however, is but the prelude to the main effort in our program to prepare the Law School for the 21st century. With the enthusiastic help of the Law School faculty, hundreds of alumni/ae, members of the University administration, and the Board of Trustees, we have finalized plans for what will be the most significant campaign since 1890, when the T.C. Williams family was asked to insure the Law School's continued existence.

This fall, as we celebrate the 120th anniversary of the founding of the Law School, we will embark on a six-year effort to raise the funds to address the unmet critical needs of T.C. Williams. Our needs total $11 million. Of this amount, $9 million is designated for a major renovation and expansion of the Law School building. The remaining $2 million will be added to the Law School's endowment to fund more scholarships, and a new faculty chair.

The Need for a New Building

Early in our assessment process it became clear that physical space was our first priority. The existing Law School building was completed in 1954. Since then, two additions were completed, one in 1972 and another in 1980. At present, we have less than 70% of the space per student available at the average U.S. law school. Because of our physical limitations, student study space is at a premium, activity areas are virtually non-existent, and there is no more room for faculty offices. Equally important, we project that in a few years we will have
no more space in the Law Library for future acquisitions.

Associate Dean Daniel Murphy chaired our Building Committee for the past three years. After hundreds of hours working with the architects, the Committee has developed plans that will meet our needs well into the next century. From our present 61,000 square feet, we will explode into a 108,000 square foot facility. With five modern classrooms, a state-of-the-art moot court complex, individual study centers for each student, a model law office for our Youth Advocacy Clinic, an entry plaza and reception areas, it will be a spectacular legal education building by any standard.

The Law School Campaign

While the University continues to support the Law School, we must turn to you, our alumni/ae and friends, for the resources we need to rise to a new level of legal education. T.C. Williams is most fortunate to have two of its most distinguished graduates leading this crucial campaign. William Griffith Thomas, '63 of Hazel & Thomas has agreed to chair the Campaign and James C. Roberts, '57 of Mays & Valentine will serve as vice-chair. Bill and Jim have attracted an outstanding Campaign Steering Committee that includes Vincent J. Mastracco, Jr., '64, Sara R. Wilson '78, Professor Thomas F. Guernsey, Lewis T. Booker, Ralph L. "Bill" Axselle, Jr., '68, Kenneth E. Powell '78, and Michael B. Ballato '80. The Committee members are now in the process of recruiting the volunteers who will assure the success of our efforts.

Site preparation and pre-construction on the new Law School building will begin this summer. The official ground breaking ceremony will be held on Friday, October 12th and will be the highlight of "T.C. Williams Week," a week-long celebration of the School's 120th Anniversary. A faculty colloquy; a Legal Forum lecture by Talbert "Sandy" D'Alemberte, President-elect of the American Bar Association; the Annual Scholarship Dinner where U.S. Supreme Court Justice Sandra Day O'Connor will receive the William Green Award; the Campaign Steering Committee Dinner at Agecroft, the family home of T.C. Williams; a very special lunch honoring Jean Tarpley; the Annual Fall Gathering; the Barnett Golf Tournament; and class reunions are all scheduled during the week of October 8th. While details will follow, mark your calendars now for "T.C. Williams Week", the kickoff for the most important Campaign in the Law School's history.

The theme of the Campaign is "Preparing Tomorrow's Lawyers: Building on Tradition, Responding to Change." We believe this phrase captures what T.C. Williams has stood for these 120 years. We continue to prepare lawyers, professionals who will practice law for a lifetime. We are unabashedly proud and deeply appreciative of the traditions that have marked T.C. Williams. As we reach for our roots and build on those traditions, we pledge to do what the Law School has done throughout its history: to be in the forefront of meeting the challenge of changes in the law and the legal profession.

In the months to come, members of the Campaign Committee will contact you and explain further our needs and our theme. I hope you will respond enthusiastically, helping us to prepare tomorrow's lawyers by building on T.C. Williams' traditions as we respond to changes in our profession.
A Conversation with Governor L. Douglas Wilder

By Carl H. Bundick '91

"I have always been motivated by those persons who cared so much for their profession that money doesn't really drive them."

Governor L. Douglas Wilder's opening comment set the tone of a recent conversation during which he discussed his law school experiences, law and politics, and how all interrelate.

"I was always interested in advocacy," he continued. "I majored in chemistry at Virginia Union University. After graduation, I worked for a while as a chemist. Still, I wasn't happy."

"I felt a tugging and nagging that eventually led me to study law at Howard University. I knew I had not planned to enter the legal profession. However, I felt that if I could get a chance to go to law school, I would succeed."

"Once I began my study of law at Howard, I knew I had made the correct choice."

Wilder recalled fond memories of law school. One such story was how he had a bigger first-year class than in the second year. The story is one that all law school students can share.

"I could see that the class size was steadily getting smaller and that a lot of people were not going to make it."

"I look back and appreciate the one-on-one relationships that I enjoyed with many of my professors at Howard. We had very small classes at Howard, and as a result we had a great deal of individual attention in and out of the classroom. There were fewer than one hundred students in the law school."

"We had a talented faculty at Howard. As I said earlier, I was greatly impressed by its dedication to the profession. The faculty members, who included instructors who had previously practiced law, and others who simply chose to teach, were more interested in knowing that we learned and retained the rule of law as opposed to how much money could be potentially made."

Governor Wilder admitted he didn't initially intend to become involved in politics; however, like law school, he felt a calling and took advantage of his ability as an advocate. Wilder was the founder and partner of the law firm of Wilder, Gregory and Martin, in Richmond. "After practicing law for 10 years, I had several friends who encouraged me to enter politics. Actually, I wanted to practice law more than I wanted to become involved in politics. I was fortunate enough to be elected to the Virginia Senate four times and Lieutenant Governor in 1985." Mr. Wilder is a member of the American Bar Association, the Virginia State Bar, the Old Dominion Bar Association, the American Trial Lawyers Association and numerous other legal associations. When questioned regarding the legal profession and public service, Mr. Wilder did feel law prepared him for politics. "I felt that my legal background was a good foundation for politics. Lawyers are imminently qualified to interpret legislation."

Mr. Wilder explained his reasoning by saying that, as an attorney, he could weigh the merits of a particular piece of legislation by virtue of his background. "It is easier to follow the course of legislation, whether it be criminal, civil or general. A legal background allows one to know what is practical and what is not."

His accomplishments in this area are well respected as he has consistently been named one of the most effective persons in state government in annual legislator surveys by the Virginian-Pilot newspaper in Norfolk.

Mr. Wilder made an interesting comparison between the compatibility of the legal profession and politics. "Law is a jealous mistress. Howev-
er, there's nothing forgiving about politics either. It's hard to do both at the same time. Unfortunately, the more time one devotes to politics, the less time he or she can practice law. As a result, I have not been able to practice law for five years.

"I must say that I enjoyed the practice of law a great deal. Law is a challenging profession. Law is becoming more complex as time passes. It is becoming a profession of specialization."

He also pointed out that there are fewer attorneys in the Virginia Legislature. For example, there are more non-lawyers in the Virginia Senate than lawyers, something that would make many people happy, including his former colleague and friend, the late Ed Willey, who would say "amen" to that proposition.

When asked whether having been a politician would make him a better attorney, Mr. Wilder laughed—"I don't think I will be a better attorney having held political office. It may help my practice because I will know more potential clients."

Mr. Wilder, in seeing drawback to attorneys in politics, admits that it is becoming extremely difficult for attorneys to try cases, run an office, schedule meetings and meet all the demands of being an elected official.

"Lawyers are like doctors. If one is only interested in providing a service, it will become quickly evident. The public will become cynical. People want a lawyer to give his absolute best to the practice of law at all times. It is imperative that lawyers adhere to ethical standards in their practices."

He sees the Virginia legal profession becoming more streamlined over time. "I personally would like to see more simplicity in the profession. For example, I know we like the legal jargon, but it does not really benefit anyone. It doesn't help to make things more convoluted than they already are.

"I feel that we will see more specialization in the profession. I feel that law has broadened its scope over time. There are areas of law such as environmental law, health law and family law; areas which are developing over time."

Mr. Wilder is very impressed with the Virginia law schools and the quality of education each is providing. He said, "We have fine law schools in Virginia, who are graduating fine lawyers who will practice in Virginia."

This praise extends to both public and private institutions in the Commonwealth. "I'm convinced that our Virginia law school graduates would be able to hold their own with law school graduates around the country...I'm absolutely convinced this is true. We have many fine young attorneys in Virginia who are the products of Virginia law schools."

Mr. Wilder, in conclusion, extended his praise to the T. C. Williams School of Law. "T. C. Williams attracts fine students, has a well-respected faculty and education program.

"I think T. C. Williams is an outstanding law school."

Governor Wilder proudly displays the T. C. Williams sweatshirt given to him by the Law School Alumni Office.

"Appreciated real estate? Of course I have, ever since the first day I saw the UR campus!"

As real estate values continue to escalate, many property owners are simply confused. Delight over seeing their property appreciate at such a rapid rate is usually followed by astonishment at the accompanying taxes. Further, owners feel dismay over their inability to sell their property because of capital gains tax they will incur. They feel "locked in."

The best way to part with your appreciated real estate may very well be through giving it to the University of Richmond. You’ll avoid capital gains tax while also receiving a tax deduction and creating a trust that will pay lifelong income to you and a beneficiary.

For information, please contact:
Paul F. Kling
Director of Deferred Giving
Maryland Hall, University of Richmond, Va. 23173

We will be glad to run in-depth calculations for you to show how a gift to UR might affect your financial situation.
Law School Graduates 120th Class

Dean Harbaugh addresses Class of '90

On Saturday, May 5th, The T.C. Williams School of Law held its commencement in the Robins Center. For the first time in the history of the University, the Law School's graduation was separate from the University's Commencement, which was held the following day, May 6th.

More than 1800 parents, family members, and friends attended the graduation exercises at which 161 Juris Doctorates were conferred. The graduation speaker was Dean Joseph D. Harbaugh who joined the faculty as dean in 1987 when this year's graduating class entered the Law School. In his remarks, Dean Harbaugh recalled some of his experiences during the last three years and welcomed the Class of '90 into the ranks of "a noble profession." He mentioned that he was the first member of the Law School faculty to address them at orientation 3 years ago, and now he was the last professor to officially address them. Dean Harbaugh spoke of the different roles the graduates will assume as attorneys and the different conflicts these roles may create. He told them as lawyers they will function as helpers, counselors, advisors, drafters, planners, negotiators, and more.

During the ceremony awards were given to the members of the Class of '90 who made outstanding academic achievements. Mark R. Herring was selected by the faculty as the best all around graduate and received The Charles T. Norman Award. Katherine Dickenson received the J. Westwood Smithers Medal (highest cumulative average at the end of six semesters), the Cudlipp Medal (highest average at the end of the second year), and the William T. Muse Torts Award.

The Edward W. Hudgins Memorial Scholarship was awarded to Michael Craig Roach. This scholarship was established in 1976 by Edward M. Hudgins in memory of his father, an alumnus of the Law School, Trustee of the University and former Chief Justice of the Supreme Court of Virginia, 1957-58.

The Law School faculty and members of the Law School Association Board of Directors marched in the procession. Following the graduation ceremony, Dean Harbaugh hosted a reception in honor of the Class of '90 and their families.
The Relationship of Civil Service Law and Collective Bargaining Law in Public Sector Employee Discipline Cases

By Ann C. Hodges

While unionization in the private sector has been decreasing in recent years, the public sector has been an area of union growth. An increasing number of states have enacted laws which require or permit public employers to bargain with unions representing their employees. These relatively recent collective bargaining laws have been enacted in the context of numerous existing laws governing the terms and conditions of employment of public employees. Civil service statutes are among the most significant laws governing public employment. Because civil service laws unilaterally set terms and conditions of employment for public employees, a statute which provides for bilateral determination of terms and conditions of employment through collective bargaining creates the potential for conflict.

Employee discipline is an area where the potential for conflict looms large because it is both a consistent subject for civil service provisions and a common topic of collective bargaining. States with both civil service and collective bargaining laws must resolve this conflict either legislatively or judicially.

The specific conflict arises when a union demands to bargain over issues relating to employee discipline which also are covered by the existing civil service statute. Civil service statutes commonly provide grounds for disciplinary action, procedures to be followed for disciplinary action, and procedures for appeal of disciplinary actions. The appeals procedures frequently utilize the civil service commission as the appellate body. These same disciplinary subjects are ripe for bargaining because of the importance of job security to employees and their unions. The union’s demands for negotiation may be resisted by the employer on the basis that disciplinary action is governed by the civil service statute and cannot be negotiated. Alternatively, the employer may bargain and reach agreement on disciplinary issues, but later refuse to comply with the contract on the grounds that it is in violation of civil service law. In either scenario, the state courts in the agency which administers the collective bargaining law must determine whether the civil service law precludes bargaining and/or the enforcement of the negotiated contract.

Some states have addressed this issue specifically in either the collective bargaining statute or the civil service statute. For example, the New Jersey Employer-Employee Relations Act requires negotiation of a written grievance and disciplinary review procedure, but specifies that it cannot replace or be inconsistent with any statutory appeals procedure and cannot provide for binding arbitration of disciplinary disputes where the employees have protection under civil service law. See N. J. Rev. Stat. Ann. Section 34:13A-5.3 (West 1988). Even where the statute, as in New Jersey, contains provisions regarding the relationship of collective bargaining and civil service, issues of interpretation arise frequently. In addition, in some states, both statutes are silent about the reconciliation of civil service and collective bargaining laws, leaving the issue to judicial resolution. In the case of both silent statutes and statutes requiring interpretation, courts and administrative agencies must decide whether the unions and employers are permitted or required to bargain about issues which are covered by civil service law. Resolution of this dilemma also is essential for legislatures enacting or amending collective bargaining and civil service statutes.

In order to determine whether the collective bargaining statute or the civil service statute has priority in the event of conflict, the decisionmaking body must look first to the language of the statute. If the language is not clear, the intent of the legislature must be ascertained by reference to the legislative history, where available, and the purposes and policies of the two statutes. It is also important for the legislature to consider the purposes and policies of the statutes in deciding how to resolve this issue legislatively.

Civil service statutes were enacted in order to minimize the effects of the patronage system, and to provide for employment based on merit. Discipline and discharge are viewed as traditional components of the merit system, although early civil service laws did not deal with the removal of incompetent employees. Most civil service laws currently contain provisions regarding discipline. With a few exceptions, public sector collective bargaining laws developed after civil service laws. Collective bargaining laws are designed to achieve harmonious
relations between employees and employers in the public sector in order to minimize disruptive labor disputes. This goal is accomplished by giving the employees a voice in determining their own wages, hours and working conditions through collective bargaining. Among the issues that employees frequently seek to negotiate through their union are standards and procedures for discipline and procedures for appealing disciplinary decisions. Typically the union bargains for inclusion of disciplinary appeals in a grievance procedure which culminates in binding arbitration by a neutral arbitrator. Disciplinary matters traditionally have been viewed as mandatory subjects of bargaining because of their importance to the employment relationship.

Legislators and courts deciding how to accommodate both the desire to negotiate over disciplinary issues and the legal provisions governing such issues should try to find the solution which maximizes the probability that the goals of both statutes can be achieved. The important question is whether collective bargaining over disciplinary matters will interfere with the goal of employment based on merit. In order to answer this question, it is essential to look to the likely outcome of collective bargaining and to assess the impact of that outcome on merit employment.

The Bureau of National Affairs survey of patterns in collective bargaining agreements reveals that 86% of contracts require that discharge be for cause or just cause. Additionally, 98% of contracts contain an arbitration procedure for resolving disputes regarding the interpretation and application of the agreement. Based on these patterns, unions permitted to negotiate about disciplinary matters can be expected to bargain for just cause limitations on termination and arbitration accordingly, would not be inconsistent with the merit principle. Furthermore, unions have no incentive to negotiate a return to the patronage system that merit systems were designed to eliminate since patronage employment would cause the employee to rely on political activity for employment security, rendering the union superfluous.7

Just cause limitations on discipline frequently are construed to incorporate procedural protections such as notice and an opportunity to be heard. Unions may negotiate express procedural limitations as well. While procedural requirements may discourage discipline by employers who do not want to comply with such requirements, they are not inconsistent with the merit principle. In the event of discharge, a pretermination hearing is constitutionally required for employees with civil service status.8 In addition, many civil service systems already contain such procedural safeguards, demonstrating their compatibility with the merit principle.

Finally, a system of arbitration of disciplinary matters by a neutral arbitrator is not incompatible with the merit principle. Civil service systems typically provide for an appeal of adverse employment actions (including discharge, suspension and demotion) to the civil service commission. There is no reason to believe that a decision by a neutral arbitrator mutually selected by the parties is more likely to force retention of an unacceptable employee, or uphold the discharge of a competent employee, than a decision by the civil service commission. If one subscribes to the view that the civil service commission is more likely to uphold a decision of management, then the civil service commission hearing is more compatible with merit only if management's decision to discipline is always based on merit. If that were true, then the civil service commission appeals procedure would be unnecessary.

There is a large group of well-qualified, experienced arbitrators who have been hearing and deciding discipline cases in both the public and private sectors for many years. These arbitrators have created a well-developed body of authority with respect to determining whether just cause for discipline exists. By way of contrast, most civil service commissions have less experience in making such determinations. Thus, if the parties select an experienced arbitrator, there is every reason to believe that the arbitrator's decision will be at least as consistent with the merit principle as the decision of the civil service commission.

Furthermore, there are other benefits of allowing the employer and the employees to utilize negotiated grievance procedures for resolving disciplinary disputes. Regardless of the reality (continued on page 11)
RONALD J. BACIGAL has been selected by the Virginia Council of Higher Education as one of the twelve recipients of the 1990 Outstanding Faculty Awards. The recipients were chosen from all institutions of higher education in the state of Virginia. The award was presented at a black tie dinner hosted by Governor L. Douglas Wilder. In addition to the prestige, Professor Bacigal received $5,000. Professor Bacigal was selected to participate in the University of Richmond’s Faculty Seminar in International Studies. The seminar will take seven University of Richmond professors to Hungary, Czechoslovakia, and East Germany for a two-week series of conferences.

BEVERLY BOONE attended a National Association for Law Placement meeting in Chicago, Illinois, from April 4th-7th, 1990. She participated in a panel discussion on “Marketing your Law School” and addressed our School’s video interview project.


OKIANER CHRISTIAN DARK was selected as an Outstanding Young Woman of America for 1989 by Outstanding Young Women of America, Inc. This award is given in recognition of outstanding ability, accomplishments, and service to the community. Professor Dark published an article in the March 1990 issue of Virginia Lawyer entitled “L. Marian Poe: A model of Public Service,” co-authored with Allen R. Moye ’90.


KENNETH L. HARRIS published “An Analysis of the Revised § 6694(a) Standard,” in Tax Notes, (May, 1990). Professor Harris is working on the final stages of a book discussing the ethical responsibilities of the Federal tax preparer. This book, which Professor Harris is writing with Professor Bernard Wolfman of the Harvard Law School and James P. Holden of Steptoe & Johnson (current chairperson of the ABA Section of Taxation) is to be published as part of the CCH Tax Transactions Library.

LUCINDA HARRISON received her Master’s degree in Library Science in February, 1990, from Catholic University.

ANN C. HODGES spoke on the issue of “Wrongful Discharge” at the Personnel Law Conference sponsored by the University of Richmond’s Management Institute on May 10th, 1990. Professor Hodges also spoke at Continuing Legal Education seminars on May 17th, 1990, in Richmond and on May 18th, 1990, in Norfolk. The title of her talk was “An Overview of State and Federal Statutes Regulating the Employment Relationship.”

JOYCE MANNA JANTO was re-elected vice-president of the Virginia Association of Law Libraries. She spoke at the American Association of Law Libraries Annual Meeting in June in Minneapolis. The subject of her talk was the evaluation process in selecting an automated acquisitions system. After the meeting, Joyce and Lucinda Harrison attended a workshop sponsored by AALS on improving teaching skills.

NANCY O’BRIEN, faculty secretary, received a 5-year service award from the University. Nancy, Mary Caudill (Law Admissions Office), and Anne Smith (faculty secretary) walked 10 miles for the “Super Cities” walk for Multiple Sclerosis on Sunday, April 1st.

PETER N. SWISHER is pleased to announce that the Matthew Bender Company has recently published [April, 1990] a family law casebook, “Family Law: Cases, Materials, and Problems”, which he co-authored. This 1227-page casebook was written for both the student and the practitioner and, states Professor Swisher, is “part textbook, part casebook, part problem-solving and reference text” which consciously attempts to balance family law theory and practice while comparing the strengths and weaknesses of both the “traditional” and “modern” views of American family law.

BRIAN S. THOMAS, Director of Law School Development & Alumni Programs, and his wife, Carla, have a new addition to their family: Carter Sutherland, born July 4th. Carter joins older sister Samantha in the Thomas household.

MICHAEL ALLAN WOLF was granted tenure and promoted to the rank of Professor at the March Board of Trustees meeting. Professor Wolf is the author of “Enterprise Zones: A Decade of Diversity,” included as Chapter 8 of Economic Development Finance Tools, published by Sage Publications in April, 1990. The article also appears in the February, 1990, issue of Economic Development Quarterly. In January, Professor Wolf spoke at the Annual Conference of the New York State Economic Development Zones Program in Albany. In April, he made presentations on enterprise zones at the joint annual meeting of the Iowa chapters of the American Planning Association and National Association of Housing and Redevelopment Officers in Dubuque, and at the annual meeting of the American Association of Enterprise Zones in Washington, D.C. In May, Professor Wolf was the featured speaker at a University of Richmond law alumni luncheon in Northern Virginia; his talk was entitled “From the Outside Looking In: Confessions of a Land-Use Professor in the Old Dominion.”

PAUL J. ZWIER has been named Director of the National Institute for Trial Advocacy’s Motion Practice and Appellate Advocacy Training Programs. The next program will be held October 17-20, 1990. Professor Zwier also served as Team Leader for NITA’s Advanced Trial Advocacy Training Program held at the University of Florida School of Law, March, 1990.

Dean Harbaugh is proud to announce the appointment of another faculty member. Willie L. Moore, attorney with the Los Angeles Office of the Public Defender, Mr. Moore will be clinical director of family law.

Mr. Moore was educated at Yale Law School where he earned a Juris Doctorate, and at the University of North Carolina at Chapel Hill, where he earned a Bachelor of Arts degree with highest honors in English and political science. Following graduation, Mr. Moore clerked for the Honorable Damon J. Keith of the United States Court of Appeals for the Sixth District, in Detroit, Michigan. After several years with the Los Angeles firm of Mitchell, Silberberg & Knup, Mr. Moore moved to the Los Angeles Office of the Public Defender.
Under the leadership of Law Fund Chairman Tony Troy '66 and vice-Chairman Michael Ballato '80, this year's Fund reached record heights. More than $120,000 was contributed by 1286 alumni/ae (40%). The average gift reached $95. Regional telethons held in Richmond, Hampton Roads, Roanoke, and Northern Virginia once again played a large part in the success of the Fund. Using the three-night Richmond telethon as a launching pad our 44 callers received $39,944 from 515 alumni. The Hampton Roads Area telethon was held at the law firm Clark & Stant in Virginia Beach. Tom Snyder '78 captured a strong group of ten callers and raised $7,289 from 105 alumni/ae. In Roanoke, Dale Webb '86 pulled together a good group of seven callers at the firm of Gentry, Locke, Rakes & Moore. The night's efforts brought $5,000 for the Fund from 70 pledges. And finally, the Northern Virginia telethon's nine callers received $5,420 in pledges from 82 alumni/ae. As custom, the telethon was hosted by Pia Trigiani '83 and David Mercer '73 at the law firm of Hazel & Thomas, in Falls Church.

This year's “clean-up” telethon saw $4,475 from 74 pledges. The telethon was staffed by Alpha Phi, an undergraduate sorority, as part of their service project.

"Hodges" from page 8

“Hodges” from page 8 ty, employees may view the civil service commission as a part of management. Accordingly, the decision of an arbitrator will be accepted more readily as a fair and impartial resolution of the dispute, minimizing employee dissatisfaction which may be disruptive to the workplace. Having participated in the design of the dispute resolution procedure through negotiations, both the employees and the employer have a stake in the success of the procedure and are more likely to accept the results. The use of an impartial arbitrator also may have the benefit of encouraging management to more carefully consider disciplinary decisions, increasing the likelihood that decisions are based on merit. In addition, arbitration may encourage the parties to be more reasonable in settling disputes without the necessity of a hearing.

An additional benefit of permitting the parties to select the appeals mechanism for disciplinary grievances is that the employer and the employees can select the method which is best suited to the particular employment situation. Where the civil service commission appeals procedure works well in the estimation of both parties, then they are free to adopt it instead of arbitration. Where the civil service procedure is not effective, the parties can design another system which meets their needs. Requiring the parties to negotiate about disciplinary issues does not require them to reach agreement on any particular basis or indeed, at all. If a union makes a proposal which management believes will interfere significantly with merit-based employment, the employer can refuse to agree to that proposal so long as it continues to bargain in good faith.

Permitting negotiation over disciplinary issues does not negate the need for civil service law. As noted, the parties could agree in collective bargaining that disciplinary matters will be governed by civil service law. Moreover, civil service law will continue to govern employees for whom no different provisions are negotiated, e.g., employees not covered by a union contract.

Therefore, where a legislature has decided that collective bargaining is appropriate for a group of public employees, it should provide specifically that bargaining over disciplinary matters is required, despite the existence of civil service law covering discipline. A specific statutory provision will minimize disputes over negotiability which will maximize the benefits of collective bargaining. If all parties are aware that bargaining over discipline is required, then their energies will be
Breakfast Lecture Series

Ideals, Reality, and Special Education

By Philip M. Cox

To what extent is a public school system obliged to accommodate the disabled? This was the central issue up for debate at the Breakfast Lecture March 1st. T.C. Williams professor Thomas F. Guernsey and Kathe Klare '82 led the group of more than 40 in a lively exchange on the difficult issue of Special Education Law.

According to the National Association of State Directors of Special Education (NASDE), the term “disabled” is a catch-all phrase inclusive of four groups: learning disabled, speech impaired, mentally retarded, and the emotionally disturbed.

Is the public responsible to subsidize the education of disabled children? Were this simply a question of ethics and compassion the answer is, “certainly.” But consider the disabled child requires more individual attention than the child who does not have such a challenge; the extra time spent on Mary means less time for Susan. And if Susan happens to be your child, you may wonder why your tax dollars are being spent on someone else’s daughter.

The lecture was a variation on the Socratic method. Kathe Klare presented the group with examples of needs in special education ranging from the less challenged child who has, say, a hearing impairment, to the child who is more challenged by inability to physically control himself or herself. With each scenario Professor Guernsey led the group in questions toward finding answers, and none came easy.

Once given the economics of special education, many people modified their belief from “education for all at any cost” to asking, in effect, “well, what kind of return are we getting on our tax dollars?” The consensus appeared to be that, so long as there was a marked difference in the quality of life of the individual, the money is well spent; however, there was less enthusiasm among those who believed that, in order for the education to be worthwhile, there must be a discernable benefit for both student and taxpayer.

The discussion yielded the broad opinion which marks a democracy. And while no one was able to come up with a plan to make ours a more inclusive system, the discussion forced all to think about the concerns of the disadvantaged in relation to the demands of modern democracy.

Kathe Klare and Professor Guernsey took the Breakfast Lecture Series to a new level by encouraging participation and dialogue. We hope we have more such lectures.

The next Breakfast Lecture will feature Professor Ronald J. Bacigal, September 27th. Invitations will be posted in August, so watch your mailbox for more information.
Emroch Lecture’s National Scope Attracts Record Crowd

By Philip M. Cox and Forrest Hughes

The Sixth Annual Emanuel Emroch Lecture was held April 3rd. This year’s speaker was Eleanor Holmes Norton, Professor of Law at Georgetown University National Law Center and nationally renowned authority on affirmative action and civil rights.

Professor Norton lectured on “Justice and Efficiency: Reconciling the Unmet Goals of America’s Dispute Systems.” Drawing from her experience as head of the Equal Employment Opportunity Commission, which she headed during the Carter Administration, Professor Norton pointed to the need for alternatives to courts, including dispute mediation and mini-trials. Among the new methods she used in meeting the needs of EEOC was provocative fact finding.

The provocative fact finding program was a success, based on criteria which included reducing the average settlement time from 24 months to 140 days. Citing the absence of formal criteria for measuring justice, Professor Norton stressed the importance of judgement in “analyzing whether the dispute system results in justice.”

Following her lecture Professor Norton answered questions from the audience. She also spoke with many guests at the reception held in Sarah Brunet Hall Board Room.

After the reception, Professor Norton joined Mr. and Mrs. Emroch and special guests in the President’s Dining Room for a luncheon of special guests. Among those in attendance were Mr. and Mrs. Walter Emroch, Mr. and Mrs. Oliver W. Hill, Judge and Mrs. Marvin F. Cole, Justice Elizabeth B. Lacey, Judge Richard L. Williams, Judge and Mrs. Randall Johnson, Judge B. M. Parsons Jr., Judge and Mrs. J. E. Kulp, and Judge and Mrs. Melvin Hughes.

Professor Norton was educated at Yale Law School, Yale Graduate School (M.A., American Studies), and Antioch College. She has co-authored a book, Sex Discrimination and the Law: Causes and Remedies, and is currently writing a book about the development and impact of antidiscrimination law and affirmative action remedies in an effort to help clarify public understanding. She was a member of the Council on Foreign Relations, the Overseas Development Council, and the U.S. Committee to monitor the Helsinki Accords. Professor Norton has received numerous honors, including 28 honorary degrees, and serves on a variety of boards, among them, the Rockefeller Foundation, the Yale Corporation, the Martin Luther King Jr. Center for Social Change, and the Pitney Bowes Corporation.

Professor Norton is also a legal issues commentator for PBS’s MacNeil/Lehrer NewsHour and the National Public Radio program, “All Things Considered.” She is also listed in Washingtonian Magazine’s “One Hundred Most Power Women in Washington.”

Attendance at this year’s Emroch Lecture shattered all previous records as a group of faculty, students, and alumni—all over 200 in all—turned out to listen to Professor Norton.

The Emroch Lecture Series was established through the generosity of Mr. and Mrs. Emanuel Emroch, their son, Walter, and the friends of Emroch. Mr. Emroch holds both undergraduate and graduate degrees from the University of Richmond.
The second full year of active programs at the Robert R. Merhige Jr. Center for Environmental Studies drew to a close on a high note. This spring, Governor Wilder signed a bill introduced by Delegate Frank Hargrove and Senator Edwina Dalton, designating a ten-mile section of the Chickahominy River a scenic river. Passage of the bill was made possible by the outstanding efforts of four T. C. Williams students: Phil Garland, Patti Taylor, Rusty Bozman, and John Bryan. They researched the components of the river entitling it for scenic designation and presented the merits of the project to riparian owners, concerned citizens, and local government officials. The project helped protect one small part of Virginia's environment, was an excellent educational tool, and enabled the Law School to serve the surrounding community. If any alumni or friends have similar projects that would benefit from law student participation, please let the Merhige Center know.

On February 15th, 1990, the Merhige Center hosted a program on the Chesapeake Bay Preservation Act. Speaking at the program were: John Marling, Local Assistance Program Manager, Virginia Council on the Environment; Jack E. Frye, Department of Conservation and Natural Resources; Jeter M. Watson '80, former Director, Chesapeake Bay Local Assistance Department; and Kurt R. Thompson, Water Resource Engineer, Dewberry & Davis. Unlike the plethora of Chesapeake Bay Preservation Act seminars washing the state, this program did not attempt to address the broad range of legal issues presented by the Act and corresponding regulations. Rather, it focused on the limited issues of defining and protecting Chesapeake Bay Preservation Areas. The program was well attended by attorneys and local government officials and staff.

The Back Bay Restoration Foundation has solicited the Merhige Center's input on a project. The State Water Control Board is considering issuing a permit for a discharge into the Back Bay, an estuary which already is stressed and high in nutrients. The Merhige Center is looking into working with the Foundation in responding to the permit application. The legal issue centers on the authority and propriety of the State issuing a permit for a discharge into existing stressed waters.

At the invitation of Foundation President Richard W. Whitemore '81, Todd Benson '82 and Will Fitzhugh '92 went to Back Bay on May 12th. Five back-breaking hours were spent planting sea grasses in Back Bay coves. We also visited the site where the discharge would emanate, talked with the Foundation's biologist about the problem of nutrient enrichment in Back Bay, and generally got to know Foundation members including Bill Bishoff '86.

On March 2nd, the Merhige Center co-sponsored a symposium on Permitting of Cogeneration and Other Industrial Facilities. Our co-sponsor was the Richmond firm Christian, Barton, Epps, Brent & Chappell. The four-hour program was incredibly ambitious and covered: (1) the background of cogeneration from the perspective of the State Corporation Commission; (2) Virginia Power's viewpoint on system planning and power supply; (3) recent federal air legislation initiates and their prospective impact on industrial facilities; (4) a panel discussion on air permitting issues affecting cogeneration facilities; (5) water permitting issues affecting cogeneration facilities; and (6) local government's authority and role in land use and environmental regulation. The Merhige Center appreciates Christian, Barton's efforts and, in particular, the work of Carol C. Raper, Paul G. Turner, and Hullihen W. Moore.

Over the last two years, the Merhige Center has experimented with different methods of making environmental law education available. This program was the first time a program was co-sponsored with a law firm. The Merhige Center is encouraged by the results, intends to continue this practice, and welcomes any and all inquiries concerning such symbolic relationships.

The final program of the year examined the growing field of environmental audits. In short, an audit is an examination of land or a company or other operation to determine: (1) compliance with environmental regulations; and (2) assess potential liability. Mike McLaughlin. SCS engineers began with an overview of the audit process. He was followed by John Jewett of McGuire, Woods, Battle & Boothe, who spoke on the lawyer's role in representing a client in the audit process. Dave Harless of Christian, Barton, Epps, Brent & Chappell, concluded by addressing protecting environmental audit information.

Finally, this spring Todd Benson '82 and Bill Dinkin '90 published a handbook on zoning and land use in Virginia. The first two hundred copies will be distributed free to interested alumni. A $3.50 charge will be placed on copies produced in subsequent printings. If you are interested in obtaining a free copy, please write to the Merhige Center.

As the academic year winds down, so do Merhige Center activities. However, planning for next year soon will start. If there is a topic or program you desire, please let us know.
Enhancements in the Law School Library

By Joyce M. Janto

During the past semester, many users of the Law Library were startled when they came in and found that the card catalog has been moved. Even more startling was the fact that, shortly after this move, tables bearing computer terminals were placed where the card catalog used to be. This was the first visible hint to the student and attorney users of the Law School Library that some major changes were underway.

The University has purchased the Dynix system to automate the Boatwright, science, music, and law libraries. What this means for the average library user is that the card catalog has been replaced by four computer terminals. And in the future student and attorney users who wish to check out material will need new barcoded ID cards.

The automation of all campus libraries with the same system has some distinct advantages. With a unified database, users at any library can tell if a book is held by the University, if it is on order, in which library the book is located, and if the book is currently on the shelves or if it has been checked out. Library users will have the option, if the book is checked out, to have a “hold” put on the book. That way, the system will automatically notify the library that someone else is waiting for this book when it is finally returned.

Of course this new system means more than just a new and different type of card catalog. The circulation system has also been automated. Gone are the days when a user must fill out a card listing the author, title and call number for every book he/she wanted to check out. Now the patron will simply present an ID card that has been encoded with the borrowers name and address. The library assistant will then take a light wand, “read” the barcode on the ID card and then “read” the barcode on the book which identifies the author, title and call number for that item. This is a system that may be familiar to many users of public libraries.

The behind the scenes work to pave the way for the implementation of the on-line catalog and automated circulation systems has been going on for many months. The catalog librarians at the University began using the cataloging module of this system in October, 1989. Since that time, they have been creating, correcting and adding to the database that forms the basis on the public catalog.

As the books were entered into the database, each was assigned an identifying barcode. These barcodes are the same as the product identification codes that have been used in supermarkets for years. Each barcode has a unique connection to the item to which it is attached. Barcodes were also created for the books already in the Library’s collection. Beginning in December, 1989 the staff of the Law Library began attaching these barcodes to the books to which they belong. As you can well imagine, this is a slow and tedious process which is still going on in the library.

In February, 1990, the libraries began using the acquisitions module which is part of the automated library system. All material ordered by the near future the Library hopes to be able to offer all of its users dial-access to the public catalog. Any attorney, faculty member or student who has a modem-equipped PC could gain entry to the catalog from his or her office. A user could see if the library has the material to satisfy research needs and then put a hold on the material so it could not be checked out, all without coming into the library.

Joyce M. Janto is Associate Director of the T.C. Williams Law Library.
Spring alumni luncheons focus on the Environment and Land-Use

By Philip M. Cox

The Alumni Office made its spring tour, sponsoring luncheons in Roanoke, Northern Virginia, and the Eastern Shore. The topics of these luncheons reflect current concerns in the United States and the world: land-use and the environment.

On April 2nd, Law School professor W. Wade Berryhill met for a luncheon with the Roanoke area alumni at The Jefferson Club. Professor Berryhill addressed the group of 15 and gave a thoughtful talk on the environment. He discussed the issues of global warming, the down-side of Chesapeake Bay real estate development, the crucial need for recycling, and how recent legislation—Commonwealth and federal—is moving to deal with these concerns.

Professor Berryhill was very well received by the Roanoke group, whose hospitality consistently makes trips to their area enjoyable. We gratefully acknowledge the help of Dale Webb ’86, and the firm of Gentry, Locke, Rakes & Moore for helping sponsor this luncheon.

Northern Virginia alumni/ae welcomed Professor Michael Wolf on May 9th at the Tower Club in Vienna. Professor Wolf’s speech, “From the Outside Looking In: Confessions of a Land-Use Professor in the Old Dominion,” addressed the differential between federal and Virginia land-use law. According to Professor Wolf’s (tongue-in-cheek) estimation, where federal law keeps time with today’s calendar, Virginia land-use law stands defiantly in the 1870s.

Our thanks to Pia Trigiani ’83 and the law firm of Hazel & Thomas, for sponsoring this event.

The final leg of the Alumni Office spring mini-tour was the Eastern Shore luncheon in Onancock. Addressing the Eastern Shore group at the Townhouse Restaurant was W. Todd Benson ’82, Acting Director of the Robert R. Merhige Jr. Center for Environmental Studies, and a member of the Law School adjunct faculty. Mr. Benson spoke on the environmental issues facing the Eastern Shore and Chesapeake Bay.

Thanks to Henry P. Custis Jr. ’70 of Tyler, Custis, Lewis & Dix for helping organize this event.

The Alumni Office looks forward to more get-togethers. Anyone interested should contact Philip Cox at the Law School Alumni Office, Sarah Brunet Hall, University of Richmond, Virginia 23173, (804) 289-8968.
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Third Year Reception

Students of the Class of '90 got together to mark the end of three years of T.C. Williams at the annual Third Year Reception, held April 6th.

In lieu of a formal reception, the members of the Third Year Steering Committee chose a casual gathering out-of-doors at the Greek Theatre. Due to inclement weather, though, the students had to settle for the confines of Milhiser Gymnasium.

The afternoon's entertainment was in the form of music provided by John Rinaldi '90 and "Midnight Blues Band." Joining the band was Professor Michael Wolf, and Brian S. Thomas, Director of Development and Alumni Programs for the Law School.

The reception was put together by the Third Year Steering Committee, chaired by Sherri Eliades. Other members include Claire Cafritz, Kathy Dickinson, Blair Jacobs, Eddie Powers, John Rinaldi, and Stacey Williams.

2nd Year Student Wins National Award

Latici Argenti received the Bronze Key Award from the American Bar Association. An award for outstanding service to the ABA, Ms. Argenti is one of only ten Bronze Key recipients nationwide.

Ms. Argenti began the T.C. Williams chapter of the American Bar Association. She continues her duties with the ABA as representative for T.C. Williams.

The Association is a service group which has had terrific success with two projects: VITA (Volunteer Income Tax Assistance), and Literacy. The program titles denote their service. VITA provides pro bono tax help to people who are not able to file taxes on their own, while Literacy works to help people become independent by teaching them elementary reading and comprehension skills.

Ms. Argenti is a 1984 Graduate of Troy State University, Troy, Alabama.

Authors Reception

The Third Annual Authors Reception was held on April 5th at the Law School. This reception was initiated in 1987 by Dean Harbaugh to recognize the members of the Law School faculty and staff who published their works in the previous year. This year sixteen members of the faculty and staff were honored.

The types of works published include: treatises and teaching materials, articles, annual surveys, book reviews, case compilations, legal columns, legal practice materials, and materials for the general public.

According to Dean Harbaugh, the practice-oriented materials are written to enhance the abilities of the profession, and the theoretical writing stimulate "a stream of discourse which is so often pivotal in social policy-making and advocacy."

Members of the legal community joined the law school faculty in honoring their colleagues. Representatives from local law firms, bar associations, and officers of the University and law school student organizations attended the reception. The publications for which our faculty and staff were honored are currently on display at the Law Library. A list of these publications may be obtained from the Library.

Phi Alpha Delta Funds Scholarship

The Henry Chapter of Phi Alpha Delta held its First Annual Auction in March to raise money for a public interest scholarship. Gifts were donated by T.C. Williams faculty, staff, and area merchants.

The evening began with a cocktail party for faculty, staff and P.A.D. members. The auction was hosted by Professor Michael Wolf and assisted by second year student, Lisa Tae Albanowski. Music was provided by "Local Government."

During the course of the evening over 50 items were auctioned. The items included a homemade apple pie baked by Professor Thomas Guernsey, a day of bass fishing with Professor Peter Swisher, an original underwater photo taken by Professor Wade Berryhill, a briefcase with a UAW patch from Professor Ann Hodges, and exclusive use of a library study room for the semester from the library staff.

The gifts that brought in the highest bids were a naval flight jacket donated by Professor J.P. Jones, a day trip to Tangier Island via private airplane donated by Beverly Boone, and an autographed photo of section "B" professors Wolf, Collins, Guernsey, Menossens, Shepherd and Jones. Gifts from merchants included dinners at favorite area restaurants, a round of golf, exercise classes, antique dishes, books and posters.

The Auction raised over $1,500 dollars thanks to all those who attended, and the contributions of P.A.D. alumni who sent in donations. The first scholarship was awarded to second year student Lynn Brice.

The Second Annual Auction is being planned for mid October, 1990. Students and alumni will be receiving information about the event.

John Rinaldi '90, Brian S. Thomas, and Professor Wolf at an impromptu "jam session" at the 3rd Year Reception
Each year, the Law School is fortunate to showcase the George E. Allen Chair in Law. This year's Allen Chair scholars worked with Professor Okianer Christian Dark in an advanced course, Selected Topics in Tort Law. The course examined four significant areas: Mass Tort Suits and the Tort System; Moods, Methods, and Roles in Tort Law Making; Dignitary Torts; and The Future of Tort Law.

Sheila L. Birnbaum taught the first course segment, Mass Tort Litigation. The key issues presented here were the substantive law problems with traditional tort concepts of causation and damages. The mass tort litigation that has garnered the greatest deal of attention from the bar, scholars, and the courts involve toxic or environmental impact cases. As Professor Dark explains, “A common denominator in this kind of litigation is that a person’s initial exposure to a toxic substance may be years away from manifestation of any illness. Further, many of the illnesses or injuries that could result are not sufficiently distinct as to distinguish it from common maladies, e.g., dizziness, fainting, or fatigue. On the other hand there are some kinds of damages that are special or unique to latency cases, such as ‘cancerphobia,’ or, the fear of exposure to asbestos.”

Ms. Birnbaum lectured first on the problems connected with causation in toxic tort litigation, and then on the special problems of damages—including punitive damages—in this setting. Ms. Birnbaum is a partner in the New York City firm of Skadden, Arps, Slate, Meagher & Flom. As head of that firm’s product liability department, Ms. Birnbaum practices primarily in the areas of product liability, toxic torts and insurance coverage litigation. Prior to becoming a partner at Skadden, Arps, Ms. Birnbaum was a professor of law at New York University Law School. She also served as counsel to the Firm while teaching at NYU. Ms. Birnbaum recently served on Governor Mario Cuomo’s commission that studied problems relating to availability and cost of liability insurance. Ms. Birnbaum lectures extensively across the country and has authored numerous articles including, “Foreign Plaintiffs and the American Manufacturer,” for Forum, and “Unmasking the Test for Design Defect,” in Vanderbilt Law Review.

Educated at Hunter College in New York, where she was elected to Phi Beta Kappa and earned both M.A. and A.B. degrees, Ms. Birnbaum earned her LL.B. at New York University Law School.

Robert E. Keeton, Langdell Professor Emeritus of Harvard Law School, taught the section on “Moods, Methods, and Roles in Tort Lawmaking.” “The key to this segment,” explains Professor Dark, “was to provide the students with an opportunity to consider the appropriateness of certain issues being resolved in and by the judiciary.”

Judge Keeton used a New Jersey Federal District Court case involving a DTP (Diphtheria, Typhoid & Pertussis) injury to develop this point over two class periods. The DTP, or vaccine, case required the court (and the students in the class) to resolve the conflicting interests between the injured party, the vaccine manufacturer, and the public health sector’s interest in maintaining a national childhood vaccine program.

Near the end of the second class, Judge Keeton pointed out the fact that increasingly, the courts are being called upon to resolve high-stake competing interest cases which have enormous implications in other settings. Judge Keeton was appointed United States District Court Judge for the Dis-
trict of Massachusetts in March, 1979. Prior to his work on the Bench, Judge Keeton served as Commissioner on Uniform State Laws in Massachusetts, on the Judicial Conference Committee on Admission of Attorneys to Federal Practice, and currently works on the Standing Committee on Rules. He is best known for his case book and treatises on insurance law, trial practice, and torts (with Prosser). In addition, Judge Keeton has published numerous articles the law reviews of the universities of Pennsylvania, Minnesota, South Carolina, Vanderbilt, and Pittsburgh.

Judge Keeton is a graduate of the University of Texas from which he received a B.B.A. and LL.B., and Harvard University where he earned a S.J.D. Before entering legal education Judge Keeton practiced law in Houston. He taught at Southern Methodist University before joining the Harvard faculty in 1953 where he served until his appointment by President Carter to the District Court bench in 1979.

Richard Delgado, a Professor of Law at the University of Wisconsin where he teaches Civil Procedure, Civil Rights, and seminars in Biotechnology & Civil Rights and Civil Procedure, taught the third segment of advanced torts, titled, "Procedural Innovations in and outside of the Courts and the Special Problems of Dignitary Torts."

Professor Delgado devoted the first class to a discussion about the movement inside and outside the courts toward deformalization. Explains Professor Dark, "This movement is evidenced by the plethora of procedural innovations that courts, legislators, and various legal groups are generating or proposing in order to address perceived 'stresses' in the court system."

Professor Delgado questioned the wisdom of a movement in this direction in two ways. First, the emphasis should be on serious, substantive reform rather than procedural reform to deal with some of the stresses raised by toxic tort litigation. Second, procedural innovations, such as the movement toward alternate dispute resolution, disadvantaged minorities and other powerless groups. The less formal a process is for adjudicating or resolving disputes, the more likely prejudice and bias will influence or even determine the outcome.

Professor Delgado's second lecture was devoted to dignitary torts. These torts are characterized by injuries to the self-esteem of an individual; they are largely mental injury torts. Professor Delgado choose to discuss verbal abuse on college campuses. "Essentially," Professor Dark says, "[Professor Delgado] recommended a proposal which would respect or take into consideration the competing interest of equal treatment or protection and the first amendment free speech clause."

Professor Delgado has testified before the U.S. Senate on the constitutionality of federal initiatives to regulate "fringe" religious sects and groups. He has also appeared before the House of Representatives' Foreign Affairs Committee to speak on legislative options concerning new religious groups and before the House International Relations Committee to provide advice on the operations of international religious organizations. He has served as advisor to the West German Minister of Justice on legislative options for regulating new reproductive technologies, including in vitro fertilization, cloning, and human-animal hybrids. Professor Delgado has also appeared on PBS's MacNeil/Lehrer NewsHour to discuss new religious movements.

A former member on the faculty of the UCLA Law School, Professor Delgado received his A.B. from the University of Washington and his J.D. from the University of California at Berkeley.

Dr. Hensler's first class was devoted to a discussion about the current status of the tort litigation crisis in the courts. "Her empirical studies indicate that there were increased filings in certain kinds of cases," says Professor Dark, "such as medical malpractice, mass toxic torts; however, the routine or ordinary tort case automobile accidents had not increased but were relatively steady." Dr. Hensler's research indicated that (1) the claims about the tort crisis may be greatly over-exaggerated; and (2) any proposals for change should be tailored to the type or kind of cases where increased filings are occurring, rather than seeking prophylactic solutions which apply across all classes of cases.

Dr. Hensler's second lecture focused on the proposals for procedural innovations inside the courts. Says Professor Dark, "She noted that there is a great movement on the part of many constituencies in the legal community to include less formal structures in the adjudicatory process. These proposals, and in many instances programs presently in operation, do not actually reduce the number of trials or cases in the court system. Rather, the actual effect of these proposals is on the settlement process."

The dialogue in the legal community on these types of procedural changes or innovations is focused on how the...
procedural development effect traditional trial activity.

Since 1979 Dr. Hensler’s research has focused on public policy issues in the civil justice area. Her empirical research on court-ordered arbitration for civil disputes has won national recognition. She has also played a key role in developing the research agenda on mass toxic tort litigation for the Institute for Civil Justice. She is currently co-Principal Investigator of a nationwide study of accidental injury.

At RAND Dr. Hensler has pursued a special interest in the role of public attitudes in the policymaking process. Her research has encompassed such diverse areas as attitudes toward nuclear power plants, the impact of public attitudes on presidential decision-making during the Vietnam War, and the link between individual litigants’ experience in court and views of the justice system. Among her many published works include “What We Know and Don’t Know about Court-Administered Arbitration,” in *Judicature*, and “Trends in Tort Litigation: Findings from the Institute for Civil Justice’s Research,” for the *Ohio State Law Journal*.

Dr. Hensler received her A.B. from Hunter College in New York where she was elected to Phi Beta Kappa. She received her Ph.D. in Political Science from the Massachusetts Institute of Technology.

The George E. Allen Chair in Law was endowed by his family and friends to honor this distinguished Virginia trial lawyer, founder of the highly-regarded Richmond civil litigation firm of Allen, Allen, Allen & Allen.

Among the many citations Mr. Allen received during sixty years of practice was the first Award for Courageous Advocacy made by the American College of Trial Lawyers in 1965. The Award was presented for Mr. Allen’s representation of a black law student from Harvard who, while serving a summer clerkship with a black law firm in the state, was charged with felonious assault with intent to kill police officers at a local courthouse where the young man had gone to file legal documents. Serving without fee and at the special request of Harvard dean, Erwin Griswold, and the Lawyers’ Committee for Civil Rights Under Law, Mr. Allen jeopardized his reputation in the community by successfully representing a most unpopular client at the height of Massive Resistance. Having a Chair named for this acclaimed attorney is a source of institutional pride, and a constant reminder to all in our Law School of the role of lawyers in the preservation of liberty.

The George E. Allen Chair in Law was established with the initial gifts of his sons, the late George E. Allen Jr. L’36, Ashby B. Allen R’43, and Wilbur C. Allen. Their continuing support along with the contributions of others accounted for the Chair becoming fully endowed in 1988. The Allen Chair allows the Law School to invite distinguished legal scholars to spend time in residence and interact with the students and faculty of The University of Richmond Law School.

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**KESTIN FUND UPDATE**

To date, $4,463 has been contributed to the Nina R. Kestin Memorial Scholarship Fund. Our goal is to permanently endow this scholarship with a minimum of $10,000. Your gift will help make this scholarship a lasting tribute in memory of a beloved member of our faculty. Your contribution may be sent to: Brian S. Thomas, Law Alumni Office, Sarah Brunet Hall, University of Richmond, Virginia 23217.

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“Hodges” from page 11 focused on negotiations rather than on disputes over what is negotiable. Such disputes prolong bargaining and frustrate employers and employees alike, creating the very dissatisfaction that collective bargaining is designed to eliminate.

Where the statutes are silent or unclear, the administrative agencies and courts should interpret them to require bargaining over disciplinary standards and procedures, as well as appeals procedures, if that interpretation is not completely negated by the statutory language and legislative history. A requirement that the parties bargain is consistent with the goals of the collective bargaining statute and does not adversely affect the goal of employment based on merit. Indeed, a strong case can be made that encouraging bargaining over disciplinary issues may result in an agreement which furthers the merit principle. Since bargaining accomplishes the goals of both statutes, as a matter of sound public policy a legislature that has decided to require collective bargaining for employees covered by civil service should include disciplinary issues in the required subjects for bargaining and give the resulting agreement priority over civil service law.

**FOOTNOTES**

3. Vaughn, supra, note 1 at 1-17.
7. Vaughn, supra, note 1 at 9-28 to 9-29.
What They Are Looking for in Their Future

By Beverly Boone

Lights! Camera! Action! On April 6th law professors interviewed 16 first and second year law students on videotape in a studio at the AT&T facility in Richmond. During the interview, the students answered questions about their favorite law school course; why they decided to become a lawyer; and what are their strengths and weaknesses.

About 2,000 law firms with no more than 40 attorneys in certain geographic areas will receive an inquiry from the Placement Office about their hiring plans for 1991. If a firm is interested in receiving the video interviews of our students, they will return a post card to the Placement Office. Videotapes will be mailed to these firms in the fall. Targeted areas in Virginia include: Roanoke, Charlottesville, Lynchburg, Fredericksburg, Harrisonburg, Tide-water, Northern Virginia, and various small towns in western Virginia, the valley, southside and northern neck. Also targeted are law firms in Atlanta, Washington, D.C., Connecticut, Delaware, Maryland and North Carolina.

This is the second year that the law school will be placing students through video interviews. In 1989, the Placement Office experimented with the video interview concept by sending videotapes to 125 law firms. One student, Sarah Moore, accepted a job offer through the program. She will work for Smith, Debnam, Hibbert and Pahl in Raleigh, NC, this summer. Six other students received in-office interviews as a result of the videotapes.


Preparing a shoot for the VIP project at the AT&T facility in Richmond.

Law School Receives VFL Grant

The University of Richmond School of Law received a grant of $30,000 from the Virginia Law Foundation (VLF). The grant will fund public interest fellowships for the summer of 1990. Three student fellowships of $2,000 each were awarded to law students who have completed one or two years of law school and want to work with a public interest legal employer in Virginia.

Many public interest organizations and government entities cannot meet the needs of all the individuals who want their assistance. Most of these organizations would like to hire students to assist them during the summer, but do not have the necessary funding. The VFL Fellows will assist in providing legal services to indigent individuals, improving the legal system, and the administration of justice.

National statistics indicate that nearly one-third of students entering law school express interest in pursuing a career in public service. At graduation, however, no more than 3% of law students actually accept employment with public interest employers. The VFL Fellowships will allow law students first-hand experience in public service law. This exposure will benefit not only the Fellows but also other law students to whom the Fellows will relate their experiences.

Of the twelve who applied, the faculty committee chose three rising third year students as the 1990 Virginia Law Foundation IOLTA Public Service Law Fellows for the University of Richmond. They are: Brenda L. Conner, who will work for the Henrico County Victim-Witness Assistance Program; Joanne M. Force, who will work for Rappahannock Legal Services, Incorporated, in Fredericksburg; and Maryann Shea, who will work for the Office of the Public Defender in Richmond.
ANNUAL SURVEY OF VIRGINIA LAW

The University of Richmond Law Review's Annual Survey is a vital tool for the Virginia practitioner, examining the most recent judicial and statutory developments in such areas as:

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The University of Richmond Law Review is published four times annually, including the Annual Survey. A single copy of the Annual Survey is $10.00; a one-year subscription is $25.00, please make checks payable to:

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1932
DAVID R. LEVIN continues to practice law in Portsmouth, Virginia. He is a standing Trustee for Chapter 13 for the U.S. Bankruptcy Court of Norfolk, and Divorce Commissioner for the Circuit Court of Chesapeake. He fondly recalls his law school days at Columbia Hall and his classes under Professors McNeill, Barnett and Wiltshire.

1950
WILFRED J. RITZ, professor of law emeritus at Washington & Lee University, was honored at a dinner at the W & L Law School. Professor Ritz was presented a leather-bound copy of his book, Rewriting the History of the Judiciary Act of 1789.

1957
JAMES W. MORRIS III, a senior partner with Morris & Morris in Richmond has been elected honorary chairman of the 17,000-member Defense Research Institute (DRI), the nation’s largest association of civil defense trial lawyers. Mr. Morris is a member of the American Bar Association, Virginia State Bar Association, Richmond Bar Association, Virginia State Claims Association, International Association of Defense Counsel, American College of Trial Lawyers, Virginia Law Foundation, and The American Board of Trial Advocates.

1960
JOE P. JOHNSON, an Abingdon attorney and member of the Virginia House of Delegates, has been elected chairman of the Board of Governors at Emory & Henry College. Mr. Johnson founded and is now the senior partner in the Abingdon law firm of Johnson, Scyphers & Austin, P.C. Mr. Johnson is active in the Abingdon Baptist Church, the Veterans of Foreign Wars, and the American Legion. He serves on the board of the First Virginia Bank/Damascus and has been a substitute Judge for General District Court. He holds memberships in local, state and national bar association.

1961
WILLARD M. ROBINSON JR. retired as Commonwealth’s Attorney of Newport News in January, 1990, to enter the private practice of law. He has joined the Newport News law firm of Hall, Fox, AtLee which has changed its name to Hall, Fox, AtLee & Robinson, P.C. Mr. Robinson was a member of the McNeill Law Society and Phi Alpha Delta Legal Fraternity. He was elected Chairman of the Board of Governors of the Virginia State Bar. He is a faculty member of the Virginia State Bar Professionalism Course and is a member of the Standing Committee on Legal Ethics.

1962
A. LEWIS ALLEN was highlighted in a recent issue of “Bottom Line,” a Virginia Peninsula newsletter. Mr. Allen is incoming chairman of the Peninsula Advisory Board of Sovran Bank and legal counsel to the Virginia Peninsula USO. In addition to serving as first vice chairman of the Virginia Peninsula Economic Development Council, Mr. Allen is president of the Hampton, American, and Virginia state bar associations. He is a partner in the law firm of Allen, Sink & Hastings and president of Allen Management, a motel management company.

1963
MARK T. DANIELS, an attorney in Ches­ter, and his wife, Georgia, celebrated three graduations in May. Their son, Graham, was graduated from The T.C. Williams School of Law; daughter, Mary Ellen, from Wake Forest University; and Ellen’s twin sister, Ann Hunter, from Randolph-Macon College. The Daniel’s oldest daughter, Elisabeth, is a second-year student at T.C. Williams.

1964
VINCENT J. MASTRACCO JR. was hon­ored on May 4th at a reception and dinner at the University. Mr. Mastracco was one of four recipients of the Alumni Distinguished Service Award which recognizes alumni from each division of the University who have had a significant impact at the University and in their communities.
1966
RODERICK B. MATHEWS has been elected Senior Vice President, Corporate Legal and Government Affairs Officer, Blue Cross and Blue Shield of Virginia, Inc.

WALTER A. McFARLANE was designated as Governor L. Douglas Wilder's Chief of Policy. Mr. McFarlane is a native of Richlands, Virginia, and served for 21 years in the Virginia Attorney General's Office, culminating as deputy attorney general in charge of the Finance and Transportation Division. He is active in local and state bar associations, serving on the board of the Richmond Bar.

1967
IRVING M. BLANK has joined the law firm of Wells, Paris, Blank & Brown. He will continue to concentrate his practice on litigation with an emphasis on premise liability.

1975
BARBARA G. BLITZ is one of four individuals who have formed Commercial Title Group, Ltd., a firm providing title insurance and related services to the Washington metropolitan area. Ms. Blitz previously was vice president and regional counsel for Chicago Title Insurance Company, where she supervised all underwriting. Ms. Blitz is a member of the Virginia State Bar, Virginia Bar Association, Virginia Land Title Association and has lectured in continuing legal education programs in various states. She lives in Fairfax, Virginia.

1976
MARY LYNN TATE was named President-Elect of the Virginia Trial Lawyers Association during the Association's Annual Convention. Election to this office means that she will automatically become the Association's 32nd president in April of 1991. Ms. Tate is the second woman in the history of the Association, and the second lawyer from Southwest Virginia to hold that office. Ms. Tate is a partner in the Abingdon law firm of Yeary, Tate, Lowe & Jessee.

1977
BARRY RANDOLPH KOCH has joined the law firm of McCordell, Inman, Benson, Strickler & Koch as a partner. Barry and his wife, Buff, have two children, daughter Catherine, age five, and Taylor Randolph, age fifteen months.

1979
JOHN A. CONRAD has been elected President of the law firm of Sands, Anderson, Marks & Miller. Mr. Conrad joined the firm in 1981. He is a member of the Litigation Department and practices in the areas of Insurance Litigation and Civil Trials.

1980
STEPHEN AND SUSAN COLEMAN announce the birth of their son, Stephen Bryan.

1982
JOHN B. CATLETT JR. has been named a member of the firm of Sands, Anderson, Marks & Miller. Mr. Catlett was previously an associate with the firm. He is a member of the Litigation Department.

1983
NANCY G. PARR, Deputy Commonwealth's Attorney for the City of Suffolk, was selected to Who's Who in American Law 1989-90.

1984
BENJAMIN W. EMERSON, an attorney with Sands, Anderson, Marks & Miller, has been asked to serve as chairman of the Lawyers and the Arts Committee of the Young Lawyers Section of the Virginia Bar Association.

Lost Alumni/Ae

The following alumni/ae are coded “lost”. If you know the current address of any, please notify the Law Alumni Office, Sarah Brunet Hall, University of Richmond, Virginia 23173.

Owen S. Livsie ’25  David R. Stapleton ’76
Francisco A. Gil ’41  Peter E. Brownback, III ’77
Arpad G. Czintos ’60  Robert C. Jones ’77
Joseph R. Walker, Jr. ’62  James E. Gray ’78
Gerald Rubinger ’63  Jack C. Mardoian ’78
Bruce F. Lipes ’62  Evan L. Habermann ’79
Kenneth R. Klaffky ’66  John A. Phillips ’79
James Q. Kornegay, Jr. ’73  Neil R. Saiger ’79
Michael A. Mays ’75  Donald G. Gleasner ’80
John G. Warthen ’75  Warren H. Jones ’81
Michael J. Conroy ’76  Rebecca A. Rowden ’81
Andrew A. Jaxa-Debicki ’76  Martha K. Renick ’82
J. Steven McDorman ’76  William L. Thompson ’82
A. Gary Smith ’76  J. Kevin King ’85

WILLIAM E. KIRKLAND is a staff attorney for the Virginia Department for Rights of the Disabled.

1984
BENJAMIN W. EMERSON, an attorney with Sands, Anderson, Marks & Miller, has been asked to serve as chairman of the Lawyers and the Arts Committee of the Young Lawyers Section of the Virginia Bar Association.
1985

MARY BABB MORRIS and her husband have moved to El Paso, Texas, where they are enjoying a hiatus from active practice, but plan to return soon. They have their first child, R. Jackson Morris, III.

LISA K. TULLY has been named branch counsel for Lawyers Title Insurance Corporation in their Richmond office. Ms. Tully joined Lawyers Title in 1988 as a title attorney, and she was promoted to senior title attorney in 1989. Ms. Tully is a member of the Virginia State Bar, the Bar Association of the City of Richmond, the Chesterfield-Colonial Heights Bar Association and the Metropolitan Women's Bar Association.

1986

ANNMARIE COZZI is a deputy attorney general with the Division of Criminal Justice, Appellate Section for the State of New Jersey.

1987

ROBERT N. POLLARD III is an associate with the Richmond law firm of LeClair & Ryan practicing corporate and securities law.

1988

KIMBERLY A. PINCHBECK is an associate with the Richmond law firm of Taylor, Hazen & Kauffman. Her practice emphasizes estate planning, taxation and tax related matters.

LAETITIA B. FRYE has been appointed as a senior title attorney at Lawyers Title Insurance Corporation's national headquarters in Richmond, Virginia. Ms. Frye joined Lawyers Title in 1988 as a title attorney.

1989

BRIAN SCOTT DIETRICH has joined the Philadelphia law firm of Greenwell, Porter, Smaltz & Royal as an associate in the general practice of law. While in law school Brian was actively involved in the Youth Advocacy Clinic and the Phi Alpha Delta law society and also held the position of Administrative Assistant to the Dean.

PHILIP RYAN TRAPANI has become an associate with the firm of Crenshaw, Ware & Martin.
THE
T.C. WILLIAMS SCHOOL OF LAW

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October 8  Faculty Colloquy
October 9  Legal Forum Lecture
October 10 Scholarship Dinner
October 11 Campaign Steering Committee Dinner
October 12 Ground Breaking/Campaign Kickoff
October 13 Law Weekend