## ARTICLES

<table>
<thead>
<tr>
<th>Article</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Brief for Plain English Wills and Trusts</td>
<td>471</td>
</tr>
<tr>
<td>Thomas S. Word, Jr.</td>
<td></td>
</tr>
<tr>
<td>Consistency and Predictability: Supreme Court Antitrust Decisions During the 1978 Term</td>
<td>11</td>
</tr>
<tr>
<td>Jeff Miles</td>
<td></td>
</tr>
<tr>
<td>Constitutional Torts and the Federal Torts Claims Act</td>
<td>281</td>
</tr>
<tr>
<td>Michael Dolan</td>
<td></td>
</tr>
<tr>
<td>Filling in the Gaps of Virginia Bail Reform</td>
<td>483</td>
</tr>
<tr>
<td>R. Bryan Hatchett</td>
<td></td>
</tr>
<tr>
<td>Qualified Plans Under ERISA: Tax Shelter or Bureaucratic Paper Chase?</td>
<td>709</td>
</tr>
<tr>
<td>Louise Cobb Boggs</td>
<td></td>
</tr>
<tr>
<td>Recovery for Accidental Injuries Under the Virginia Workmen's</td>
<td></td>
</tr>
<tr>
<td>Compensation Act</td>
<td></td>
</tr>
<tr>
<td>Douglas E. Ray</td>
<td></td>
</tr>
<tr>
<td>R. Craig Evans</td>
<td></td>
</tr>
<tr>
<td>Jay H. Steele</td>
<td>659</td>
</tr>
<tr>
<td>Redemption of Stock Under the Model Business Corporation Act and the Virginia Stock Corporation Act</td>
<td>311</td>
</tr>
<tr>
<td>Daniel T. Murphy</td>
<td></td>
</tr>
<tr>
<td>Regulation of Consumer Credit in Virginia: A Suggestion for Legislative Improvement</td>
<td>91</td>
</tr>
<tr>
<td>Douglas P. Rucker, Jr.</td>
<td></td>
</tr>
<tr>
<td>William C. French</td>
<td></td>
</tr>
<tr>
<td>Some Post-Bakke and -Weber Reflections on “Reverse Discrimination”</td>
<td>373</td>
</tr>
<tr>
<td>Henry J. Abraham</td>
<td></td>
</tr>
<tr>
<td>J. Rodney Johnson</td>
<td></td>
</tr>
<tr>
<td>The FCC, Cable TV, and Visions of Valhalla: Judicial Scrutiny of Complex Rulemaking and Institutional Competence</td>
<td>113</td>
</tr>
<tr>
<td>Allen E. Shoenberger</td>
<td></td>
</tr>
<tr>
<td>The History of Legal Education in Virginia</td>
<td>155</td>
</tr>
<tr>
<td>W. Hamilton Bryson</td>
<td></td>
</tr>
</tbody>
</table>

## NOTES

<table>
<thead>
<tr>
<th>Note</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broadening Access to the Courts and Clarifying Judicial Standards: Sex Discrimination Cases in the 1978-1979 Supreme Court Term</td>
<td>515</td>
</tr>
</tbody>
</table>

869
Public Figures and Malice: Recent Supreme Court Decisions Restricting the
Constitutional Privilege .............................................. 737
Virginia Should Adopt Strict Tort Recovery in Products Liability .......... 391

COMMENTS
A Post-Santa Fe Blueprint for Courts in Rule 10b-5 Actions for Breach of
Fiduciary Duty: Kidwell v. Meikle ................................ 585
Barring Slayers' Acquisition of Proprietary Rights in Virginia: A Proposed Statute 251
Design-Build Contracts in Virginia ..................................... 791
Federal Habeas Corpus: Greater Protection for "Innocent" State Prisoners After
Jackson v. Virginia .................................................. 455
Minimum Competency Testing: Education or Discrimination? .................. 769
Private Causes of Action from Federal Statutes: A Strict Standard for
Implication by Sole Reliance on Legislative Intent ......................... 605
Professional Ethics and Trial Publicity: Another Constitutional Attack on DR7-
107 - Hirschkop v. Snead ........................................... 213
Scrutiny of OSHA Regulations in the Courts: A Study of Judicial Activism .... 623
The Covenant Not to Sue: Virginia's Effort to Bury the Common Law Rule
Regarding the Release of Joint Tortfeasors ................................ 809
The Uniform Child Custody Jurisdiction Act in Virginia ..................... 435

LEGISLATIVE COMMENTS
Multiple-Party Accounts: Does Virginia's New Law Correspond with the
Expectations of the Average Depositor? .................................... 851
The Questionable Validity of the Automatic Exemption of Attorneys from Jury
Service ................................................................. 837

BOOK REVIEW
Notes on Virginia Civil Procedure
By William Hamilton Bryson ............................................. 279

DEDICATION
John Westwood Smithers .................................................... 1

TRIBUTES
J. Westwood Smithers
William S. Cudlipp, Jr. .................................................. 7
J. Westwood Smithers
M. Ray Doubles ........................................................... 3
J. Westwood Smithers — "The Professor"
Robert R. Merhige, Jr. .................................................... 9
AUTHOR INDEX

ARTICLES

Henry J. Abraham ............................................................ 373
Some Post - Bakke and - Weber Reflections on “Reverse Discrimination”
Louise Cobb Boggs .......................................................... 709
Qualified Plans Under ERISA: Tax Shelter or Bureaucratic Paper Chase?
W. Hamilton Bryson ......................................................... 155
The History of Legal Education in Virginia
Michael W. Dolan ............................................................ 281
Constitutional Torts and The Federal Torts Claims Act
R. Craig Evans ................................................................. 659
Recovery for Accidental Injuries Under the Virginia Workmen’s
Compensation Act
William C. French .......................................................... 91
Regulation of Consumer Credit in Virginia: A Suggestion for Legislative
Improvement
R. Bryan Hatchett ............................................................. 483
Filling in the Gaps of Virginia Bail Reform
J. Rodney Johnson ............................................................ 639
Support of the Surviving Spouse and Minor Children in Virginia: Proposed
Legislation v. Present Law
Jeff Miles ................................................................. 11
Consistency and Predictability: Supreme Court Antitrust Decisions During the
1978 Term
Daniel T. Murphy .......................................................... 311
Redemption of Stock Under the Model Business Corporation Act and the Virginia
Stock Corporation Act
Douglas E. Ray ................................................................. 659
Recovery for Accidental Injuries Under the Virginia Workmen’s Compensation Act
Douglas P. Rucker, Jr. ....................................................... 91
Regulation of Consumer Credit in Virginia: A Suggestion for Legislative
Improvement
Allen E. Shoenberger ....................................................... 113
The FCC, Cable TV, and Visions of Valhalla: Judicial Scrutiny of Complex
Rulemaking and Institutional Competence
Jay H. Steele ................................................................. 659
Recovery for Accidental Injuries Under the Virginia Workmen’s
Compensation Act
Thomas S. Word, Jr. ........................................................ 471
A Brief for Plain English Wills and Trusts

BOOK REVIEW

Lewis T. Booker ............................................................ 279
### TABLE OF CASES

<table>
<thead>
<tr>
<th>Case Name</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affiliated Ute Citizens v. United</td>
<td>599</td>
</tr>
<tr>
<td>AFL-CIO v. Brennan</td>
<td>631</td>
</tr>
<tr>
<td>Aistrop v. Blue Diamond Coal Co.</td>
<td>675</td>
</tr>
<tr>
<td>Akers v. Virginia Maid Hosery Mills, Inc.</td>
<td>697</td>
</tr>
<tr>
<td>Alaska Airlines, Inc. v. Sweat</td>
<td>833</td>
</tr>
<tr>
<td>Alexander v. Gardner-Denver Co.</td>
<td>535</td>
</tr>
<tr>
<td>Alexander v. W.N. Jackson Co.</td>
<td>685</td>
</tr>
<tr>
<td>Alyeska Pipeline Service Co. v. Wilderness Society</td>
<td>139, 140</td>
</tr>
<tr>
<td>American Motor Inns, Inc. v. Holiday Inns, Inc.</td>
<td>85, 86</td>
</tr>
<tr>
<td>American Petroleum Institute v. Occupational Safety and Health Administration</td>
<td>623, 624, 625, 628, 628, 630, 631, 633, 635, 636, 637</td>
</tr>
<tr>
<td>Aqua Slide 'N' Dive Corp. v. Consumer Product Safety Commission</td>
<td>631</td>
</tr>
<tr>
<td>Arlington Heights v. Metropolitan Housing Development Corp.</td>
<td>788</td>
</tr>
<tr>
<td>Associated Industries, Inc. v. United States Department of Labor</td>
<td>634</td>
</tr>
<tr>
<td>Associated Press v. Walker</td>
<td>742</td>
</tr>
<tr>
<td>Automatic Canteen Co. v. FTC 60, 61, 64</td>
<td></td>
</tr>
<tr>
<td>Avery v. United States</td>
<td>294</td>
</tr>
<tr>
<td>Bagget Transportation Co. v. Dillon 684</td>
<td></td>
</tr>
<tr>
<td>687, 705, 706</td>
<td></td>
</tr>
<tr>
<td>Bailey v. Stonega Coke &amp; Coal Co.</td>
<td>676</td>
</tr>
<tr>
<td>Baker v. Nussman</td>
<td>666</td>
</tr>
<tr>
<td>Ballard v. United States</td>
<td>841, 843</td>
</tr>
<tr>
<td>Barr v. Matteo 284, 285, 286, 287, 288, 289</td>
<td></td>
</tr>
<tr>
<td>Beard v. Mitchell</td>
<td>290</td>
</tr>
<tr>
<td>Bell v. Hood</td>
<td>282, 544, 545</td>
</tr>
<tr>
<td>Big Jack Overall Co. v. Bray</td>
<td>675</td>
</tr>
<tr>
<td>Birnbaum v. Newport Steel Corp.</td>
<td></td>
</tr>
<tr>
<td>586, 587, 589</td>
<td></td>
</tr>
<tr>
<td>Birnbaum v. United States</td>
<td>294</td>
</tr>
<tr>
<td>Bivens v. Six Unknown named Agents of Federal Bureau of Narcotics</td>
<td></td>
</tr>
<tr>
<td>281, 282, 283, 290, 291, 292, 293, 294, 295, 296, 297, 298, 304, 305, 545, 546, 547, 548, 549</td>
<td></td>
</tr>
<tr>
<td>Blanks v. Jiggets</td>
<td>265</td>
</tr>
<tr>
<td>Blue Chip Stamps v. Manor Drug Stores</td>
<td></td>
</tr>
<tr>
<td>Bossier Parrish School Board v. Lemon</td>
<td>522, 523</td>
</tr>
<tr>
<td>Bradley v. Fisher</td>
<td>283, 285</td>
</tr>
<tr>
<td>Bradley v. Fox</td>
<td>264</td>
</tr>
<tr>
<td>Bradshaw v. Aronovitch</td>
<td>687</td>
</tr>
<tr>
<td>Bradwell v. Illinois</td>
<td>552</td>
</tr>
<tr>
<td>Bridges v. California</td>
<td>224</td>
</tr>
<tr>
<td>Broadcast Music, Inc. v. Columbia Broadcasting System, Inc.</td>
<td>13</td>
</tr>
<tr>
<td>Brockett v. Harrel Bros., Inc.</td>
<td>405</td>
</tr>
<tr>
<td>Brown v. Allen</td>
<td>457</td>
</tr>
<tr>
<td>Brown v. Board of Education of Topeka 376, 378, 774, 775, 783</td>
<td></td>
</tr>
<tr>
<td>Brown v. General Services Administration 539, 542, 551</td>
<td></td>
</tr>
<tr>
<td>Brown v. Hargraves</td>
<td>474</td>
</tr>
<tr>
<td>Brown v. Reed</td>
<td>681</td>
</tr>
<tr>
<td>Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc. 27, 31, 32, 35</td>
<td></td>
</tr>
<tr>
<td>Burgess v. Cummins Diesel, Inc.</td>
<td>704, 706</td>
</tr>
<tr>
<td>Butz v. Economou</td>
<td></td>
</tr>
<tr>
<td>283, 286, 287, 288, 289, 290, 293, 297, 308, 545, 548</td>
<td></td>
</tr>
<tr>
<td>Caban v. Mohammed</td>
<td>516, 517, 573, 574, 575, 582</td>
</tr>
<tr>
<td>Califano v. Goldfarb</td>
<td>560, 568, 569, 579, 582</td>
</tr>
<tr>
<td>Califano v. Webster</td>
<td>567</td>
</tr>
<tr>
<td>Califano v. Wescott</td>
<td>516, 517, 579, 581, 582</td>
</tr>
<tr>
<td>Cannon v. University of Chicago 515, 516, 520, 528, 530, 531, 550, 551, 561, 164, 165</td>
<td></td>
</tr>
<tr>
<td>Carlson v. Green</td>
<td>293</td>
</tr>
<tr>
<td>Carlson v. Landon</td>
<td>490, 491, 494</td>
</tr>
<tr>
<td>Carter v. Jury Commission</td>
<td>847, 848</td>
</tr>
<tr>
<td>Chaffin v. Atlanta Coco Cola Bottling Co. 412</td>
<td></td>
</tr>
<tr>
<td>Charlottesville Music Center, Inc. v. McCray 664</td>
<td></td>
</tr>
<tr>
<td>Chattanooga Foundry and Pipe Works v. City of Atlanta 30, 31, 32, 33, 34, 35</td>
<td></td>
</tr>
<tr>
<td>Chicago Council of Lawyers v. Bauer 245</td>
<td></td>
</tr>
<tr>
<td>Chrysler Corporation v. Brown 613, 614</td>
<td></td>
</tr>
<tr>
<td>Clark v. Moore</td>
<td>802</td>
</tr>
<tr>
<td>Cohen v. Cohen's Dept. Store, Inc. 684</td>
<td></td>
</tr>
<tr>
<td>Coker v. Gunter</td>
<td>669</td>
</tr>
<tr>
<td>Coleman v. MacLennan</td>
<td>741</td>
</tr>
<tr>
<td>Columbia v. Carter</td>
<td>548</td>
</tr>
<tr>
<td>Columbia Broadcasting System, Inc. v. Democratic National Committee 147, 148, 150, 152</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>Page Numbers</td>
</tr>
<tr>
<td>------</td>
<td>--------------</td>
</tr>
<tr>
<td>Conner v. Bragg</td>
<td>679, 680</td>
</tr>
<tr>
<td>Continental T.V., Inc. v. GTE</td>
<td>25</td>
</tr>
<tr>
<td>Sylvanian, Inc.</td>
<td>523, 529, 530, 531, 548, 591, 594, 603, 605, 606, 609, 610, 611, 613, 614, 615, 616, 618, 619, 620, 621, 622</td>
</tr>
<tr>
<td>Cort v. Ash</td>
<td>582, 586, 567, 570, 572, 573, 575, 579, 581, 582, 583, 584</td>
</tr>
<tr>
<td>Craig v. Doyle</td>
<td>667</td>
</tr>
<tr>
<td>Craig v. Harney</td>
<td>224</td>
</tr>
<tr>
<td>Craven v. Lawson</td>
<td>832, 833</td>
</tr>
<tr>
<td>Crowder v. Haymaker</td>
<td>668</td>
</tr>
<tr>
<td>Cruikshank v. United States</td>
<td>294</td>
</tr>
<tr>
<td>Cunningham v. Commonwealth</td>
<td>692</td>
</tr>
<tr>
<td>Curtis Publishing Company v. Butts</td>
<td>742, 747, 757</td>
</tr>
<tr>
<td>D.W. Mallory &amp; Co. v. Phillips</td>
<td>677</td>
</tr>
<tr>
<td>Davis v. Passman</td>
<td>290, 293, 299, 308, 515, 516, 520, 542, 543, 548, 549, 550, 551</td>
</tr>
<tr>
<td>Deal’s Administrator v. Merchant’s and Mechanic’s Savings Bank</td>
<td>853</td>
</tr>
<tr>
<td>De P. v. Turlington</td>
<td>775, 776, 779, 780, 783, 784, 785, 789, 790</td>
</tr>
<tr>
<td>De Funis v. Odegard</td>
<td>382, 387</td>
</tr>
<tr>
<td>De Malherbe v. International Union of Elevator Constructors</td>
<td>295</td>
</tr>
<tr>
<td>Dennis v. United States</td>
<td>73, 74, 75, 78</td>
</tr>
<tr>
<td>Derby v. Swift &amp; Co.</td>
<td>676</td>
</tr>
<tr>
<td>Dixon v. Norfolk Shipbuilding &amp; Dry Dock Corp.</td>
<td>675</td>
</tr>
<tr>
<td>Douglas Oil Co. v. Petrol Stops Northwest</td>
<td>13, 68, 74, 77, 79</td>
</tr>
<tr>
<td>Eastern R.R. Presidents’ Conf. v. Noerr Motor Freight, Inc.</td>
<td>86, 88</td>
</tr>
<tr>
<td>Eggleston v. Madison Transfer Co.</td>
<td>696</td>
</tr>
<tr>
<td>Ernst &amp; Ernst v. Hochfelder</td>
<td>590, 591, 592, 600, 609, 610</td>
</tr>
<tr>
<td>Estelle v. Williams</td>
<td>463</td>
</tr>
<tr>
<td>Expeditions Unlimited Aquatic Enterprises, Inc. v. Smithsonian Institution</td>
<td>288, 289</td>
</tr>
<tr>
<td>Exxon Corp. v. Maryland</td>
<td>82, 85, 88</td>
</tr>
<tr>
<td>FCC v. Midwest Video Corp.</td>
<td>146, 148, 149</td>
</tr>
<tr>
<td>FTC v. A.E. Staley Mfg. Co.</td>
<td>65</td>
</tr>
<tr>
<td>Falco v. Grill</td>
<td>441</td>
</tr>
<tr>
<td>Fay v. Noia</td>
<td>457, 465</td>
</tr>
<tr>
<td>Food Management, Inc. v. Blue Ribbon Beef Pack, Inc.</td>
<td>804</td>
</tr>
<tr>
<td>Ford Motor Co. v. Moulton</td>
<td>415</td>
</tr>
<tr>
<td>Founding Church of Scientology of Washington, D.C. v. Director, Federal Bureau of Investigation</td>
<td>294</td>
</tr>
<tr>
<td>Francis v. Henderson</td>
<td>463</td>
</tr>
<tr>
<td>Frank v. Hangum</td>
<td>457</td>
</tr>
<tr>
<td>Franks v. Bowman Transportation Co.</td>
<td>378</td>
</tr>
<tr>
<td>Freeman v. Mills</td>
<td>764</td>
</tr>
<tr>
<td>Freeman v. Zahradnick</td>
<td>463, 467</td>
</tr>
<tr>
<td>Friedman v. Peoples Service Drug Stores, Inc.</td>
<td>406</td>
</tr>
<tr>
<td>Frontiero v. Richardson</td>
<td>555, 557, 561, 563, 565, 570, 572, 579, 581</td>
</tr>
<tr>
<td>Fulfillove v. Kreps</td>
<td>378</td>
</tr>
<tr>
<td>Gaston County, N.C. v. United States</td>
<td>784</td>
</tr>
<tr>
<td>Geduldig v. Aiello</td>
<td>562, 582</td>
</tr>
<tr>
<td>Gertz v. Robert Welch</td>
<td>743, 745, 746, 747</td>
</tr>
<tr>
<td>Glascock v. Nash Street Associates</td>
<td>704, 705</td>
</tr>
<tr>
<td>Glasser v. United States</td>
<td>840, 843</td>
</tr>
<tr>
<td>Goldberg v. Meridor</td>
<td>596, 598, 599, 600, 601, 602</td>
</tr>
<tr>
<td>Graybeal v. Board of Supervisors</td>
<td>679, 692</td>
</tr>
<tr>
<td>Great American Savings &amp; Loan Association v. Novotny</td>
<td>515, 516, 520, 532, 540, 541, 542, 550, 551</td>
</tr>
<tr>
<td>Great Atlantic &amp; Pacific Tea Co. v. FTC</td>
<td>13, 54, 57, 61, 62, 67</td>
</tr>
<tr>
<td>Gregoire v. Biddle</td>
<td>285</td>
</tr>
<tr>
<td>Greeman v. Yuba Power Products, Inc.</td>
<td>392</td>
</tr>
<tr>
<td>Griffin v. Breckenridge</td>
<td>537</td>
</tr>
<tr>
<td>Griffin v. Illinois</td>
<td>491, 492, 498, 499</td>
</tr>
<tr>
<td>Group Life &amp; Health Insurance Co. v. Royal Drug Co.</td>
<td>13, 37, 41, 46, 52</td>
</tr>
<tr>
<td>Halvey v. Halvey</td>
<td>451</td>
</tr>
<tr>
<td>Harrison v. State</td>
<td>845</td>
</tr>
<tr>
<td>Hawaii v. Standard Oil Co.</td>
<td>29, 30, 31, 32, 33, 34, 35</td>
</tr>
<tr>
<td>Hazelton v. First National Stores, Inc.</td>
<td>412</td>
</tr>
<tr>
<td>Henningson v. Bloomfield Motors, Inc.</td>
<td>423</td>
</tr>
<tr>
<td>Henry v. Henry</td>
<td>689</td>
</tr>
<tr>
<td>Herbert v. Lando</td>
<td>737, 738, 755, 757, 760, 761, 763, 764, 765, 766, 768</td>
</tr>
<tr>
<td>Hernandez v. Lattimore</td>
<td>292</td>
</tr>
<tr>
<td>Hills v. Gautreaux</td>
<td>524</td>
</tr>
<tr>
<td>Hirschkop v. Snead</td>
<td>213, 215, 225, 245</td>
</tr>
</tbody>
</table>
Hobson v. Hanson ................. 775, 776, 785, 788, 790
Home Box Office, Inc. v. FCC ........ 113, 117, 124, 131, 135, 143, 144
Hopson v. Hungerford Coal Co. .... 703, 706
Hoyt v. Florida .................. 553
Hutchinson v. Proxmire ............ 738, 748, 750
.................. 753, 754, 768
Ideal Steam Laundry v. Williams .... 670
Illinois v. Sarbaugh ............... 76
Illinois Brick Co. v. Illinois ....... 27
Imbler v. Pachtman ................. 286
Immer & Co. v. Brosnahan ......... 684, 695
Industrial Union Dep't, AFL-CIO .... 630, 634, 635
v. Hodgson ........................
In re Grand Jury which Presented
Indictments 76-149 and 77-72
(Anthracite Coal) ................. 81
In re McNicol .................... 678
In re Montgomery County Real Estate
Antitrust Litigation ............... 80
In re Winship ..................... 458, 462, 463, 464, 467, 469
J. I. Case Co. v. Borak ........... 606, 607
Jackson v. Morrison ................ 259
Jackson v. Virginia ............... 456, 458, 459, 462, 463, 465, 466, 467, 469
Jenkins v. Marval Poultry Co. .... 688
Jenkins v. Thalheimer Brothers, Inc. 697
Johnson v. McCarty ............... 855
Johnson v. Railway Express Agency, Inc .............. 535, 537
Johnson Publishing Co. v. Davis 763, 764
K-91, Inc. v. Gershwin Publishing
Corp. ........................... 18, 19, 22
Kahn v. Shevin ................... 557, 558, 559, 560, 561, 568, 569, 582
Kaufman v. United States ........... 465
Kent v. Douglas .................. 139, 140
Kidwell v. Meikle ................. 585, 597, 598, 600, 601, 602, 603, 604
King v. Merryman ................. 851
Kriskila v. United States ......... 308
Kroger Co. v. FTC .............. 59, 61, 63, 65, 67
Lackey v. Brooks ................ 811
Lareau v. Southern Pacific Transportation Co. ............. 823
Lau v. Nichols .................. 523, 524
Leonard v. Arnold ................. 700
Le White Construction Co. v. Dunn . 680
Lewis v. H.P. Hood & Sons, Inc. . 333, 334, 335, 336, 337
Liberty Mutual Insurance Co. v. Money 693
Life Insurance Company of Virginia v. Cashatt ............. 269
Lilly v. Shenandoah's Pride Dairy .... 693
Logan v. Montgomery Ward & Co., Inc. .......... 404
Lucas v. Lucas .................. 679
Marbury v. Madison ............... 136
Markle v. Mulholland's Inc. ...... 430
Massey v. Dudley ................ 801
Matthews v. Eldridge .......... 780, 781
McCollum v. Virginia Home for Incurables ........ 683
McDonald v. Santa Fe Trail
Transportation Co. ............ 536
McGowan v. Maryland ............ 565
Midwest Video Corp. v. FCC ....... 115, 116, 124, 128, 129, 131, 133, 135, 136, 143, 144
Miller v. Sohns .................. 830
Mims v. McCoy .................. 668
Moore v. Dempsey ................. 457
Munn v. Illinois ................
Myers and Myers, Inc. v. United States Postal Service .... 309
National Cable Television Assn., Inc. v. United States .... 139, 140
National Railroad Passenger Corp. v. National Association of Railroad
Passengers (Amtrak) ............. 607, 608
National Soc'y of Prof. Eng'rs v.
United States .................. 25
Nationwide Mutual Insurance Co. v.
Jewel Tea Co. ................. 818
Nebraska Press Association v. Stuart .................. 232
New Motor vehicle Board v.
Orrin W. Fox Co. ................ 14, 82, 83
New York Times Co. v. Sullivan .... 738, 740, 741, 743, 744, 750,
753, 755, 756, 758, 759, 760, 762, 766, 767, 768
Noelde Brothers, Inc. v. Chalkley .... 665
Norton v. United States ........... 294
O'Connor v. Donaldson ............ 286
Orr v. Orr ......................... 516, 517, 566, 568, 579, 581, 582
Parham v. Hughes ................. 516, 517, 569, 573, 574, 575, 576, 582
Paul v. Davis ................... 289
Paul v. Virginia ................. 38
Payseur v. Rudisill ............... 224, 238
Pennecamp v. Florida ........... 224, 238
Personnel Administration of Massachu-
setts v. Feeney ................. 516, 517, 786, 575, 583
Pfizer, Inc. v. Government of India ................. 30
Phillips v. Brinkley .................................. 688
Phipps v. General Motors Corp. .................... 431
Pierson v. Rag ......................................... 285
Piper v. Chris-Craft Industries ...................... 610, 611
Pittsburgh Plate Glass Co. v. United States ...... 72, 73
Plessy v. Ferguson .................................... 376
Popkin v. Bishop ....................................... 588, 589
Proctor v. State Farm Automobile Insurance Co. 45
Procunier v. Martinez .................................. 215, 216
Procunier v. Navarette ................................ 286
Raven Red Ash Coal Co. v. Griffith ................. 687
Rawlins v. Georgia .................................... 943
Red Lion Broadcasting Co. v. FCC .................. 152
Reed v. Reed ........................................... 553, 554, 556, 557,
                                             563, 564, 567, 570, 572
Regan v. Sullivan ...................................... 295
Regents of the University of California v. Bakke ... 373, 375, 376,
                                             377, 378, 379, 382, 384, 387, 388, 524
Reiter v. Sonotone Corp. .............................. 13, 28,
                                             29, 32, 36, 52
Reserve Life Insurance Co. v. Hoosey ................ 674
Reynolds v. Caton ..................................... 697
Riggs v. Palmer ....................................... 272
River Garden Farms, Inc. v. Superior Court ...... 822, 824
Rogers v. Beneficial Finance Co. .................... 689
Rosenblatt v. Baer ................................... 741
Rosenblum v. Metromedia, Inc. ...................... 742,
                                             743, 754
Royster v. Madiera School ............................ 682
Royster Guano Co. v. Virginia ....................... 554
SEC v. Chenery Corp. .................................. 153
SEC v. National Securities, Inc. ..................... 43, 45, 48
SEC v. Variable Annuity Co. .......................... 42, 48
St. Paul Fire & Marine Insurance Co. v. Barry ... 40
San Antonio Independent School District v. Rodriguez .... 784
Sandora v. Times Co. .................................. 763, 764
Santa Clara Pueblo v. Martinez ....................... 611, 612
Santa Fe Industries, Inc. v. Green ................. 585, 586, 592, 593, 594, 595,
                                             596, 597, 598, 599, 600, 601,
                                             602, 603, 604
Schenck v. United States ............................. 223
Scheuer v. Rhodes ..................................... 285, 287
Schlesinger v. Ballard ............................... 558, 559, 560,
                                             568, 569, 582
Schneckloth v. Bustamonte ........................... 466
Schoenbaum v. Firstbrook ............................ 587, 588
Schwegmann Brothers v. Calvert.
Distillers Corp. ...................................... 85, 86, 88
Scott v. Times-Mirror Co. ............................ 764
Seaview Hospital, Inc. v. Medicenters of America, Inc. 802
Securities Investor Protection Corp. v. Barbour .... 608
Shaffer v. Stephens ................................. 688
Shell Oil Co. v. Leftwich ............................ 572
Sheppard v. Maxwell .................................. 221, 222, 223,
                                             225, 233
Smith v. Greenberg ................................... 257
Smith v. Texas ......................................... 840, 843
Southern Christian Leadership Conference, Inc. v. Connolly .. 523
Southern Motor Lines v. Alvis ........................ 704, 706
Spalding v. Vilas ..................................... 284, 287, 289
Strickler v. Appalachian Wood Preservers .......... 690
Stack v. Boyle ......................................... 490, 491
Stanton v. Stanton .................................... 563, 568, 570
Starring v. American Hair & Felt Corporation ...... 333, 335, 336, 337
Stone v. Powell ....................................... 464, 466, 469
Sullivan v. Suffolk Peanut Co. ...................... 703, 704
Sun Oil C. v. Lawrence .............................. 672, 673
Synthetic Organic Chemicals Mfrs.
Assn v. Brennan ...................................... 634
TSC Industries, Inc. v. Northway, Inc. ............. 599
Taylor v. Louisiana ................................... 842, 843
Tenney v. Brandleve .................................. 284
Texas & Pacific R. Co. v. Rigby ..................... 605
Theophil v. Sheller-Globe Corp. .................... 30
Thiel v. Southern Pacific Co. ....................... 841,
                                             843, 848
Thompson v. Louisville .............................. 457, 458, 461,
                                             462, 466, 469
Thornhill v. Alabama .................................. 740
Time Inc. v. Firestone ................................ 746, 747
Torres v. Taylor ...................................... 292
Touche Ross & Co. v. Redington ..................... 615, 617,
                                             618, 619, 620, 621, 622
Transamerica Mortgage Advisors, Inc.
v. Lewis ............................................... 616
Travelers Insurance Co. v. Blue Cross .............. 44, 46, 47
Tyler v. Street ........................................ 406
U.S. Industries, Inc. v. United States
   District Court .................................. 75, 76
United Mine Workers v. Pennington ...........
   .................................................. 86, 88
United States v. Amato .......................... 463
United States v. B.F. Goodrich Co. .... 80
United States v. Colonial Chevrolet
   Corp ............................................ 81
United States v. Guest .......................... 537
United States v. Midwest Video
   Corp ............................................ 122,
   125, 126, 127, 128, 129, 130, 149
United States v. Price ...................... 536, 537
United States v. Procter &
   Gamble Co .................................. 71, 73, 74, 75, 76,
   77, 78, 79
United States v. Rose .......................... 71
United States v. Socony-Vacuum
   Oil Co ..................................... 20, 75
United States v. South-Eastern
   Underwriters Association ............... 38, 40, 49
United States v. Southwestern
   Cable .................................. 120, 123, 124, 125, 130, 150
United States v. Stanley ....................... 507
United States v. United States
   Gypsum Co .................................. 65, 66, 67
United States Steel Workers and
   Kaiser Aluminum & Chemical
   Corporation v. Weber .............. 373, 376,
   379, 380, 382
Vermont Yankee Nuclear Power
   Corp. v. Natural Resources
   Defense Council ............ 137, 143, 153, 154
Victorson v. Bock Laundry Machine
   Co ............................................. 428
Wainwright v. Sykes ......................... 464
Washington v. Davis ....................... 576, 577, 578,
   583, 786
Weaver v. United States ..................... 507
Weinberg v. Federated Department
   Stores ........................................ 31, 32
Weinberger v. Wiesenfeld .............. 559, 560,
   561, 568, 569, 573, 579, 582
West Baton Rouge Parish School
   Board v. T.R. Ray, Inc. ............... 803, 808
White v. Abrams ......................... 600, 601
William v. Lee Optical Co. ............ 553
Williams v. Nevelow .................... 351, 353
Wolston v. Reader's Digest
   Association ...................... 738, 748, 751, 753,
   754, 768
Wood v. Strickland ....................... 286
Wright v. Heizer Corporation ........... 596, 598,
   599, 601, 602, 603
SUBJECT INDEX
(References Are To Pages)

ACTIONS AND DEFENSES

Private Causes of Action
    Introduction, 605
    History of the implication doctrine, pre-Cort v. Ash, 605-09
    Analysis of implication after Cort v. Ash, 609-19
    Strict reliance on legislative intent, 619-22
    Conclusion, 622

ADMINISTRATIVE LAW

Rulemaking
  Shoenberger: The FCC, Cable TV, and Visions of Valhalla: Judicial Scrutiny of Complex Rulemaking and Institutional Competence, 113-54
    Access Dispute, 115-17
    Home Box Office dispute, 117-20
    Jurisdictional grant to the FCC, 120-24
    Standard in the courts of appeals, 124-38
    General relationship - institutional strengths, 138-43
    Search for consistency, 143-46
    Supreme Court theory of judicial decision making, FCC v. Midwest Video, 146-53
    Conclusion, 153-54

ANTITRUST LAW

Supreme Court Antitrust Decisions
  Miles: Consistency and Predictability: Supreme Court Antitrust Decisions During the 1978 Term, 11-89
    Overview of the term, 13-14
    Role of efficiency in determining whether a practice is per se illegal, 14-26
    Consumer access to treble damages, 26-37
    Narrowing of the insurance exemption, 37-54
    Robinson-Patman enforcement, 54-68
    Access to grand jury materials, 68-82
    State regulation, 82-89
    Conclusion, 89

BAIL

Bail Reform
  Hatchett: Filling in the Gaps of Virginia Bail Reform, 483-511
    Introduction, 483-85
    The bail reform movement, 486-89

877
The Manhattan bail project, 486
Ten percent deposit plans, 486-87
The Bail Reform Act of 1966, 487-89

Constitutional consideration, 490-95
The eighth amendment, 490-91
Griffin v. Illinois, 491-92
Preventive detention, 492-95

Reform in Virginia, 495-99
Rule 3A:29, 495-97
1973 Legislation, 497-98
General revision of Virginia criminal procedure, 498-99

Federal practice under the 1966 act, 499-508
The trial level, 499-504
The appellate level, 504-08

Recommendations, 508-11
Conclusion, 511

BANKS AND BANKING

Multiple-Party Accounts
Multiple-Party Accounts: Does Virginia’s New Law Correspond with the Expectations of the Average Depositor?, Legislative Comment, 851-66

A review of Virginia’s statutory and case law prior to July 1, 1980, 853-59
A discussion of case law, 853-56
The statutory picture in Virginia, 856-59

An examination of the Multiple-Party Accounts Act, 859-65
Conclusion, 865-66

BOOK REVIEW

NOTES ON VIRGINIA CIVIL PROCEDURE, by W. Hamilton Bryson. Review by Lewis T. Booker, 279-80

BUILDING CONTRACTS

Design-build Contracts
Design-Build Contracts in Virginia, Comment, 791-803
The traditional model and recent developments, 792-98
The design-build model, 798-800
Design-build contracts and Virginia law, 800-07
Conclusion 807-08

CONSTITUTIONAL LAW

First Amendment
Slander (Libel)
Public Figures and Malice: Recent Supreme Court Decisions Restricting the Constitutional Privilege, Note, 737-68
Introduction, 737-38
Historical Background, 738-41
Public Figures, 742-54
Expansion and refinement of the public figure doctrine, 742-48
The 1979 decisions dealing with the public figure doctrine, 748-53
Conclusion, 753-54
Malice, 754-68
Origin and development of the "Actual Malice" standard, 755-57
Herbert v. Lando, 757-67
Background, 757-59
Supreme Court opinion, 759-67
Absence of past opinion, 761-62
Admissibility of editorial process evidence at common law, 762-66
Balancing, 766-67
Conclusion, 768

CORPORATIONS
Redemption of Stock
Murphy: Redemption of Stock Under the Model Business Corporation Act and the Virginia Stock Corporation Act, 311-71
Introduction, 311-12
Model Act approach, 312-61
Statutory approach, 312-20
Statutory ambiguities, 321-39
Lack of definition, 321-24
Redemption provisions, where located, 324-29
Redemption provisions, what types are authorized, 329-31
Redemption of common shares, 331-39
Uncertainties in application of the Model Act, 339-61
Redemption from alternative sources, 342-43
Capital structure, consequences of redemption, 343-47
Redemption and repurchase, stated capital as a source, 347-49
Insolvency limitation, 350-53
Net asset limitation, 353-61
Virginia statutory provisions, 362-71
Conclusion, 371
Rule 10b-5
A Post-Santa Fe Blueprint for Courts in Rule 10b-5 Actions for Breach of Fiduciary Duty: Kidwell v. Meikle, 597 F.2d 1273 (9th Cir. 1979), Comment, 585-604
Before Santa Fe, 586-95
Beyond Santa Fe, 595-97
Blueprint for future courts, 597-601
Bending Santa Fe?, 601-03
Conclusion, 603-04

CREDIT
Consumer Credit
Rucker and French: Regulation on Consumer Credit in Virginia: A Suggestion for Legislative Improvement, 91-111
Economic developments, 92-97
Interest rate statutes in Virginia, 97-100
V.C.C.C., economics of rates and availability of credit, 100-07
Automobile financing, an illustration, 107-10
Conclusion, 110-11

DISCRIMINATION: RACE

Competency Testing
Minimum Competency Testing: Education or Discrimination?, Comment, 769-90
Introduction, 769-72
The controversy, 772-76
The role of the court, 774-75
Brown, Hobson, Debra P. - an evolution, 775-76
Due process, 776-82
Life, liberty, or property?, 776-78
Notice and testing, 779-80
What process is due?, 780-82
Equal protection, 782-87
Racial segregation and testing, 782-86
Racial motivation in areas which were not segregated by law, 786-87
Testing and cultural bias, 787-89
Conclusion, 789-90

Reverse Discrimination
Introduction, 373-74
Defining the parameters of “reverse discrimination,” 374-82
Role of the judiciary, 382-86
Conclusion, 386-88

DISCRIMINATION: SEX

Supreme Court Decisions
Broadening Access to the Courts and Clarifying Judicial Standards: Sex Discrimination Cases in the 1978-79 Supreme Court Term, Note, 515-84
Introduction, 516-17
Sex discrimination claims, access to the federal courts, 517-51
Introduction, 517-20
Private cause of action under Title IX, 520-31
Introduction, 520-21
Title VI, 521-24
Title IX, 525-28
Cannon v. University of Chicago, 528-31
Conclusion, 531
Damages for Title VII violations, 532-42
Introduction, 532
Title VII, 532-36
Section 1985(c), 536-40
Great American Sav. & Loan Ass’n v. Novotny, 540-41
Conclusion, 541-42
Damages under the fifth amendment, 542-50
Introduction, 542-43
Jurisdiction, 543-45
INDEX

Money damages under the constitution, 545-48
Davis v. Passman, 548-49
Conclusion, 550
Conclusion, 550-51
Sex discrimination under the constitution, substantive considerations, 552-83
Background, 552-66
Substantive decisions in the 1978-79 term, 566-81
Orr v. Orr, 566-69
Parham v. Hughes, 569-72
Caban v. Mohammed, 573-75
Personnel Administration of Mass. v. Feeney, 575-79
Califano v. Wescott, 579-81
Conclusion, 581-83
Conclusion, 583-84

FEDERAL TORT CLAIMS ACT

Constitutional Torts
Dolan: Constitutional Torts and The Federal Tort Claims Act, 281-309
Introduction, 281
Employee Liability under Bivens, 281-83
Official immunity - Butz v. Economou, 283-88
Current constitutional tort law, 288-98
The law of constitutional torts - a legislative solution, 298-309
Conclusion, 309

HABEAS CORPUS

Federal Habeas Corpus
Federal Habeas Corpus: Greater Protection for “Innocent” State Prisoners after
Jackson v. Virginia, Comment, 455-69
History of federal habeas corpus, 455-58
Jackson v. Virginia, the facts, 459-62
Analysis of Jackson, 462-67
Implications of Jackson, 407-69
Conclusion, 469

INHERITANCE AND SUCCESSION

Proposed Legislation
Johnson: Support of the Surviving Spouse and Minor Children in Virginia:
Proposed Legislation v. Present Law, 639-57
The family allowance, 641-43
Exempt articles, 643-46
The homestead allowance, 646-52
Creditor’s rights, 652-53
Conclusion, 654
Appendix, 655-57
Exempt property and allowances, 655
Family allowance, 655
Exempt property, 655-56
Homestead allowance, 656-57
Source, determination and documentation of family allowance, exempt property, and homestead allowance, 657

Property Rights
Barring Slayers’ Acquisition of Property Rights in Virginia: A Proposed Statute, Comment, 251-77
Introduction, 251-55
Proposed statute, 255-71
Conclusion, 271-72
Appendix, proposed statute, 273-77

JOINT TORTFEASORS

Covenants Not to Sue
The Covenant Not to Sue: Virginia’s Effort to Bury the Common Law Rule Regarding the Release of Joint Tortfeasors, Comment, 809-835
Introduction, 809-10
Contribution and release law in Virginia prior to the 1979 statute, 811-13
Statutory settlement devices in other states, 813-17
Scope of the statute with regard to personal injury, property damage and wrongful death claims, 817-21
Covenants involving persons under a disability, 821
Elements of good faith, 821-24
Rights of settling and nonsettling tortfeasors after execution of a valid covenant not to sue, 824-28
Applicability of the covenant statute to pending cases and claims, 828-31
Applicability of the covenant statute to a vicarious liability situation, 831-34
Conclusion, 834-35

JURIES

Exemption of Attorneys
The Questionable Validity of the Automatic Exemption of Attorneys from Jury Service, Legislative Comment, 837-849
Introduction, 837-39
Development of the fair cross-section principle, 839-42
Do occupational exemptions violate the fair cross-section principle?, 842-44
Traditional justifications for exempting attorneys, 844-47
The right to serve on a jury, 847-49
Conclusion, 849

LEGAL EDUCATION

History
Bryson: The History of Legal Education in Virginia, 155-210
Before 1779, 155-71
1779-1861, 171-88
1865-1895, 188-93
After 1895, 193-210

LEGAL ETHICS

Trial Publicity
Professional Ethics and Trial Publicity: Another Constitutional Attack on DR7-107 - Hirschkop v. Snead, Comment, 213-49

Introduction, 213-16
Jury trials, criminal, 216-37
Bench trials, 237-39
Sentencing, 239-40
Disciplinary proceedings, 240-41
Civil actions, 241-45
Conclusion, 245-46
Appendix, 247-49

PRODUCTS LIABILITY

Strict Recovery

Introduction, 391-94
Review of 402A, 394-99
Application of the principal, 399-407
Abrogation of privity, 401-04
Negligence and contributory negligence, 404-06
Statute of limitations, 406-07

Why strict liability in tort, 407-32
Warranties of Quality, 408-19
Notice, 410-12
Limitations of warranty liability, 412-19
Magnuson-Moss Warranty Act, 419-24
Judicial management of disclaimers, 424-25
Judicial consumer protection, 425-32

Conclusion, 432-33

SAFETY LAWS

OSHA Regulations
Scrutiny of OSHA Regulations in the Courts: A Study of Judicial Activism, Comment, 623-37

Introduction, 623-24
The API Case, 624-23
Background, 624-25
Evidentiary problems presented by API, 625-28

The risk-benefit-cost test, 628-32
Application of the test, 628-29
Sources of the test, 629-32

“Substantial evidence” review, 632-36
Cases before API, 633-35
Substantial evidence review, Fifth Circuit, 635-36

Conclusions, 636-37

TAXATION

Employee Benefit Plans
ERISA
Boggs: Qualified Plans Under ERISA: Tax Shelter or Bureaucratic Paper Chase?, 709-734

Introduction: the impact of ERISA on employee benefit plans, 709-10
Classification of employee benefit plans, 710-13
Advantages of attaining qualified plan status under section 401(a), 713-14
Requirements of qualification under section 401(a), 714-730
  Basic rules regarding form and purpose of the qualified plan, 715-16
  Nondiscrimination provisions, 716-17
  Participation and coverage standards, 717-19
  Limitations on contributions and deductions, 719-22
  Minimum vesting standards and benefit accrual requirements, 722-25
  Minimum funding standards, 725-27
  Plan termination insurance, 727-29
  Plan administration, 729-30
Plan selection since ERISA, 730-33
  Factors to consider, 730-31
  Trends in plan selection since ERISA, 732-33
Conclusion, 733-34

UNIFORM LAWS

Uniform Child Custody Jurisdiction Act
  Uniform Child Custody Jurisdiction Act in Virginia, Comment, 435-54
    Introduction, 435-36
    Scope and purposes of the act, 436-37
    Major provisions of the act, their effect on Virginia law, 438-53
      Jurisdiction, 438-46
      Modification of custody decrees, 446-51
      Decrees by Virginia courts, 446-49
      Decrees by other courts, 449-51
    Enforcement of other states' decrees, 451-53
Conclusion, 453-54

WILLS

Simplification
  Word: A Brief for Plain English Wills and Trusts, 471-81
    Wordy and redundant wills, 472-75
    Use of lawyerisms, 475-78
    Organization, 478-80
    Trust agreements, 480
Conclusion, 480-81

WORKMEN'S COMPENSATION

Accidental Injuries
  Ray, Evans, and Steele: Recovery for Accidental Injuries Under Virginia Workmen's Compensation Act, 660-707
    Introduction, 660-63
    Employment status, 663-73
      Contract of hire, 664-65
      Master-servant relationship, 665-69
Loaned employees, 669-71
Employees of independent contractors, 671-73

Injuries by accident, 673-77
Accident: definition, 674-75
Establishing time and place, 675-76
Proof of causal relationship, 676-77

Arising out of and in the course of, 678-707
Going to and coming from work, 680-82
Employees injured while residing on the premises, 682-83
Employees injured by hazards of the street or highway while in the course of employment, 683-87
Employees injured while attending to personal needs, 687-88
Employees injured while engaging in social and recreational activities, 688-89
Employees injured by fellow workers' acts of play, 689-91
Employees injured by tortious conduct by third parties, 691-92
Employees injured through aggravation or acceleration of preexisting conditions, 693-95
Employees injured through idiopathic falls, 695-97
Employees injured in a second accident, 697-700
Employees whose injuries are aggravated by medical treatment, 700-01
Employees injured by self-inflicted means, 701-03
Unexplained deaths, 703-07

Conclusion, 707