

1979

Service of Process In Virginia

William Hamilton Bryson

University of Richmond, hbryson@richmond.edu

Follow this and additional works at: <http://scholarship.richmond.edu/law-faculty-publications>



Part of the [Courts Commons](#), and the [State and Local Government Law Commons](#)

Recommended Citation

W. Hamilton Bryson, *Service of Process in Virginia*, 5 Va. B. Ass'n J. 16 (1979).

This Article is brought to you for free and open access by the School of Law at UR Scholarship Repository. It has been accepted for inclusion in Law Faculty Publications by an authorized administrator of UR Scholarship Repository. For more information, please contact scholarshiprepository@richmond.edu.

Service of Process In Virginia

INITIAL process is an official summons to a person requiring him to appear in court and defend himself or suffer default judgment. The purpose of the summons is notification to the defendant.¹

A. Issuance

Process is issued by the clerk of court at the request of the plaintiff. The name of the process at common law is "notice of motion for judgment"; in equity it is called a "subpoena." Both are modern writs drafted for Virginia practice, and forms for both are given in the Rules of Court. The first pleading (the plaintiff's motion for judgment at common law or bill of complaint in equity) is attached to the process and served with it. Process in Virginia notifies the defendant that unless he responds within twenty-one days to the plaintiff's claim, default judgment may be entered against him.² A civil warrant is used in the general district courts.

B. Service of Process

(i) *By Whom Served*

Process may be served by a city or county sheriff³ or by his deputy.⁴ A sheriff may serve process within his bailiwick and in any contiguous county or city.⁵ Process can be sent for service to any sheriff in Virginia;⁶ this gives a plaintiff statewide service of process. If process is sent to the sheriff of another county, it must be accompanied by the sheriff's fee and return postage.⁷

Process may also be served by any person over eighteen who is not a party to or interested in the suit; a sheriff, however, must serve process in suits for divorce or annulment of marriage.⁸ Any disinterested person over eighteen may "serve," i.e. deliver, process out of state.⁹

(ii) *When Served*

Every sheriff has the duty to collect daily from the clerk's office all writs which are to be served by him and

to serve the subpoenas and notices of motions for judgment within five days.¹⁰ Service of process must be made within one year after the commencement of the lawsuit, or the court will dismiss the case unless the plaintiff can show that he has "exercised due diligence to have timely service" on the defendant.¹¹ This provision prevents a person from filing a bill merely to toll the statute of limitations and to harass a defendant by leaving a lawsuit hanging over his head forever. Without this a person might initiate a lawsuit, pay no fees or writ tax, and sit back and do nothing until a time might come when the lawsuit would greatly prejudice or embarrass the defendant.^{11A}

(iii) *Method of Service*

The method of service of process is the heart of due process for both plaintiffs and defendants. The latter are entitled to be fairly notified of litigation against them. No one should be judged without being heard. If a defendant having official notice of the claims against him refuses to avail himself of the opportunity to appear, then the plaintiff is entitled to judgment by default. Although there has been much discussion recently about the fairness to defendants of a particular method of service, it must be kept in mind that in fact most defendants are well aware of torts committed by them and of legitimate claims outstanding against them, and many will make it as difficult as possible for process to be served upon them. Plaintiffs have a right to have their claims determined by a court of law. Public policy favors free access to the courts in order to avoid self help and breaches of the peace. Defendants should not be allowed to hide from and avoid process and thus to defeat the orderly functioning of the courts. At the same time the pressing of spurious claims by unscrupulous plaintiffs must be avoided by ample opportunity for notice to defendants. The problem to be dealt with at this juncture is the finding of methods of service of process which are at the same time effective for plaintiffs and fair to defendants.

a. Personal Service

There must be personal service of process, either actual or constructive, for a court to acquire in personam jurisdiction and to be able to grant an in

EDITOR'S NOTE: This article is an excerpt from Professor Bryson's new book, *Notes on Virginia Civil Procedure*, to be published this spring by the Michie Company. This material is copyrighted by the Michie Company and is used here by permission, which is gratefully acknowledged.

personam remedy. Originally at common law the only effective service of process was physical delivery to defendant. Today there are many methods of constructive service available, such as delivery to agents or guardians. These methods will be discussed according to categories of defendants.

I. Normal, Resident Adults

In general, natural persons are served by delivering the process to the defendant in person. If the defendant cannot be found at his "usual place of abode," then it may be delivered to any member of his family over sixteen who may be found there. If the defendant cannot be found and also if no member of his family can be found there, then process may be served by "posting" it at the "front door"; service by posting is not complete for the purposes of default judgment until a copy has also been mailed to the defendant and a certificate of mailing has been filed in the clerk's office.¹² Note that these methods of personal service are not alternatives but successive methods.

II. Prisoners

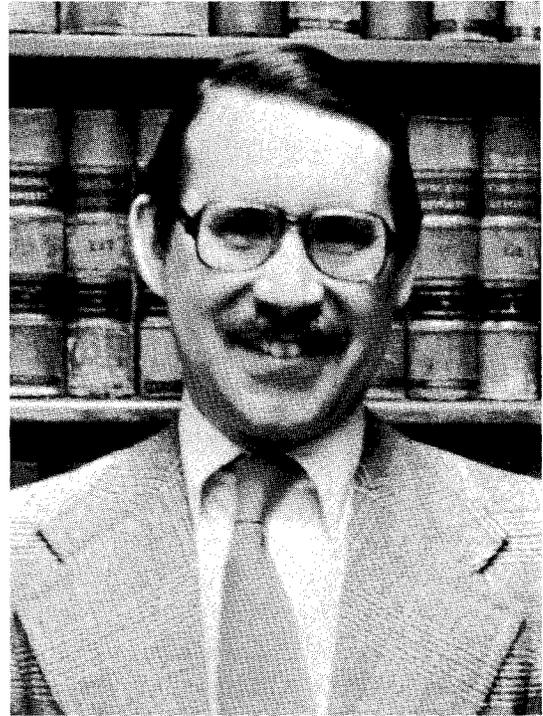
Process is served on a convicted felon who is confined in a jail or correctional facility by delivery to the officer in charge of the institution. Such officer has the duty to deliver it forthwith to the prisoner. A guardian ad litem shall be appointed unless the convict is represented by an attorney at law.¹³ Service on the defendant's committee is not required.

III. Domestic Corporations

A non-governmental Virginia corporation is made a defendant by personal delivery of process to any "officer, director, or registered agent."¹⁴ Service on any other agent of the corporation is ineffectual. Note that the process is served on a human being and on one who is in the top echelon of management.

The registered agent is an officer required by statute to be appointed for the purpose of receiving process on behalf of the corporation. If no registered agent has been appointed or if he cannot be found with reasonable diligence at the registered office, then process may be served on the clerk of the State Corporation Commission, and it shall be mailed by him to the registered office of the corporation.¹⁵ If the corporation is operated by a trustee or receiver, then process may be served on him or any one of them. If no trustee or receiver can be served § 8.01-299 (discussed above) is applicable.¹⁶

Process against a corporation can not be served on the spouse of an agent.¹⁷ This is a stage of constructive service not provided for by any statute.



W. Hamilton Bryson is an Associate Professor of Law at the University of Richmond Law School. Professor Bryson received his B.A. Degree from Hampden-Sydney College, his LL.B. from Harvard Law School and his LL.M. from the University of Virginia Law School. He is the author of *Discovery in Virginia* and *The Virginia Law Reporters*.

IV. Governmental Bodies

Process is served on a city or town by delivery to its mayor, manager, attorney, councilman, or trustee. A county is served by delivery of process to its treasurer, attorney, commonwealth's attorney, commissioner of revenue, or any supervisor. Any political subdivision or governmental entity which is subject to suit separate from the Commonwealth may be served with process by delivering it to a director, commissioner, chief administrative officer, attorney, or any member of its governing body. Also service may be made by leaving a copy with the person in charge of the office of any of the aforementioned officials.¹⁸

V. Foreign Corporations

A foreign corporation which is properly authorized to do business in Virginia can be brought into court by service of process upon any officer, director, or registered agent.¹⁹ The clerk of the State Corporation Commission is an agent for every foreign corporation and in addition to the abovementioned officials, process may

be served on him and he will mail it to the corporation.²⁰ Process can be served on the clerk of the State Corporation Commission for mailing to a foreign corporation whether or not the other officers or agents can be easily found. If the foreign corporation is not authorized to do business in this state, then service of process can be made on any agent of the corporation or, if none can be found, on the clerk of the State Corporation Commission.²¹

If a corporation is being operated by a trustee or receiver, it may be served by service upon its trustee or receiver or any one of them.²²

A corporation doing business under an assumed or fictitious name and not "residing" in the place where the business is located must appoint a local attorney-at-law to be its agent to receive process. If no such agent is appointed or if he cannot be served, the clerk of the court may receive service of process and mail it to the defendant corporation.²³

In addition to these methods of service of process, personal jurisdiction over foreign corporations can be obtained by means of the Long Arm Statute.²⁴ In general the Virginia courts may exercise in personam jurisdiction over a non-resident defendant if the litigation arises from the transacting of business in Virginia, the contracting to supply goods or services, the commission of a tort, the breach of a warranty, having any interest in realty, insuring any risk located in Virginia, or having to pay spousal or child support in Virginia. If active jurisdiction is obtained under this statute, no other cause of action can be asserted against the defendant in the same case.²⁵

For a court to exercise its power over any defendant consistently with constitutional ideas of due process of law, the defendant must have at least "minimum contacts" with the forum state "so that the maintenance of the action does not offend traditional notions of fair play and substantial justice."²⁶ "It is manifest that the purpose of Virginia's long arm statute is to assert jurisdiction over nonresidents who engage in some purposeful activity in this state to the extent permissible under the due process clause."²⁷

If the defendant has had the minimum contacts with Virginia as required by the federal constitution and by § 8.01-328.1.A, the service of process can be had according to any method provided for by the Virginia statutes, or by service on any agent, or by service on the secretary of the commonwealth. The secretary of the commonwealth when he receives process as a statutory agent is to mail it to the defendant and file an affidavit in court that he has done so.²⁸

There are other long arm statutes which apply to nonresident motorists and operators of aircraft,²⁹ real estate corporations,³⁰ and building contractors.³¹ These provisions are discussed below, under "Nonresident Adults."

VI. Partnerships

A partnership is brought into court by service of process upon any general partner. Not only is this good service on the partnership, but also it is personal service upon each partner who is individually named in the action. Each partner is the agent for every other partner in partnership affairs, thus the suit must relate to their communal business for such service to be valid. A limited partner may be served in order to enforce his liability to the partnership. Service can not be made upon a plaintiff in the suit; even though the plaintiff be a partner, the opportunities for fraud would be irresistible were the rule otherwise.³² A partnership is a type of unincorporated association, and so §§ 8.01-305 and 8.01-306 (discussed below) apply also.

VII. Unincorporated Associations

Active jurisdiction over Virginia based unincorporated associations is obtained by service upon "any officer, trustee, director, staff member or other agent."³³ If the association has its office outside the state and transacts business so as to have minimum contacts with Virginia, process may be served on "any officer, trustee, director, staff member, or agent," or upon the clerk of the State Corporation Commission for mailing to the defendant.³⁴

VIII. Nonresident Adults

By the common law a nonresident may be served with process, if he can be found in Virginia. Since his "usual place of abode" is not in Virginia, there can be no substituted service upon him.

Nonresident adults may be personally served by means of various long arm statutes. The general Long Arm Statute, §§ 8.01-328 through 8.01-330, is discussed above under "Foreign Corporations." In addition to these general provisions, there are statutory means of serving process on nonresident motorists and operators of aircraft. If an automobile accident occurred in Virginia process may be served on any out of state motorist defendant by delivery to the Commissioner of the Division of Motor Vehicles, who is to mail it to the defendant.³⁵ Anyone who owns or operates an airplane over the territory of Virginia or uses an airport in the state makes thereby the secretary of the commonwealth his agent for the purpose of receiving process.³⁶

A nonresident real estate broker, salesman, or agent may be made a defendant by service of process upon the Secretary of the Virginia Real Estate Commission.³⁷ A nonresident building contractor who has bid on any work in this state is required to appoint the Secretary of the Commonwealth as his agent to receive process.³⁸ Under certain conditions, a person conducting a business under an assumed or fictitious name can be served with process through the local clerk of court;³⁹ this is discussed above under "Foreign Corporations."

IX. Persons Under a Disability

Rule 2:4 states that process in equity need not be served on persons under a disability who are represented by attorneys at law or guardians ad litem, except when the defendant is sued for a divorce or annulment of marriage⁴⁰ or is an imprisoned felon.⁴¹ Part Three of the Rules of Court which deal with common law actions is silent on this point, but presumably the policy is the same and the result will be the same. In order to give the court active jurisdiction over a person under a disability (infant, prisoner, mental incompetent, et al. as defined by § 8.01-2.6) the plaintiff should sue the person under the disability, ask the judge to appoint an attorney at law or a guardian ad litem to represent the defendant,⁴² and then serve the process on the attorney or guardian. When an attorney at law has entered a general appearance, process, if still needed, can be served on him.⁴³ If future problems in this area are anticipated, it might be wise to serve personally the person under the disability as well as his guardian or attorney just to be on the safe side.⁴⁴ If a person is represented by counsel, service on the attorney alone, it is submitted, should suffice.

When a committee is appointed to manage the affairs of any person who is adjudged mentally incompetent or is aged and feeble or of any other ward,⁴⁵ this committee may sue and be sued in respect to his ward's affairs.⁴⁶ Since the ward's litigation is conducted by the committee and not by the ward, process is served on the committee and not on the ward. If a committee has been appointed, then no guardian ad litem is needed.⁴⁷ Although the committee for a convicted felon in prison may sue and be sued on behalf of his ward,⁴⁸ § 8.01-297 requires that process be served on the prisoner himself.

In a suit for a divorce or for annulment of marriage, a defendant under a disability must himself be served with process.⁴⁹

b. Service by Publication

Process by publication is an inferior method of giving notice of a lawsuit. Therefore, it is not deemed

sufficient to give the court in personam jurisdiction, but it can give the court in rem and quasi in rem jurisdiction. Since the plaintiff would prefer to have an in personam remedy, he will resort to service by publication only when personal service cannot be gotten on the defendant. This resort is most often needed in cases of nonresident defendants and unknown parties.

I. Availability

Service of process by publication is available against a nonresident defendant who has minimum contacts with Virginia,⁵⁰ against a defendant who cannot be found after a diligent search, and against a defendant whom the sheriff has been unable to serve at his last known residence. The party initiating this type of service must give an affidavit of one of these grounds for requesting it; the affidavit should state the last known address of the defendant or the fact that he has no known address. This method of service is also appropriate when the pleadings show that there may be unknown parties and when the nature of their interests is apparent. If eleven or more defendants in a particular suit have been personally served with process and if it appears from the pleadings that these defendants represent the same interests, then the other defendants can be served by publication.⁵¹

II. Order of Publication

The order of publication consists of the short style of the case, a brief statement of its object, and the requirement that the defendants or unknown parties appear in court to protect their interests.⁵² It is entered by the clerk of the court unless it is service upon defendants whose interests are represented by others (under § 8.01-316.3), in which case it must be entered, i.e. ordered, by the judge.⁵³

III. Method of Publication

The publication of the process is done by the clerk of court. It is done by publication weekly for four weeks in a newspaper⁵⁴ and then by posting at the court house door and then by mailing to the defendants.⁵⁵ The judge may dispense with the newspaper publication where it is appropriate to do so. When this procedure is completed, the clerk shall file a certificate to that effect.⁵⁶

c. Out of State Delivery

Process may be delivered out of state to a defendant by any person over eighteen who is not interested in the litigation. Such a delivery gives to the defendant notice which has the same legal effect as service of process by publication.⁵⁷ "Service" of process is a juristic act

which is impossible to be performed outside of the borders of the forum state; therefore, in order to avoid confusion, the term "delivery" should be used to describe the physical transfer of the process. Although delivery of process beyond the borders of the Commonwealth gives only in rem or quasi in rem jurisdiction, it is superior in fact though not in law to service by publication as a method of giving notice to the defendant because by this procedure the defendant can never deny the fact that he received the notice which was physically placed in his hand.

d. Pre-Judgment Attachment and Garnishment

In rem or quasi in rem jurisdiction can be established over a defendant by means of attachment of his tangible property and by garnishment of intangible property that is in the hands of another.⁵⁸ The property attached or the rights or debts garnished must be in Virginia so that the court may act upon it. Pre-judgment garnishment has the same purposes and procedures as pre-judgment attachment; the garnishee, a mere stakeholder, is made a codefendant.⁵⁹

Attachment of a defendant's property may be had on the grounds that he is a foreign corporation, is a nonresident of Virginia, is about to move out of the state, is about to hide, sell, or dispose of his property, has concealed himself, or has absconded.⁶⁰ The essential steps in the attachment procedure are as follows: The attachment is initiated by the plaintiff's filing a verified petition, which states the grounds for the action.⁶¹ The attachment order is issued by the clerk of the court and is directed to the sheriff in whose bailiwick the property is located.⁶² The sheriff levies on the defendant's property, and this brings it under the control of the court.⁶³ The officer levying the attachment files a return showing the method of service or execution.⁶⁴ The attachment order must be served on the defendant whether or not his property has been levied on; service can be made by order of publication pursuant to § 8.01-317.⁶⁵ It is the levy plus the notice which gives the court jurisdiction.

e. Acceptance of Process

A defendant may voluntarily accept service by signing the proof of service (the certificate that proper service was made).⁶⁶ However, the defendant in a divorce suit must sign in the presence of an "officer authorized to administer oaths" (e.g. a notary public).⁶⁷ The parties may contract as to the acceptance of service of process. Usually the agreement provides that the creditor-plaintiff may accept service on behalf of the debtor-defendant. Such consent agreements must be

strictly followed. By § 8.01-315 the person accepting service on behalf of another must mail the process to the defendant and file in court an affidavit that this has been done; no judgment can be given in the case unless this notice was mailed to the defendant at least ten days before.

D. Persons Exempt from Process

By the common law, litigants, witnesses, attorneys, and judges are exempt from service of civil process while travelling to, attending, and returning home from court.⁶⁸ In addition there is a statute giving immunity to witnesses coming into the state to testify in criminal actions.⁶⁹ Service of process is not valid if the defendant was lured into Virginia by fraud for the purpose of serving process.⁷⁰

E. Return of Process

The person who served the process is required to file in court a document called "Proof of Service" which gives the time, place, manner, and recipient of the service of the subpoena or notice of motion for judgment.⁷¹ If service was not made by a sheriff but by someone over eighteen and not an interested party (pursuant to § 8.01-293), the return (proof of service) must also recite the qualifications of the server and must be verified. If service was by publication, the return must give the dates of publication, be accompanied by a copy of the published notice, and be verified by an affidavit.⁷² The return made by a sheriff is prima facie true; any other return is "evidence of the facts stated therein."⁷³ Errors in the return can be objected to by motion, and the return can, upon evidence shown to the judge, be amended by him. The proof of service shows that service was proper, that the court had active jurisdiction, and that the judgment is valid.

F. Objections to Process

If the service of process was not proper or if its issuance was faulty, the court without more does not have active jurisdiction over the parties, and all proceedings in the case are voidable. Objections to service of process and active jurisdiction can be raised at any time before a general appearance, in any manner, and by anyone including the judge. The sooner the matter is raised, however, the better. The best method of objection is by motion to quash. Objections to process must be made prior to or simultaneously with a pleading to the merits. If they are made afterwards, the pleading to the merits, which constitutes a general

appearance, will be considered a waiver of the objection. If the motion to quash is sustained, the judge may dismiss the action or permit an amendment of the process or the return of process providing that the defect can be thereby cured.⁷⁴

If process which was improperly served reached the defendant anyway, it shall be deemed sufficient (except in divorce actions).⁷⁵ As mentioned above, objections to process are waived by a general appearance, which gives the court active jurisdiction.

FOOTNOTES

1. See generally 14 *M.J.* "Process"; Burks, Pleading and Practice, pp. 60-101 (1952).

2. Rules 2:4 and 3:3(c).

3. Va. Code Ann. § 8.01-293.1 (repl. vol. 1977), § 15.1-79 (repl. vol. 1973).

4. Va. Code Ann. §§ 15.1-48, 15.1-74, 15.1-77 (repl. vol. 1973), § 14.1-105.1 (cum. supp. 1977) (high constables).

5. Va. Code Ann. § 8.01-295 (repl. vol. 1977).

6. Va. Code Ann. § 8.01-292 (repl. vol. 1977).

7. Va. Code Ann. § 15.1-82 (repl. vol. 1973); fees are listed in § 14.1-105 (cum. supp. 1977).

8. Va. Code Ann. § 8.01-293.2 (repl. vol. 1977), § 20-99 (cum. supp. 1977).

9. Va. Code Ann. § 8.01-320 (repl. vol. 1977).

10. Va. Code Ann. § 8.01-294 (repl. vol. 1977), § 15.1-79 (repl. vol. 1973); Rules 2:5, 3:4. For district courts the procedure is slightly different; see Va. Code Ann. § 16.1-79 et seq. (repl. vol. 1975).

11. Rules 2:4 and 3:3(c).

11A. If the case is dismissed, the time limit starts to run again pursuant to Va. Code Ann. § 8.01-229.E.1 (Cum. Supp. 1978), but the plaintiff can bring the suit anew.

12. Va. Code Ann. § 8.01-296 (repl. vol. 1977).

13. Va. Code Ann. § 8.01-297 (repl. vol. 1977).

14. Va. Code Ann. § 8.01-299.1 (repl. vol. 1977).

15. Va. Code Ann. § 8.01-299.2 (repl. vol. 1977), § 13.1-11 (repl. vol. 1973) (stock corporations), § 13.1-210 (cum. supp. 1977) (non-stock corporations).

16. Va. Code Ann. § 8.01-303 (repl. vol. 1977).

17. *Water Front Coal Co. v. Smithfield Co.*, 114 Va. 482, 76 S.E.937 (1913).

18. Va. Code Ann. § 8.01-300 (repl. vol. 1977).

19. Va. Code Ann. § 8.01-301.1 (repl. vol. 1977); the constitutional aspects of jurisdiction over and process against foreign corporations are discussed in R. E. Draim and E. M. Trapnell, "Obtaining Jurisdiction over Corporations in Va." 12 U. Rich. L. Rev. 369-407 (1978).

20. Va. Code Ann. § 8.01-301.2 (repl. vol. 1977), §§ 13.1-111, 13.1-274 (cum. supp. 1977); note that the narrower general statutes also apply: Va. Code Ann. § 13.1-11 (repl. vol. 1973), § 13.1-210 (cum. supp. 1977).

21. Va. Code Ann. § 8.01-301.1 (repl. vol. 1977), § 13.1-119 (repl. vol. 1973).

22. Va. Code Ann. § 8.01-303 (repl. vol. 1977).

23. Va. Code Ann. §§ 59.1-71, 59.1-72 (repl. vol. 1973).

24. Va. Code Ann. §§ 8.01-301.3, 8.01-328 through 8.01-330 (repl. vol. 1977).

25. Va. Code Ann. § 8.01-328.1 (repl. vol. 1977).

26. *International Shoe Co. v. Washington*, 326 U.S. 310 at 316 (1945).

27. *Kolbe Inc. v. Chromodern Inc.*, 211 Va. 736 at 740, 180 S.E.2d 664 (1971); see also *Danville Plywood Corp. v. Plain & Fancy Kit-*

chens, 218 Va. 533, 238 S.E.2d 800 (1977) where minimum contacts were held lacking.

28. Va. Code Ann. § 8.01-329 (repl. vol. 1977).

29. Va. Code Ann. § 8.01-307 through 8.01-314 (repl. vol. 1977).

30. Va. Code Ann. § 54-773 (repl. vol. 1974).

31. Va. Code Ann. § 54-140 (repl. vol. 1974).

32. Va. Code Ann. § 8.01-304 (repl. vol. 1977).

33. Va. Code Ann. § 8.01-305 (repl. vol. 1977).

34. Va. Code Ann. §§ 8.01-306, 8.01-312, 8.01-313 (repl. vol. 1977), § 40.1-68 (repl. vol. 1976) (labor unions).

35. Va. Code Ann. §§ 8.01-307 through 8.01-313, especially 8.01-308 (repl. vol. 1977), § 46.1-139 (repl. vol. 1974).

36. Va. Code Ann. § 8.01-309 (repl. vol. 1977).

37. Va. Code Ann. §§ 54-773, 54-774 (repl. vol. 1974).

38. Va. Code Ann. § 54-140 (repl. vol. 1974).

39. Va. Code Ann. § 59.1-72 (repl. vol. 1973).

40. Rules 2:4 and 2:9(a).

41. Rule 2:4; Va. Code Ann. § 8.01-297 (repl. vol. 1977) provides for service upon the prisoner; see above.

42. Va. Code Ann. §§ 8.01-9, 8.01-314 (repl. vol. 1977).

43. Va. Code Ann. § 8.01-314 (repl. vol. 1977); note also Rules 1:5 and 1:12.

44. Minor, Burks, and Lile were unsure as to the state of the law when they wrote, and they advised caution: Minor, *Institutes*, vol. 1, pp. 506, 507 (1891), vol. 4, p. 645 (1893); Lile, *Equity Pleading and Practice*, pp. 33, 34 (1952); Burks, *Pleading and Practice*, pp. 80, 81 (1952). *Parker v. McCoy*, 51 Va. (10 Gratt.) 594 at 606 (1854) suggests that service on children is "idle" and thus not required; *Strayer v. Long*, 83 Va. 715 at 719, 720, 3 S.E. 372 (1887) holds that whether or not the infant is served, the guardian ad litem must be served.

45. Va. Code Ann. §§ 37.1-128.01 through 37.1-134 (repl. vol. 1976).

46. Va. Code Ann. §§ 37.1-139, 37.1-141 (repl. vol. 1976); cf. § 8.01-2.6 (repl. vol. 1977).

47. *Howard v. Landsberg*, 108 Va. 161 at 173, 60 S.E. 769 (1908).

48. Va. Code Ann. § 53-307 (repl. vol. 1974); note that, if the felon is represented by counsel of his own choice, a committee is not required: *Dunn v. Terry*, 216 Va. 234, 217 S.E.2d 849 (1975).

49. Rules 2:4 and 2:9(a).

50. *Shaffer v. Heitner*, 433 U.S. 186 (1977); *International Shoe Co. v. Washington*, 326 U.S. 310 at 316 (1945); Va. Code Ann. § 8.01-301.4 (repl. vol. 1977).

51. Va. Code Ann. § 8.01-316, note also § 8.01-296.3 (repl. vol. 1977); Rule 2:9(a) (divorce cases); 14 *M.J.* "Process" §§ 29-35.

52. Va. Code Ann. § 8.01-317 (repl. vol. 1977).

53. Va. Code Ann. § 8.01-316 (repl. vol. 1977).

54. Va. Code Ann. § 8.01-323, 8.01-324 (repl. vol. 1977) say which newspapers.

55. This requirement satisfies the rule in *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950).

56. Va. Code Ann. § 8.01-317 (repl. vol. 1977); the statutes providing for orders of publication are to be strictly construed: *Robertson v. Stone*, 199 Va. 41, 97 S.E.2d 739 (1957).

57. Va. Code Ann. § 8.01-320 (repl. vol. 1977).

58. See generally Va. Code Ann. §§ 8.01-533 through 8.01-576 (repl. vol. 1977); 2A *M.J.* "Attachment and Garnishment."

59. Va. Code Ann. § 8.01-539 (repl. vol. 1977).

60. Va. Code Ann. § 8.01-534 (repl. vol. 1977).

61. Va. Code Ann. § 8.01-537A (repl. vol. 1977).

62. Va. Code Ann. §§ 8.01-540 through 8.01-543, 8.01-546, 8.01-548 (repl. vol. 1977).

63. Va. Code Ann. § 8.01-550 (repl. vol. 1977).

64. Va. Code Ann. § 8.01-559 (repl. vol. 1977).

65. Va. Code Ann. § 8.01-544, note also §§ 8.01-302, 8.01-317 (repl. vol. 1977); the constitutional aspects of attachment are

(Continued on page 24)

Center for State Courts . . .

(Continued from page 15)

The National Center's largest single funding source has been discretionary grants from the Law Enforcement Assistance Administration of the U. S. Department of Justice. Important additional funding for the Center's operations comes from annual support of the states through their judicial budgets and from contributions from leading corporations through the Business and Professional Friends Committee, a group of national leaders of business and the bar.

Specific National Center regional office projects are funded by grants and contracts from the states. National projects are funded by LEAA and various other federal agencies, such as the National Science Foundation and by private foundations.

Early last year the National Center launched a drive to raise \$15 million in capital funds, the income from which is intended to provide for the organization's basic support. Proceeds of the campaign, called the Independence Support Fund, will lessen materially the dependence of the National Center on LEAA for year-to-year support.

The Independence Support Fund campaign is being conducted by a Committee on Ways and Means, composed of leading lawyers and other concerned citizens who are best able to communicate the needs of the justice system to their communities and to win the essential support of the private sector. The fund campaign has been endorsed by the president of the American Bar Association as well as Chief Justice Burger and the Chief Justices of the states.

Regional committees have been formed in key cities to undertake the large task of the Independence Support Fund campaign. They will seek major support for the Fund from philanthropic foundations, corporations, law firms and individuals who will commit themselves to a better quality of justice in the nation.

The legal community has already begun its support for the Fund, and the contribution of the Virginia Bar has been particularly significant. One-third of the con-

struction, equipment, and relocation costs of approximately \$3 million for the Center's new headquarters was raised under the auspices of former Virginia Governor A. Linwood Holton. Funds were contributed by Virginia foundations, corporations, and individuals. The Virginia Bar Association pledged \$100,000 of that amount over a four-year period and to date has contributed three-fourths of that total.

The Association has raised the funds through member contributions and through an active campaign aimed at obtaining contributions from other bar associations outside the state. The effort is being spearheaded by W. Gibson Harris of the Richmond law firm McGuire, Woods and Battle.

The success of the campaign is vital to the continued success of the National Center in helping to make the courts work better—more fairly, more efficiently, and with greater concern for the people who come in contact with them.

Service of Process in Virginia

(Continued from Page 21)

discussed in R. E. Draim and E. M. Trapnell, "Obtaining Jurisdiction Over Corporations in Va." 12 U. Rich. L. Rev. 369 at 397-400, 403-405 (1978); see also below "Type of Jurisdiction: In Rem. Quasi in Rem."

66. Va. Code Ann. § 8.01-327 (repl. vol. 1977).

67. Va. Code Ann. § 20-99.1 (repl. vol. 1975), § 8.01-327 (repl. vol. 1977); Rule 2:9(a).

68. *Commonwealth v. Ronald*, 8 Va. (4 Call) 97 (1786); *Wheeler v. Flintoff*, 156 Va. 923, 159 S.E. 112 (1931); *Davis v. Hackney*, 196 Va. 651, 85 S.E.2d 245 (1955); C. E. Nicol, "Exemption of Attorneys, Judges, Witnesses and Suitors" 16 Va. L. J. 409-415 (1892).

69. Va. Code Ann. § 19.2-280 (repl. vol. 1975); this rule is of ancient standing, see Act of Oct. 1705, c. 19, § 32, 3 Hening, Statutes 299.

70. *Wheeler v. Flintoff*, 156 Va. 923 at 933, 159 S.E. 112 (1931).

71. Va. Code Ann. § 8.01-325 (repl. vol. 1977); Rules 2:5 and 3:4.

72. Va. Code Ann. § 8.01-325 (repl. vol. 1977).

73. Va. Code Ann. § 8.01-326 (repl. vol. 1977); § 15.1-80 (cum supp. 1977), § 15.1-83 (repl. vol. 1973) (duty of sheriff).

74. Va. Code Ann. § 8.01-277 (repl. vol. 1977).

75. Va. Code Ann. §§ 8.01-288, 8.01-295 (repl. vol. 1977).
