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William & Mary Law School

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A Message from the Dean

For the Marshall-Wythe School of Law, the 1988-89 academic session will be remembered as the beginning of a season of change. There is no cause for apprehension. Quite to the contrary, this new season reflects the first dividends of a long-term strategy to help our law school achieve a special place in American legal education. Few contemporary law schools have been able to balance successfully the quest for scholarly excellence with a student-centered commitment to good teaching and a determination to contribute to the betterment of the legal profession. We seek to be one of those few—while retaining the personal flavor of professional education only possible at a relatively small law school.

Last year was the finest single faculty recruiting year in my memory. At all ranks—from experienced and distinguished chair-holders to the entry level—our first choice candidates accepted an invitation to join the faculty. The achievements and the promise of these new faculty members are detailed elsewhere in this magazine.

Of special note is our continued success in attracting exceptionally distinguished visiting faculty members from other law schools. This continues an important trend of recent years. In 1988-89, we will have faculty visitors from Colorado, Cornell, Virginia and Emory. Good visiting faculty members are important both for our permanent faculty and our students. We are enriched by those who come from other law schools. Likewise, when our visitors return home, their firsthand knowledge of William and Mary extends our reputation.

Last year was exceptional in another way: we received a record number of applications for admission. Although law school applications were up nationwide, last year was the third consecutive year in which we experienced an increase. Since 1984, our applications have increased by 48 percent. Most encouraging is the quality of the class of 1991. Its members come from 100 undergraduate institutions and 25 states. Their median LSAT score of 40 (91 percentile) places us among the top 10 percent of law schools in the country.

By the time you read this, we will have begun a new, two-year legal skills program which will be required of every student beginning with the current first-year class. The program is truly new—and truly ambitious. It is not merely a marginal revision of prior offerings given a fancy new name. I cannot provide
you all the details here. Subsequent law school publications will provide fuller reports on this program’s progress.

Its heart is the organization of the class into separate “law firms,” composed of associates (the students), a junior partner (a teaching assistant) and a senior partner (faculty member). Later we will add experienced and distinguished practitioners to each “firm” as “of counsel.” The students will remain in the “firm” for their first two years. We blended our prior courses in legal writing, legal profession, and trial and appellate advocacy into the new program. Students will take a separate examination in ethics at the end of their second year.

Our aim is to create an exciting, demanding and realistic educational experience replicating as closely as possible the experience of new associates in a law firm. Professors John Levy, Fred Lederer and Jim Moliterno (new to us this year) are the guiding hands in the enterprise. If they are successful, as I believe they will, our law school will have created a model legal skills program that should be of immense benefit to other law schools and to the profession.

Those of you who are close observers of the law school are doubtless familiar with the Institute of Bill of Rights Law. Established six years ago, the Institute has become a recognized and respected center for the study of constitutional law and civil liberties. Its work has had an impact on the thinking of leading constitutional scholars as well as journalists and media lawyers.

Gene Nichol, the Institute’s director for the last three years, resigned in July to become dean of the University of Colorado School of Law. We owe much to Gene for what the Institute has achieved thus far, but we are truly fortunate to have persuaded Professor Rodney Smolla to become the Institute’s new director. Rod is a man of manifold talents. He is among the nation’s most distinguished younger constitutional scholars. He is also well known and highly regarded by both media lawyers and journalists. Rod’s last book on libel has been much praised. His forthcoming book, *Flynt v. Falwell: The First Amendment on Trial*, is likely to make a significant contribution to the continuing debate about the constitutional limits of free speech. I am confident that under Rod’s leadership, the Institute of Bill of Rights Law will become one of the nation’s most valued centers of constitutional study.

Despite my suggestion that we are in the midst of a season of change, many positive developments are not new. Dean Robert Kaplan begins the third year of his remarkable transformation of our career planning and placement program. We expect to have nearly 250 employers on campus this year. By way of comparison, two years ago, fewer than 140 employers interviewed here. Rob has also established a comprehensive series of seminars and panels, drawing heavily on our alumni, that convey to our students the wide range of career choices their legal education affords.

In the same spirit, Dean Deborah Vick has had a very successful first year as Associate Dean for Development and Alumni Affairs. Many of you have met Deborah. More of you will. Her enthusiasm and her organizational talents have helped us continue our success in fund-raising and extended the scope of our development and alumni programs. I am confident that Deborah’s efforts will result in significant success for our law school in her areas of responsibility.

There is so much more to discuss, but I have been asked to write the Dean’s Report and not an entire book. Our law school is in the first phases of a major step forward. I would be supremely negligent if I did not acknowledge the profound debt we owe to our alumni. Your support and encouragement have been critical to our success. Some of you have made exceptional time commitments in leadership roles with the Law School Foundation, the Alumni Association, or the Annual Fund campaign. Many of you have been generous financial contributors. Others have given time to participate in our programs or to counsel our students. If this season of change is to end in the realization of a larger destiny, we need the benefit of your sympathetic interest and support. Only as a true community will this law school achieve the great goals we all share.
Marshall-Wythe Welcomes Talent, Diversity and Enthusiasm To The Faculty

by Linda Gordon

The College of William and Mary Marshall-Wythe Law School welcomes five new faculty members and a law librarian to its staff. The following article reflects the talent, diversity and enthusiasm of the newest additions to Marshall-Wythe.

Linda Malone discovered her love of writing in high school. She kept journals, wrote poetry and prepared newspaper articles. She followed her creative writing interests in college and now focuses her writing on legal matters.

Malone's professional interests include international, environmental and agricultural law. She received her B.A. from Vassar, majoring in French and English. In 1975, she entered Duke Law School. Malone received a Peabody Graduate Fellowship for International Law and served as a research assistant for Professors Arthur Larson and William Van Alstyne. In addition, she worked as the Research and Managing Editor for the Duke Law Journal. In 1984, Linda Malone received her LLM from the University of Illinois.

Following law school, Malone clerked for Judge Wilburn F. Pell Jr., Circuit Judge of the United States Court of Appeals for the Seventh Circuit. She later practiced law in Atlanta and Chicago. For four years, she found the "pressure and intensity of practice exciting, but wanted more control of the investment of time." And she "wanted to write more, to think thoroughly, reflect, and bring those thoughts to a conclusion."

For the past five years, Linda Malone has taught at the University of Arkansas School of Law. As a visiting professor at the Illinois, Arizona and Denver law schools, she learned that student dynamics differ in every school. She maintains that being a visiting professor broadens perspectives and keeps a teacher fresh.

This year she will be teaching international, environmental, agricultural and labor law. Her research focuses on farmland preservation, soil conservation, international environmental law and human rights in the Middle East.


A native of Chattanooga, Linda Malone enjoys a variety of music, prefers rock and roll, and plays both guitar and piano. Her interests include hiking, swimming and playing softball, as well as joining her husband, Rodney Smolla, in a shared enjoyment of traveling.

James Heller did not plan to be a law librarian. He wanted to teach after receiving his B.A. in Social Studies from the University of Michigan in 1971, and spent a year substitute teaching in Detroit high schools. In 1973, he entered the University of San Diego School of Law where he worked as staff writer on the Law Review and graduated in the top 10 percent of his class. "California was a big draw after living in Detroit, and I thought I'd never leave." But Heller decided to travel east after completing his M.L.S. at the University of California School of Library and Information Studies at Berkeley.

From 1977 to 1983, Heller lived in Washington, D.C. He spent three years as the Associate Law Librarian, Head of Reader Services, at the George Washington University's
Heller left Washington in 1983 to become Director of the Law Library and Associate Professor of Law at the University of Idaho College of Law in Moscow, Idaho. He taught courses in legal research, legal writing and appellate advocacy. He also received a $16,000 grant to complete a retrospective conversion of the library’s catalog records into machine-readable form, as well as a $42,000 grant to establish and fund the Idaho Telefax Network.

James Heller’s research and scholarship interests have evolved gradually. They cover topics such as copyright law, legal research fundamentals, law office technology and information access. Heller has been a member of the American Association of Law Librarians since 1977 and was a member of its Copyright Committee from 1980-1988. His strong interest in copyright law prompted him to write and publish the *Copyright Handbook*, co-authored with Sally Wiant. His articles also appear in the *Law Library Journal* and *College & Research Libraries*.

His frequent presentations reflect the scope of his interest in law librarianship. At the May 1988 George Washington University Library/Division of Continuing Education Joint Program, Heller presented the keynote speech, “The Copyright Challenge: Intellectual Property in a Multimedia Age.” He also holds memberships in numerous professional organizations, and served as chair of the Northwest Consortium of Law Librarians.

As Marshall-Wythe’s new Director of the Law Library, Heller plans to expand and improve services, and to increase awareness of what the library can offer to faculty, students and the community, as well as the bench and bar in the Tidewater area.

Williamsburg’s small town appeal attracted Heller and his wife, Janet, also a librarian. They have a 2-year-old son, Ben. Music and sports interest Heller and he enjoys hiking and basketball. Softball, though, is his favorite, and he hopes to play on the school team.

The New Faculty on . . .

CHANGES AND THE FUTURE OF THE LEGAL PROFESSION

The new faculty would concur with Jim Heller’s claim that there is a “new awareness of what legal education and the profession are all about.” Evidence of changes include a closer look at ethics and responsibilities of lawyers. Professor Susan Grover argues that law schools must foster a broader understanding of the human race, its history and its problems, and apply that understanding to solving legal problems.

Professor Rodney Smolla contends that law schools should study and grapple with the issue of burdensome case loads in courts and with the costs of legal services that limit access to legal advice for many Americans.

Professor Margaret Spencer asserts the need for legal education that improves litigation skills. As the practice of law becomes more complex, she argues, the profession will need to place greater emphasis on post-legal education.

Because of his special interest, Professor Moliterno sees increasing emphasis on skills and ethics as part of legal education’s contribution to the profession. He also recognizes the need to expose students to a variety of methodologies to achieve a balanced education.

Professor Linda Malone affirms the need for both specialized courses and broad-based fundamentals and would agree with Grover that lawyers have an obligation to their communities, not just themselves.

Professor Smolla sums up his colleague’s thoughts when he says “there is a greater open-mindedness among my colleagues to rethink their mission and what they deliver” as lawyers and teachers.

Each of the new faculty members would agree that legal education should provide training for students in the practical skills – writing, research, thinking and clinical practice. They also agree that students need to see a larger picture – public duty, good citizenship and integrity, all of which are central to the profession.
Margaret Spencer discovered law quite by accident. While at Howard University, where she majored in sociology, she accompanied a friend to take the LSAT. Her high scores brought her financially attractive law school offers that encouraged her to study law.

Professor Spencer graduated from Howard University in 1969. She entered the University of Virginia Law School and received her J.D. in 1972. While at UVa., she received the Robert F. Kennedy Merit Scholarship, for three years, and the U.S. Law Week Award.

Professor Spencer began her career as an attorney in the Appellate Division of the General Counsel’s Office, Equal Employment Opportunity Commission, in Washington. She briefed and argued employment discrimination cases before all of the federal circuit courts of appeal. In 1979, she was appointed an Assistant United States Attorney in the Department of Justice in Washington. While there, she tried more than 100 criminal cases and was specially assigned to the Career Criminal Unit, where she prosecuted recidivists.

In 1982, she married a fellow Assistant United States Attorney, James R. Spencer, and transferred to the Department’s Civil Rights Division. As a Senior Appellate Attorney, she handled cases, primarily involving employment discrimination and criminal violations, before the federal appellate courts. She also assisted the U.S. Attorney General’s Advocacy Institute in training new Department attorneys.

In 1985, the Spencers moved to Richmond and Margaret Spencer became an Assistant Attorney General in the Criminal Division of the Office of the Attorney General. She represented the Commonwealth in criminal cases before the state and federal appellate courts. She also co-authored the Division’s Appellate Citation and Style Manual, and spoke before groups such as the Virginia Commonwealth Attorneys’ Association and the Old Dominion Bar Association. In 1986 she received a Meritorious Service Award from the Attorney General. Since 1987, Professor Spencer has been an adjunct lecturer at the University of Virginia Law School, and has devoted almost all of her time to her 4-year-old son, Stephen.

Teaching law is a new challenge for Margaret Spencer. She is looking forward to the opportunity to use the skills she acquired as a litigator in an academic environment. She hopes that her students will learn not only “the law, but also the skills essential to the actual practice of law, which include the ability to be analytical and communicate effectively.”

During the academic year, Professor Spencer will teach civil procedure, trial advocacy and appellate advocacy. Her research interests include the areas of recidivism, Rule 11 sanctions, and diversity jurisdiction.

A native of King William County, Professor Spencer is no stranger to the Williamsburg area. She and her husband, Virginia’s first black federal judge, have been frequent visitors at Williamsburg’s historic areas. In their spare time, the Spencers enjoy traveling, movies, and watching football and basketball games together.

James Moliterno never dreamed of attending law school. He received his B.S. in mathematics from Youngstown State University in 1977. At first teaching seemed the best choice, but when the opportunity to study law presented itself, he took it.

At the University of Akron School of Law, particularly in its clinic, Moliterno “developed the analytical skills needed to use the law on behalf of people.” In the clinic, representing indigent clients primarily in the...
federal court system, Moliterno began writing and thinking of law as a helping profession, a viewpoint that has remained with him.

A law review member and recipient of many honors in law school, Moliterno received his J.D. in 1980 and ranked in the top 10 percent of his class. Among his honors were a University of Akron Board of Trustees Scholarship, the Bancroft Whitney Lawyer’s Co-op Civil Procedure and Evidence Awards, and the Inmate Assistance Project Certificate of Merit. He also served as a staff member and legal intern in the Office of Appellate Review, the law school’s clinic.

“Working in the clinic provided a great opportunity to aid clients and to work with less experienced students. In the clinic, we were privileged to work for many different people from many different backgrounds.”

From 1980 to 1982, he worked as Staff Attorney and Prison Project Coordinator at the West Virginia Legal Services Plan, Inc. During that time, he was also a Cooperative Education Supervisor at the Wheeling College Criminal Justice Department.

Moliterno’s law school teaching career began in 1982 at the University of Puget Sound School of Law. He has also taught at West Virginia University College of Law and Texas Tech University Law School. He has been a clinical instructor, director of legal writing and comprehensive skill development, designer of a simulation clinic, and teacher of various other courses.

As the Director of the new Skills Program at Marshall-Wythe, Moliterno advocates a balance between traditional teaching and educating students in the development of important skills.

“Skills are often thought of as only those of speaking and writing, but thinking and planning skills are necessary as well as interpersonal skills.”

He believes that law teachers are mistaken when they claim that a student’s character is too well developed by the time the student enters law school to be affected by law teachers.

“We are forgiving of each other as law faculty when we re-evaluate our careers and teaching our scholarly views. We should allow students what we allow for ourselves and accept that we can make a difference in their lives.”

Moliterno’s research and publication interests focus on legal education, teaching methodology skills and development. His recent publication, “Goodness and Humane-ness: Distinguishing Traits?” will appear in the New Mexico Law Review, Fall 1988.

Since 1984, he has served on the ABA Criminal Justice Section Prison and Jail Problems Committee. During 1987-88, he served on the Texas Tech University Health Sciences Center Institutional Review Board for the Protection of Human Subjects and Liaison Group of Texas Bar ADR Committee.

Jim Moliterno and Ginni, his wife, a secondary school English teacher, have three children: Gregory, 6, Emily, 4, and Timothy, a newborn. Despite their busy schedules, their family remains the center of their activities.

The New Faculty on . . .

WOMEN AND MINORITIES

The new faculty agree that the opportunities for women and minorities have improved in law. However, important issues remain to be addressed.

Professors Smolla and Spencer see “a depressing gap in minority group lawyers,” and contend that, while Blacks and Hispanics have distinguished themselves in the profession, lawyers need to encourage more minorities to enter law schools and the profession.

Professor Moliterno would agree. He adds that “diversity of the student population should be enhanced in many ways, including increased numbers of minority group students; more students are needed from many backgrounds and groups that are underrepresented in the profession.”

Professor Spencer believes that although important progress continues to be made, there is a need for more racial diversity in the law schools and in the profession. Professor Malone, however, takes another approach to the issue of women. She believes by taking an active role in women’s organizations that women in positions of authority will encourage others to seek those positions for themselves. Professor Grover acknowledges it may still be difficult for women and minorities when they look ahead to what is before them. The good teacher can be an important influence, she believes, by helping all students toward intellectual equality.
Susan Grover received her A.B. from Hollins College in 1973, with honors in English. Between college and law school, she worked for Bard College in the Higher Education Opportunity Program. As Assistant Director/Language Arts Specialist, and then as the Program's Acting Director, Grover taught and counseled minority disadvantaged students who gained admission to college through the program. She taught writing skills and provided academic, personal and financial aid counseling. She later became Assistant Director of Program Development for the entire College. The analytical, problem-solving, and human relations skills developed while working with disadvantaged students at Bard College were to be a great help to her as a law student.

Grover attended the Georgetown University Law Center. While there, she was Executive Editor of the Georgetown Law Journal and published “A Constitutional Analysis of the Delaware Director Consent-to-Service Statute.”

After receiving her J.D. in 1983, Grover clerked for Oliver Gasch, United States District Court for the District of Columbia, and also for Spottswood W. Robinson III, Chief Judge of the United States Court of Appeals for the District of Columbia Circuit. Since 1985, she has practiced at Dunnells, Duvall, Bennett & Porter in Washington, specializing in civil litigation and white collar criminal defense.

By virtue of her judicial clerkships and her work in civil litigation, Grover has developed an interest in the courts and the adjudicative process. Her experience with disadvantaged students and work on a number of discrimination cases have strengthened her interest in those “who have not traditionally been well served” by the law. As a result, her research interests include issues in the areas of civil procedure and employment discrimination.

Grover views experience in private practice as a teaching tool to show the students the real-world ramifications of what they are reading. She believes “the academic environment offers an opportunity to think about the law and how it should develop. Equally important is the opportunity to work with students and contribute to their human growth and intellectual development. She believes that a good law teacher challenges students to grow not only intellectually, but also in strength of character and in humanity.

Accompanying Susan Grover in her move from Washington is her husband, Neal, a jazz musician, and Jacob, their 5-year-old son, whose primary interest is Busch Gardens. Susan loves architecture and the family shares a love of renovating old houses.

Rodney Smolla directs the Institute of Bill of Rights Law at Marshall-Wythe. He feels fortunate that his daily activities coincide with his beliefs and values.

In 1975, Smolla received his B.A. in American Studies from Yale University. He briefly considered graduate work in the same field, but chose to pursue a J.D. at Duke University School of Law, graduating first in his class in 1978. He was Note and Comment Editor of the Duke Law Journal.

Following law school, he clerked for Judge Charles Clark of the United States Court of Appeals for the Fifth Circuit and also practiced law in Chicago. Since 1980, Smolla has taught at DePaul University, Illinois, Indiana, Arkansas and Denver law schools. His intellectual and scholarly interests have evolved out of his philosophical belief in civil rights and civil liberties. Legal scholars and journalists regard Smolla as a leading expert in First Amendment and media law.

He has written three books, 23 professional articles, numerous book chapters, papers, book reviews, magazine articles, and essays. His publications appear in the Stanford, Pennsylvania, Duke, Georgetown, Southern California and Illinois law reviews, as well as general interest publications such as The New York Times Book Review, The Washington Monthly and Southern Magazine. Most recently, his articles have appeared in the Oregon Law
Rod Smolla


As Director of the Institute of Bill of Rights Law, Smolla wants "the work of the Institute integrated with the general life of the law school and the community of scholars and students." His goals include fostering participation among law students and law faculty, as well as the general college faculty and students.

As the James Goold Cutler Professor of Constitutional Law, Smolla advocates that "legal professionalism is more than winning a case. A lawyer has a public duty to foster integrity and live as a good citizen." As a professor, he tries to give students a clear picture of the legal profession, and a realistic sense of what the law is like by translating issues to day-to-day problems and offering career advice.

Before coming to Marshall-Wythe, Smolla and his wife, Linda Malone, spent a year as visiting professors at the University of Denver School of Law. They share a common interest in the legal issues of their profession and in traveling. Smolla is partial to basketball, racquetball, reading, and cheering on the Chicago Bears.

The New Faculty on . . .

THE COLLEGE OF WILLIAM AND MARY,
MARSHALL-WYTHE SCHOOL OF LAW

The new faculty agree that the Marshall-Wythe School of Law affords the best of both worlds for a faculty member: in Professor Linda Malone’s words, “the support of good teaching and scholarship.” It also provides the opportunity, according to Law Librarian Jim Heller, “to make improvements in a challenging position.”

Professor Susan Grover cites the quality of people, both faculty and students, as her reason for choosing William and Mary. For Professor James Moliterno, “the opportunity to positively affect legal education and the profession, as Director of the Skills Program, was a challenge hard to pass up.”

Professor Margaret Spencer was impressed with the school’s exceptional resources and “the size of the school. Faculty, students, and the community can have relationships that enhance the classroom experience.” She also cites the institution’s unique history, rigorous curriculum, and “spirit of excellence” as her reasons for joining the faculty at the law school.

Finally, Professor Rodney Smolla was attracted to the position of Director of the Institute of Bill of Rights Law because its programs encourage people to think about the legal profession, to think of ourselves in relationship to non-lawyers, and the major political, cultural and social issues crucial to public education, free speech and the Constitution.”
Along with Professors Butler and LeBel, she was selected to attend the national Economics Institute for Law Professors at Dartmouth College. She was recently appointed by President Verkuil to the Steering Committee for the Commission on the Tercentenary Observances of the College, to be held in 1993.

Professor Lynda Butler is the co-author of the book "Virginia Tidal and Coastal Law," published in 1988. She also is the editor and a contributing author of the Real Property Section Newsletter of the Virginia State Bar, and she serves as a member of the Board of Governors of the Real Property Section. In October 1987 she presented a paper entitled "The Ethics of Water Use: Competing Concepts of Ownership and Stewardship" to a humanities conference at George Mason University. Last Fall Professor Butler was a visiting associate professor of law at the College of Law of Ohio State University. Her current research interests focus on recent federal takings cases, and in June 1988 she spoke on the implications of some of those cases.

Professor Jayne Barnard published three articles during the year — "Curbing Management Conflicts of Interest — The Search for an Effective Deterrent" appeared in the Rutgers Law Review and "Corporate Loans to Directors and Officers — Every Business Now a Bank?" appeared in the Wisconsin Law Review. Both involved empirical studies of corporate behavior and the mechanisms by which corporate managers may excessively compensate themselves. "Raiding the Corporate Cookie Jar" appeared in Business & Society Review.

Professor Barnard continued her research in the area of managerial opportunism in a joint project with the School of Business. She was invited to present her findings at the Wake Forest Law Review Business Symposium later this year. Over the past year she made presentations to several professional associations on current developments in corporate law, securities regulation and ethical issues in business.
Professor Glenn Coven served as chairman of a committee which produced a self-study of the law school in connection with the accreditation visitation by the ABA and the AALS. He is currently engaged in an examination of the role currently played by the Supreme Court in the fashioning of tax rules. Next year Professor Coven will be on leave as a visiting professor at UCLA.


In his capacity as Administrative Coordinator of the Commonwealth's Attorneys' Services and Training Council, Professor Walter Felton is responsible for providing continuing education courses for the 121 prosecutorial jurisdictions within the Commonwealth. He is also responsible for providing a variety of services to the prosecutors, including legal research, especially to the rural areas; and serves as a liaison between prosecutors and other executive branch agencies, the judiciary and the legislature. In addition, Prof. Felton monitors criminal justice legislation during sessions of the General Assembly, frequently testifying before legislative committees in criminal justice matters. His other professional responsibilities include serving on several statewide task forces involving the criminal justice system: the Jail and Prison Overcrowding Task Force, Special Drug Prosecution Task Force; and special committees dealing with Victims of Crime, Child Sexual Abuse, Child Support Enforcement. Prof. Felton also serves as the agency head for the Commonwealth's Attorneys' Services and Training Council and as Executive Director of the Virginia Association of Commonwealth's Attorneys.

Professor Emeric Fischer is preparing an article on the question of what effect would cross ownership of insurance companies by banks and banks by insurance companies have on the protection of the consumer as envisioned by banking legislation since the 1930's and is also preparing a case book on the subject of Tax Accounting. Professor Fischer is in the process of revising and updating his casebook on Principles of Insurance Law and revising the teachers' manual to the insurance case book. He served as executive editor of the Virginia Tax Reporter, the official publication of the Tax Section of the Virginia State Bar. He served on the Board of Governors of the Tax Section of the Virginia State Bar and served as its secretary. He continued serving as a Director of the William and Mary Annual Tax Conference (since 1970).


He developed, with the aid of research assistant John Field, a computer system (the "Paper Choice") for teaching legal research skills to first year students. The system is based on the concept of "hypertext," a means of organizing computerized information so that users can browse through it at whatever level
Paul Label sports a new beard!

of detail and in whatever order they want.

He demonstrated the Paper Choice system at the January 1988 AALS meeting in Miami which resulted in many inquiries from lawyers and law firms nationally. Professor Hardy participated in a "founding committee" that formed an Intellectual Property Section for the Virginia Bar Association.

Professor Charles Koch authored a report based on a study of Social Security Commission's disability adjudications for the Administrative Conference of the United States, which focused on reform of the SSA's administrative appeals process. Based on the report, the recommendations were adopted by the Conference. He remained active in the Administrative Law Section of the American Bar Association, presently serving as chair of the adjudication committee and vice-chair of the judicial review committee.

The Michigan Law Review published Professor Paul LeBel's latest jurisprudence contribution entitled "An Interested Response to a 'Wholly Disinterested Assessment': LeBel on Summers on LeBel on Summers on ... Er ... Um ... Oh, Yeah ... Fuller." A satirical piece on faculty recruiting appeared in the Journal of Legal Education, which will also publish Professor LeBel's semi-satirical proposal for the design and marketing of law professor trading cards. The Virginia Bar Association Journal published "Protecting the Right to Criticize Government: A Proposal for a Symmetry of Defamation Privileges." A book review of Henry Steiner's "Moral Argument and Social Vision in the Courts: A Study of Tort Accident Law" was published in Trial Magazine.

Under the auspices of the Institute of Bill of Rights Law, Professor LeBel organized a conference of editorial writers, cartoonists and media lawyers, held in Williamsburg in November 1987. The two-day conference focused on the libel problems associated with the publication of editorial opinions, cartoons and letters to the editor. He also gave a number of lectures during the fall in connection with the bicentennial of the Constitution.

During the past year, Professor Fred Lederer served as reporter for Articles II and III, ABA Litigation Section's Evidence in America, The Federal Rules of Evidence in the States and co-authored the 1988 supplement. He was editor and co-author of the 1988 supplement to E. Imwinkelried, P. Giannelli, F. Gilligan, F. Lederer, "Courtroom Criminal Evidence" (Michie 1987) and was the co-author (and project chief) of curriculum materials to accompany the WHRO-TV Legal Education Series for high school students; author and producer "Grimm vs. Cinderella," a libel case produced for elementary school students; and co-author and primary consultant, WHRO-TV
Legal Education Series for high school students to be broadcast next year throughout Virginia and much of the United States monthly.

Lederer served as a panelist, ABA Litigation Section's Best Evidence Seminar in San Diego; was guest speaker at the Military Judge's Conference at Maxwell Air Force Base; and was a speaker at the April 1988 alumni program. He served as chair of the Privileges Subcommittee, ABA Section on Criminal Justice Committee on Rules of Evidence and Procedure; is co-developer and administrator of the new Marshall-Wythe Legal Skills program; and was appointed Deputy Commandant (IMA-reserve), the Judge Advocate General's School, U.S. Army, Charlottesville, Va.

Professor John Lee made a presentation on Current Developments for the Annual Virginia Conference on Federal Taxation in June 1988 and served, for the 15th year, as editor of that conference. His article "Entity Classification and Integration: Publicly Traded Partnerships, Personal Service Corporations and the Tax Legislative Process" was published in the summer 1988 issue of the Virginia Tax Review. This article grew out of research for a series of professional tax conference presentations on varying aspects of choice of tax entity given in Birmingham, Williamsburg and Norfolk and a statement before a House Ways and Means Subcommittee Hearing on Master Limited Partnerships.

Professor John Levy presented a Continuing Legal Education Program on enforcement of support orders; he made several other presentations including one before the Virginia Association of Bar Leaders on Pro Bono Services, to the Virginia Council on Social Welfare on Landlord-Tenant Law; and one to the State Police Arson School on Interviewing.
He served as president of the American Civil Liberties Union of Virginia, as President of the William and Mary Chapter of the American Association of University Professors, and as chairman of a panel on "Progressive Ethics" at a Regional National Lawyers' Guild Conference. He testified before a Virginia Legislative Committee on Child Care and Profitmaking Businesses and served as co-counsel (pro bono) in a federal case against the Division of Child Support Enforcement.

In addition, Professor Levy served as American Inns of Court Master; member of Quality of Justice Task Force, Commission on the Future of Virginia's Judicial System; and member of Legal Ethics Committee, Virginia State Bar.

Professor Ronald Rosenberg was appointed by Gov. Baliles to serve on the new Chesapeake Bay Local Assistance Board, a panel designed to provide financial and technical assistance to localities on land use, development and water quality protection. In addition Professor Rosenberg served as AALS Property Section chair for the 1988-89 program development. He served on the Professional Development committee for AALS; the program planning committee for Virginia Bar Association; James City County Board of Zoning Appeals. Prof. Rosenberg's other professional activities include acting as the Virginia Environmental Endowment (VEE) Fellows Program administrator and participating in a VEE regional land use study.

Professor Paul Verkuil continued to serve as a public member of the Administrative Conference of the United States. He addressed the meeting of the Natural Resources Section at the ABA Annual Meeting in San Francisco in August 1987; led a panel discussion on the D.C. Circuit's contribution to administrative law at a meeting of the ABA Administrative Law Section in October; made a presentation on the Administrative Law Judge "Corps" legislation to that same section in February; and spoke to a meeting of the ABA Section on Legal Education in Charlottesville in March 1988 on the subject of University-Law School relations. He presented a principal paper entitled "Separation of Powers, the Role of Law and the Idea of
Independence” at the April 1988 symposium of the Institute of Bill of Rights Law. He also participated in the Judicial Conference of the District of Columbia Circuit which was held in Williamsburg in May. In August 1988 at the ABA Annual Meeting in Toronto, he was elected as Chair-elect of the ABA Administrative Law Section.

Professor Walter Williams published an article “International Development and Technology: The Roles of Law and Policy” in the Spring 1988 issue of The Journal of Law and Technology. He was elected to the Board of Directors of the International Society of Military Law and the Law of War, and will present a paper on International Peacekeeping Forces at the International Congress of that society at Edinburgh in September. As Director of William and Mary Summer School of Law in Europe, he inaugurated a new Marshall-Wythe program in Madrid, and administered the oldest American summer law program abroad, the Marshall-Wythe program in London and Exeter.

Professor Richard Williamson served as speaker at the District Judges’ Judicial Conference, Virginia Beach, in September 1987; at the Ninth Circuit Judicial Conference, Monterey, Cal., in January 1988; at the Commonwealth Attorneys’ Association, Charlottesville, and the District Judges’ Judicial Conference in Richmond, both in April; at the Virginia Judicial Conference in Richmond in May; at the Judges’ School in Charlottesville and the Recent Developments Seminar of the Virginia State Bar in Virginia Beach, both in June.
The Institute of Bill of Rights Law: Its Mission and Future

by Rod Smolla

The 1988 academic year marked a change in the administration of the Institute of Bill of Rights Law at the College of William and Mary, Marshall-Wythe School of Law. Professor Gene Nichol left William and Mary to become the Dean of the University of Colorado Law School, and Professor Rodney A. Smolla has succeeded him as the James Gould Cutler Professor of Constitutional Law and Institute Director. Under the direction of Professor Smolla, the Institute plans to build on its outstanding past record to push forward with a number of new initiatives. In the following article Professor Smolla talks about the mission and future of the Institute.

The Institute of Bill of Rights Law is in some ways among the better kept secrets at William and Mary. What is the Institute? What is its mission? What is its future?

The Institute is dedicated to scholarship and education on the Constitution and Bill of Rights, with a special focus on the rights and responsibilities of the press. That, at least, is the “program description,” but it does not do justice to the Institute’s exceptional record and truly exciting plans for the future.

The Institute was founded in 1982, through a bequest from Laura Lee of Washington, D.C., in memory of her parents, Alfred Wilson Lee and Mary I.W. Lee. Mr. Lee was founder and president of an Iowa communications corporation with interests in newspapers and electronic media. In 1988, this private funding was supplemented for the first time by the state, as Governor Baliles, impressed with the Institute’s record, included within the executive budget funds targeted for the hiring of a new Deputy Director, and expanded program activities.

The future mission of the Institute will link legal scholarship, interdisciplinary studies, journalism and public education in a unique combination that has the potential to place it in a leading national role in fostering public understanding of the Constitution and Bill of Rights.

As we enter the next century, the Constitution and Bill of Rights may be heading for their own peculiar brand of “future shock.” As technology continues to develop at a rate in which yesterday’s science fiction becomes today’s reality, constitutional law and policy struggle desperately to keep up. For scientists often move more quickly than lawyers. Advances in areas such as medical or communications science may put even the best legal minds into almost hopeless quandaries, as they are called upon to establish constitutional rules for technologies that they only dimly understand and that do not fit comfortably into any of the traditional legal categories developed in an earlier, less complicated age.

From the due process rights of parents of test tube babies to the free speech rights of operators of communications satellites, the Constitution and Bill of Rights will be constantly stretched in future years to balance the competing interests of generations of Americans born into a fascinating new technological age. Through a variety of programs, the Institute works to foster policy discussion and debate about our constitutional future.

Just as the Constitution and Bill of Rights are not the exclusive property of lawyers and law professors, thoughtful scholarship and public discourse on the evolving meaning of those great documents should embrace a rich variety of disciplines and professions. One of the guiding philosophies of the Institute underscores the conviction that our collective understanding of constitutional issues is deepened dramatically when experts from diverse disciplines—lawyers, journalists, historians, business leaders, publishers, political scientists, sociologists, American studies scholars, politicians, religious leaders, economists, international studies experts—are brought together for serious debate and discussion.

To advance the inter-disciplinary function of the Institute, future plans include a renewed emphasis on co-sponsoring of programs with other departments at the College of William and Mary, and stepped-up efforts to involve members of the College faculty from other disciplines in planning and participating in Institute activities. A bicentennial program on the history of the Bill of
Rights scheduled for April 1989, for example, will be co-sponsored by the Institute of Bill of Rights Law, the Institute of Early American History and Culture, and the Commonwealth Center for the Study of American Cultures. By bringing together these three institutes at William and Mary, the history and legacy of the Bill of Rights will be explored through a variety of “American Studies” perspectives, including law, black history, women’s studies, and philosophy. Similarly, a program scheduled for October 1988, “Fundamentalist Religion and the Secular State: The Experience in America and Israel,” will, through a comparison of the experiences in Israel and the United States, explore the principle of separation of church and state in its relation to fundamentalist religious traditions. Historians, religious studies scholars, and constitutional law experts, including representatives from Christian, Jewish and Islamic traditions in the United States and Israel, will meet in Williamsburg in hopes of broadening understanding and dialogue among all participants.

The international studies aspect of Institute programs has further been enhanced by visiting fellows, such as Professor Pu Zengyuan of the Shanghai Academy of Social Sciences, Professor Alex Castles, Bonython Professor of Law at the University of Adelaide, South Australia, and Australian Justice L.J. Priestly, Justice of the Court of Appeal of the Supreme Court of New South Wales. (As part of the Australian-American Bicentennial Exchange Program, Professor Rod Smolla will be a visiting professor in Australia in the summer of 1989.)

Since its founding the Institute has enjoyed a special relationship with journalists. Freedom of speech and press issues have always been a central focus. Institute programs on libel, invasion of privacy and other topics related to newspapering and dissemination have been co-sponsored with organizations such as the National Conference of Editorial Writers, the American Newspaper Publishers Association, the Southern Newspaper Publishers Association, and the American Society of Newspaper Editors.

Beginning in 1988, the Institute will expand its relation to the press by striking out in a new direction. In addition to sponsoring programs on the rights and responsibilities of journalists, the Institute will offer programs to assist journalists in their vital role as reporters on constitutional disputes to the public at large. Most Americans get their information concerning the most difficult constitutional issues of the time from press coverage of those issues. For example, even the most well-informed Americans do not usually read the text of Supreme Court opinions, but rather assimilate what they can from daily newspaper reports or the evening television news. The Institute can play a critical role in public education by assisting journalists in their coverage of constitutional issues that reach to the heart of American life — everything from free expression to race and sex discrimination, school prayer, abortion, affirmative action, gay rights, federal power over state and local affairs, the power of the President to wage war, and the legitimacy of new budget control devices.

As an example of this new emphasis on facilitating public education through its relationship with journalists, the Institute will co-sponsor a program in November 1988 previewing the upcoming Supreme Court term for journalists and editors from around the nation. The program will highlight the facts, the social context, the legal issues, and the philosophical conflicts of the key cases in the upcoming Court term, in a manner useful to editorial writers and other journalists. The goal is to assist writers and broadcasters in doing more thoughtful reporting and commentary on newsworthy cases as they are argued and decided.

The Institute’s new emphasis on assisting journalists in a broader mission derives from the philosophy that creating understanding and dialogue across disciplinary lines is one of the most vital missions of higher education in our increasingly complex culture. The recent best-seller popularity of the book “A Brief History of Time,” by the theoretical physicist Stephen W. Hawking, is evidence of the thirst most Americans have to understand fields of knowledge that threaten to become so specialized and so dominated by experts that only a tiny handful of individuals are capable of policy discussion and debate about them. Hawking understood that many non-scientists would like to have at least a rudimentary knowledge of what is going on these days in the world of advanced physics. Many bright, well-informed Americans have a similar interest in being invited to participate in dialogue over similarly “advanced” issues of constitutional law. It is not healthy, and perhaps even dangerous, for the nation to relegate sophisticated debate over the Constitution to a small group of experts.

Because of its unique relationship to both the worlds of constitutional scholars and journalists, the Institute is better suited than any other law school program in the nation to carry on the pressing need to widen the circle of intelligent debate over the Constitution and Bill of Rights. If modern Americans are fascinated by space and physics, they are no less fascinated by thoughtful debate over the Constitution — for when brought alive, constitutional issues continue to exert a remarkable hold on our national consciousness and imagination.

To increase student participation in the activities of the Institute, plans are underway to add to the curriculum an enrichment course taught by the Institute’s director on the history and philosophy of the Bill
of Rights, in a format integrated with the programs sponsored by the Institute. Students will explore the philosophical influences on the Bill of Rights, through readings in philosophers such as Locke, Hobbes, and Montesquieu, readings from the *Federalist* and *Anti-Federalist Papers*, and then turn to an examination of selected writings from contemporary constitutional thinkers. The contemporary writings will include the works of scholars invited to the Institute’s conferences. Those scholars will be brought into the classes for discussion sessions, and students in the course will be invited to attend and participate in the Institute’s program events. This course will help tap, for the greater use of our students, the Institute’s wonderful scholarly resources.

Under the leadership of Gene Nichol, the list of past participants in Institute programs reads like a who’s who of American legal scholarship: William Van Alstyne (Duke), Gerhard Casper (Chicago), Vincent Blasi (Columbia), Jesse Choper (California), Norman Dorsen (NYU), Marc Franklin (Stanford), Morton Horwitz (Harvard), Philip Kurland (Chicago), Frederick Schauer (Michigan), Laurence Friedman (Stanford), and Laurence Tribe (Harvard) are among the many leading American legal thinkers that have come to William and Mary through the Institute.

The Institute also brings to the law school major scholars as visiting professors. In the past the distinguished Lee Professors have included David Anderson of Texas, Robert Kamenshine of Vanderbilt, Kent Greenwalt of Columbia, Yale Kamisar of Michigan, and G. Edward White of Virginia. In the spring of 1989, the visiting Lee Professor will be Robert F. Nagel, the Moses Lasky Professor at the University of Colorado.

It is fitting that the Institute of Bill of Rights Law should be part of the Marshall-Wythe School of Law at the College of William and Mary. The School is named for two of the greatest “citizen-lawyers” in our history. George Wythe held the first academic chair in law in America, at William and Mary from 1779-1790. Wythe was the legal tutor for Thomas Jefferson, Henry Clay, and John Marshall. John Marshall became Chief Justice of the United States Supreme Court, and in that role was more responsible than any other figure in history for forging the supremacy of the Constitution in American life and the central role of the Supreme Court as the Constitution’s interpreter and guardian.

These early American “citizen-lawyers” helped create a constitutional tradition that forces future generations constantly to mediate the past and the future, the conservative and the liberal, to forever wrestle over matters of principle, and to never lay aside our collective continuing dialogue over what it means to be an American. The School of Law fulfills one of its highest missions in continuing the educational legacy from which legal study at William and Mary first began, and the Institute of Bill of Rights Law is uniquely qualified to help further that mission.
On Being
A Draper’s Scholar

The British Perspective

by Sonia Bagga

As I leave the United States, the abiding memories I take with me are of the warmth, openness and hospitality of the people I met, and, fresh in my mind, of the fierce heat and humidity of Virginia summers! (I have been in Williamsburg for a full year from August 1987 through to August 1988.) I will miss the pace of life here. Though some of my American friends felt that their lives were almost too hectic and active, even in Williamsburg, I found it stimulating. There was always too much to do and too little time in which to do it.

The most striking difference for me, academically speaking, between my legal education in the United Kingdom and that in the United States, was that the teaching methods employed in the two countries varied considerably. I undertook the master of laws in taxation programme at Marshall-Wythe, but it was through taking the extra Constitutional Law class taken by all first year law students, indispensable in acclimatising me to my new legal and political environment, that I fully discovered and came to appreciate the real contrast in methods of teaching, class preparation and organisation.

In terms of the tax programme, it was more a question of the subject matter or content of the courses being new to me, rather than the format of the classes. In England, I had become accustomed to having two one-hour lectures and a tutorial of an hour, weekly, for each course. Tutorials were conducted in groups of about 10 students, and preparation for these required the reading or briefing of several cases, from various law reports rather than from casebooks, which are rarely used, a couple of articles, a chapter from a treatise on the subject, and often the completion of a few questions devised by the professor. Such material was then fairly rigorously analysed in tutorials, and the depth of understanding of each student could be probed by the professor, given the small size of the tutorial groups.

At Marshall-Wythe, taking a class with 120 other articulate students meant that I had to learn to be assertive and to make my points succinctly, if I wanted to express my views! In the tax programme, I was in much smaller classes, and class preparation was not a matter of reading extensively from the assigned casebook, as in the Constitutional Law class, but entailed more of the sort of reading I was used to at Queen Mary College — assignments included reading treatises and articles (or a summation of such sources in the form of materials prepared by the professor), as well as cases and the Internal Revenue Code itself.

The concept of "outlining" was new to me, although the tension and strains of an examination period are something of a universal experience! We sit for exams only once a year in the U.K., and take only four main courses for that duration, as opposed to the 10 subjects one is able to study here. Further, there is usually a period of time in England between the end of classes and the beginning of exams in which one can review the courses, and as this was not the case here, I found it vital to truly keep up with the workload.

As I have mentioned, the idea of an outline was not something I was really familiar with. Lecture notes usually provided a ready framework for reviewing one’s courses at Queen Mary, but as these could be quite extensive by the end of a year, and because one’s own wider reading would have to be incorporated as
part of the reviewing process, many students did produce a summary of such material, but I do not recall these being the sort of polished work that some students here seem to produce.

One of the most enjoyable features of my time in the States was that I had the opportunity to travel. I was fortunate enough to visit New York City, Los Angeles, San Francisco (a favourite of mine – it certainly lived up to already high expectations), San Diego, parts of Mexico, Las Vegas, Houston and some areas of both Pennsylvania and Michigan. I already have in mind, in fact, to visit a host of further cities and areas of the country. This trip has only succeeded in sharpening my desire to explore more of the U.S.

The William and Mary campus was, for me, a joy, and the beauty of the scenery made walking here a pleasure, compared to the grey facade of my college in England, and to its location in a built-up and less than salubrious part of the East End of London. It was nice, for a change, to feel the intimacy of living in a small town, and thus I was able, very rapidly, to become familiar with it and to feel at home.

Most of all, I enjoyed getting to know the people I met, exchanging views with them, and coming to appreciate their perspective on things. I had been accustomed to having a very cosmopolitan group of people studying with me at the University of London, and although the Marshall-Wythe student body obviously did not have such an international flavour, it did seem to be drawn from a relatively diverse set of backgrounds and geographic locations within the U.S. Mostly, I found the pre-law school experiences of my colleagues here to be fascinating. In the U.K., most law students go to college straight from high school at the age of 18. (One can study law in England without first having completed another degree.)

In sum, I am sad to be leaving Williamsburg as I feel I am leaving people with whom I have become good friends, and my time here has certainly been eventful. I am convinced, however, that I will be back to enjoy many pleasurable sojourns in the United States in years to come, and, in the meantime, I look forward to recounting and sharing my experiences of this year abroad with my friends and family at home.

Sonia Bagga graduated from Queen Mary College, University of London, in 1987. She will be practicing law in London with the firm of Slaughter and Mays.
The Deneka Family

Sara Sullivan '88 and Susan Winchell '88

Faculty members prepare to process.

Proud '88 graduates: Michael Davidson, Fern Lavelli, Randy and Nancy Davidson.
Faculty cheer on Kathy Hessler, recipient of faculty citation award.

David Watson, recipient of Lawrence W. 'Anson Award for promise, scholarship, character and leadership.

Crowd surveyors.

'88 graduates enjoy brunch at the Law School with their families.

The number of applicants to law schools nationally in 1988 increased 16% over the prior year. This increase was unexpected. For the past 10 years, law schools have been warned to expect declines in the applicant pool as the numbers of 22 and 23-year-olds in the population shrank. Additionally, reports of a glut of lawyers were thought likely to discourage potential applicants to law schools.

Our experience, however, did not mirror the national trend in respect to the decrease in applicants which occurred in the early and mid-80's. Applications for admission to the class of 1991 arrived from 2,366 candidates representing 48 states, the District of Columbia and several foreign countries and constituted the largest applicant pool in the history of the law school. Although a sizable decline (16%) occurred in 1984, we experienced significant increases in the number of applicants for the past four years: up 5% in 1985; up 11% in 1986; up 9% in 1987; up 16.6% this year – an increase in our applicant pool of 48.3% since 1984.

More important than the number of applicants is the high quality of the applicant population. Competition for admission was more intense than ever. Candidates offered admission to the 1988 entering class had a median undergraduate grade point average of 3.34 and a median Law School Admission Test score of 40 (equivalent to the 91st percentile). Judging from all common measurements, the quality and diversity of the entering class compare favorably to those of prior years. The quality of applicants and the increase among admitted applicants who elected to enroll suggest that the well-deserved reputation of the law school continues to grow.

Of those who elected to enroll in 1988, there were 95 women and 104 men representing 24 states and the District of Columbia. Minority group members account for approximately 12 percent of the class. Our entering class received undergraduate degrees in 56 different majors from 99 different colleges and universities, including 15 located in Virginia. Nineteen percent attended either the College of William and Mary or the University of Virginia as undergraduates, and James Madison University and Virginia Polytechnic Institute and State University provided the next largest groups of students. Out-of-state institutions attended by three or more entering students were: Colgate, Cornell, Dartmouth, Hamilton, Notre Dame, Penn, Penn State, the U.S. Coast Guard Academy and the U.S. Military Academy. While 65 percent of the entering class was 24 years of age or younger, new students ranged in age from 21 to 40. Seventeen have earned graduate degrees and 16 have military experience. Over 40 percent of the entering students have full-time work experience – many as paralegals and legal assistants, others in such fields as archaeology, banking, computer science, consulting, engineering, news reporting, pharmacy and teaching.

Our admission office disbursed slightly less than $190,000 in scholarship assistance to all students. Generous contributions from alumni are sincerely appreciated and represent meaningful support from private sources for approximately one-third of the student body.

Faye Shealy, Associate Dean for Admissions
VIRGINIA

Averett College
Christopher Newport College
Eastern Mennonite College
Emory and Henry College
George Mason University
Hampden-Sydney College
Hampton University
James Madison University
Liberty University
Lynchburg College
Mary Baldwin College
Mary Washington College
Old Dominion University
Radford University
Randolph-Macon College
University of Richmond
University of Virginia
Virginia Commonwealth University
Virginia Military Institute
Virginia Polytechnic Institute and State University
Virginia State University
Washington and Lee University
College of William and Mary

OUT OF STATE

American University
Amherst College
University of Arizona
Arizona State University
University of Arkansas
Asbury College
Bates College
Baylor University
Belmont College
Benedict College
Boston College
Boston College
Bowdoin College
Brigham Young University
Bryn Mawr College
Bucknell University
California Polytechnic University
University of California-Berkeley
University of California-Los Angeles
University of Cambridge
Carleton College
Catholic University of America
Central Michigan University
University of Chicago
The Citadel
Clark University
Colby College
Colgate University
University of Colorado
Columbia University
Cornell University
Creighton University
Dartmouth College
Davidson College
University of Delaware
University of Denver
Dickinson College
Duke University
Earlham College
Edinboro State College
Elon College
Emory University
Fairfield University
University of Florida
Florida State University
Fordham University
Franklin and Marshall College
George Washington University
Georgetown University
University of Georgia
Gettysburg College
Gordon College
Goucher College
Grove City College
Hamilton College
Harvard College
College of the Holy Cross
University of Houston
Howard University
University of Illinois-Urbana
Illinois Wesleyan University
Indiana University-Bloomington
Indiana University-Purdue
University of Iowa
John Carroll University
John Jay College of Criminal Justice
Johns Hopkins University
Kent State University
University of Kentucky-Lexington
Kenyon College
Lehigh University
Lewis and Clark College
University of London
Louisiana Tech University
Loyola Marymount University
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As of Aug. 1, 1988, 114 J.D. recipients in the Class of 1988 had reported their post-graduate plans. Approximately 40% will remain in Virginia. The District of Columbia and 19 states will claim 60%; their destinations include Alabama, California, Connecticut, Delaware, Florida, Georgia, Indiana, Maryland, Massachusetts, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas and West Virginia.

Private practice (67%) was the most popular type of employment for 1988 graduates, followed by judicial clerkships (15%), the armed forces/military justice system (10%), government (3%), corporations/businesses (3%), and public interest (2%). Starting salaries range from $18,500 to $71,000, with an average of $39,370.

Six 1988 LL.M. recipients indicated their plans as of Aug. 1. Four will work for law firms in Virginia, one for a Georgia firm, and one for a judge of the United States Tax Court in Washington. Their average first-year earnings will be $36,375.

Listed below are J.D. and LL.M. graduates who, as of Aug. 1, 1988, had reported employment:

### CLASS OF 1988
(Those graduates reporting employment as of Aug. 1)

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Clarksburg, W.Va.

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Norfolk, Va.

Martin J. Marchaterre
Bishop, Cook, Purcell & Reynolds
Washington, D.C.

Amy Cook '89 (left) and Kathy Hessler '88.
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<th>Name</th>
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<tr>
<td>Deborah C. Waters</td>
<td>Lyle, Seigel, Crowshaw &amp; Beale</td>
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<td>Laurie L. Wilkerson</td>
<td>Gibson, Dunn &amp; Crutcher</td>
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<td>Susan A. Winchell</td>
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<td>Catherine Lynn Wirth</td>
<td>Attorney General of Delaware</td>
<td>Wilmington, Del.</td>
<td>Delaware</td>
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<td>Arbelyn Elizabeth Wolfe</td>
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<td>Stephanie L. Hamlett</td>
<td>Litten, Sipe &amp; Miller</td>
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<td>Stephen Stockton</td>
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<td>The Hon. Perry Shields</td>
<td>U.S. Tax Court</td>
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### Fall 1988

**On-Campus Employers**

(As of August 10, 1988)

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<tr>
<th>Firm</th>
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<td>Arent, Fox, Kintner, Plotkin &amp; Kahn</td>
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<td>Arnold &amp; Porter</td>
<td>Washington, D.C.; Denver, Colo.</td>
<td>Colorado</td>
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<td>Arthur Andersen &amp; Company</td>
<td>Washington, D.C.; Nationwide</td>
<td>District of Columbia</td>
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<td>Office of the Attorney General</td>
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<td>Baker &amp; Daniels</td>
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<td>Cooper &amp; Davis</td>
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Conflict of Interest in the Board Room –

Misconduct “Market Discipline” Cannot Kill

by Jayne W. Barnard

Just as in hemlines, there are fashions in legal scholarship. One of the current trends emanating from the “Chicago school” of law and economics is the belief that “market forces” serve as an adequate deterrent to conflict of interest transactions by corporate executives.

This view is held not only by academics, who might otherwise be forgiven, but has been adopted by influential federal judges and at least one member of the Securities and Exchange Commission.

The theory, briefly stated (usually, a 20-page heavily footnoted law review article is required), is that a constellation of market forces disciplines corporate directors and officers so that they do not seek undue personal gain while managing their businesses.

To these theorists, the world is made up of markets. First, there is a market for goods and services, where companies shop for the stuff which makes companies go. Second, there is market for capital, where companies shop for money and investors willing to put their finances at risk. There is also a market for managerial labor, where companies shop for high level executives, and most significantly, where managers shop for high level jobs.

How do these markets operate to alter human nature? Well, say the theorists, if managers extract too much personal gain from the business, either in the form of excess compensation or through self-dealing business relationships, the value of the firm will be diminished and the market for capital will close down – lenders and investors will not be willing to infuse growth money and the managers will therefore find themselves in a stagnant business. Thus, managers have a strong incentive to curb their short-term opportunistic instincts, so that their businesses will grow and provide them with greater wealth in the long term.

Alternatively, the Chicagoans say, managers regard themselves as commodities tradeable in the market for managerial labor, where the best jobs are a scarce and highly desirable resource. If managers are to position themselves to trade upward for a better opportunity in Job #2, they must first maximize shareholder wealth in Job #1. Since excessive self-dealing is inconsistent with shareholder wealth, ambitious managers will not engage in conflicts of interest, thus (1) limiting the likelihood that their businesses will become takeover targets and (2) enhancing their long term chances for a better job.

Moreover, this market discipline is enforced both by co-managers and by subordinate employees, all of whom, recognizing that their optimum compensation potential is earnings-based, have shareholder wealth as their predominant goal.

Anyone who has spent any time around business executives will of course respond, “Phooey.” And recent empirical research confirms that the world does not operate as the theorists would predict – that
business executives in a position to do so in fact chronically and repeatedly structure their corporate dealings to enhance their immediate personal or family gain. In both privately held and publicly held businesses, the existence of one or more “material conflict of interest transactions” each year is the rule, rather than the exception.

One might not find this surprising in non-publicly held enterprises. After all, one reason entrepreneurs incorporate is to maximize personal gain while minimizing personal risk. So when the Wall Street Journal reported that, while Crazy Eddie, Inc. was still a private company, Eddie Antar, its principal shareholder and CEO, had “virtually [used] the company as a private bank,” granting himself $470,000 in interest-free loans, paying various family members $75,000 annual stipends, extending millions of dollars of credit to a son-in-law’s business venture (supplying cassettes to Crazy Eddie) and guaranteeing the six-digit (never repaid) borrowings of still another relative, it was no great shock. “Sure there were a lot of third-party dealings and tax shelters,” said a company spokesman. “As a private corporation, Eddie’s wasn’t dedicated to enriching the coffers of the Internal Revenue Service.” So long as the IRS didn’t complain, “Crazy” Eddie Antar was not only not crazy, he was just playing the All-American game of grabbing everything he could grab.

But what of those publicly-held companies where the managers, in theory at least, work for shareholders other than themselves and are thus subject to the soul-cleansing (or at least conduct-limiting) market forces extolled by the Chicago school? Do conflict of interest transactions occur there too? Anecdotal evidence is abundantly in the affirmative.

Item: DeLaurentiis Entertainment Group, which went public in 1986, and is now deep in debt — its movie library and production studio on the block to pay off its bankers — is still run as if it were private. Its CEO, famed director Dino DeLaurentiis, hired his daughter as head of production (annual salary $400,000), and his girlfriend as head of the studio. According to Forbes Magazine, he also authorized production deals with his son-in-law, a videocassette deal in Spain and Portugal with a second son-in-law and a distribution deal with a brother in Italy. DEG made $27 million in loans (as yet unrepaid) to two private companies owned by the DeLaurentiis family, and another of $8.4 to DeLaurentiis himself.

Item: The directors of Allegheny International — once a Fortune 500 company, now in Chapter 11 — have been named in a shareholders’ suit alleging that they approved for themselves and several AI executives $32.3 million in low-interest (2%) loans; that they approved “without any valid business purpose” a $16 million purchase of a controlling interest in a failing Florida condominium complex in which former Chairman Robert J. Buckley and other top AI officers had substantial financial interests; that they caused the company to purchase a multimillion dollar hotel and install as its manager (and resident of a $1 million penthouse suite) Buckley’s son, who had no hotel experience; and that they permitted other excesses, including the maintenance of a multiple-jet “Allegheny Air Force” for frequent executive personal use and at least two fancy homes — a “magnificent” Tudor mansion in one of Pittsburgh’s best neighborhoods (cost after furnishing, nearly $1 million) and a resort condominium bordering an exclusive golf course (cost approximately $500,000) — ostensibly used for “dignitary” entertainment, but frequently used for Buckley’s personal enjoyment.

Business Week, questioning how AI’s prestigious, “independent” board could have let these things happen, noted that, of the nine outside directors on the 14-man board, one was the president of AI’s lead bank, and four others had received substantial consulting fees beyond their normal directors’ fees. One of them, former Secretary of State Alexander M. Haig, had secured a contract to provide advice “in the area of safety and protection de-
The news was not much better for the publicly-held companies. I reviewed the 1986 filings for 48 such companies and found that, of them, 37 (77%) had engaged during their most recent operating year in reportable conflict of interest transactions. Seventeen (35.4%) had leased property from their managers; eight (16.7%) had made below-market loans; sixteen (33.3%) had paid substantial consulting fees to their outside directors and 21 (43.8%) had found other ways to provide special enrichment to their officers and directors or their families.

The amounts involved in these deals were not peanuts either. In the private companies, annual rental payments to insiders ran as high as $982,000 annually; “consulting fees” ranged as high as $606,000 and executive loans reached $339,000. In the publicly-held companies, consulting fees ran to $2,462,008 and below-market executive loans as high as $840,000.

Can it be merely a coincidence that the managers of these businesses so frequently found the best real estate deal in town right in their own board room? That the most accomplished lawyer (or financial consultant, or public relations consultant or insurance broker or “safety and protection devices” consultant) was a member of their own management team? That the best investment to be found paying the highest return turned out to be a below-market unsecured loan made to one of their own executives?

What’s wrong with this picture? If it is true that the markets for capital and for managerial labor work as efficiently as the Chicago schoolers seem to think, then it must be the market for goods and services which is out of whack – a heretical thought.

It may just be that the marketeers of the Midwest are wrong in their theory. In fact there are many forces less esoteric than “market” forces which operate to limit conflicts of interest in business — IRS rules, SEC rules and state rules requiring approval of self-dealing transactions by “disinterested” members of the board. The problem is, human nature being what it is, none of them seems to work.
Development Report 1987-88

By Deborah S. Vick
Associate Dean for Development and Alumni Affairs

The year ahead provides us with a fantastic opportunity to build on the many successes and lessons learned from this past year. What made the 1987-1988 year different from all other years? A number of things. First, we instituted on a pilot basis a class agent program. The first of its kind at the law school, it provided already committed and generous alumni with a vehicle to solicit annual support from their classmates. This year, we will expand our efforts in this area by having decade agents representing the 1940's and 1950's, one class agent per year from 1960 to 1972, and a minimum of two class agents per year beginning in 1973. Over forty alumni have volunteered to participate in this new effort; I am confident that their efforts and powers of persuasion will convince more alumni than ever before, to invest in their degree.

To build leadership in the annual giving program we created the position of vice chairman of the annual fund. This will enable us to always keep one individual “in training” to succeed the current Chair. Bob Kaplan ’73, 1987-88 Annual Fund Chair, deserves a great deal of credit for helping to establish this structure and for this support and inspiration in guiding those on the annual fund board. Thanks to Bob and the enormous effort of the board, we raised approximately $8,000 more over the prior record breaking year. Also, the average gift size rose from $148 in 1986-87 to $178 this past year. In light of the change in the tax laws and the stock market crash in

Special Thanks to the following Class Agents for their support during the 1987-88 Annual Fund Campaign:

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Michael D. Alembik ’61
Richard S. Cohen ’63
Shephard W. McKenney ’64
C. Lacey Compton ’65
Bradford W. Coupe ’66
Howard J. Busbee ’67
Thomas P. Hollowell ’68

Robert S. Dutro ’69
Michael M. Collins ’70
Ray C. Stoner ’71
J. W. Montgomery ’72
Stephan J. Boardman ’73
Evan E. Adair ’75
Christopher J. Honenberger ’77
Robert W. Emnett ’78
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Brian L. Buckley ’79
Mary Grayson Morris ’81
Jean Penick Watkins ’82
Terry J. Whitson ’83
David A. Greer ’84
Michael Walsh ’85
Gregory Davis ’86
James M. Boyd ’87
October, we can congratulate ourselves on having made another step forward in our fundraising program.

One other significant new fundraising initiative was put in place over the past year. To encourage alumni to set their sights higher in annual giving, we created a new gift category, for donors who contribute $5,000 or more to the annual fund, called Marshall-Wythe Patrons. I am delighted to announce that for the first time we have two alumni who have contributed at this level: Shephard McKenny ’64 and James McGlothlin ’64. In 1988-89, I hope we can list a minimum of five names in this gift club! This year, our Annual Fund Board aspires to encourage 40 to 45 percent of you to participate in our annual giving program. That translates into approximately 1375 to 1400 donors. It’s really not that many people when you think about it. Not unlike last year, the Annual Fund Board aspires to raise both the level of participation and level of dollars contributed to the annual fund. The message I want to convey is Everyone Counts. The more alumni who participate, the more support we will have for scholarships, library development, and faculty research grants. All together these indicators – the quality of our students, the scholarly productivity of our faculty, the size of our library collection, the extensiveness of our career planning program – enhance the value of your degree. The law school does not receive enough support from the Commonwealth of Virginia to compete with great law schools across the nation. This makes your contributions even more critical to our ability to build the reputation of this law school. Annual fund support creates opportunities that would not exist otherwise. By contributing to the law school you make a direct investment in the value of your law school degree.

In the past four years we have made tremendous progress. In 1985, we raised $80,000. By contrast, this year we raised approximately $185,500 from 1,040 donors. That says a lot about alumni dedication to the law school – but, we can, will, and must do better if we expect to see the Law School reach and sustain national prominence. To paraphrase Ray Stoner ’71, Annual Fund Chair 1988-1989, great institutions don’t evolve by accident. Dedicated, persistent and hard working people help create such institutions. Our alumni represent such a group, and I will do everything in my power to help the law school realize its potential.

To say that I am excited about the year to come would be an understatement; I can hardly wait to launch this year’s annual fund and alumni programs! With Ray Stoner as Chairman of the Annual Fund Board and Steve Boardman, ’73 as Vice Chairman I have every reason to feel confident in our ability to succeed. In addition to Ray and Steve, we have a highly ambitious group of alumni to assist us in meeting our goal of $210,000, with a 45% participation rate. The following alumni have renewed their commitment to serve on the Annual Fund’s Board of Directors: Stephan J. Boardman, Brian L. Buckley, Howard J. Busbee, Robert W. Emmett, Christopher J. Hohenberger, Jr., Robert R. Kaplan, William L. Lewis, Edward D. McGuire, Jr., and Ray C. Stoner. To this group of dedicated Board members we welcome three new directors: Paul E. Clifford, Winston M. Haythe, J. W. Montgomery, III, and Sharon E. Pandak.

In closing, I want to thank those of you who made my first year at Marshall-Wythe an absolute pleasure and fantastic challenge. In my second year, I will continue to build upon our sturdy foundation to encourage the advancement of what promises to be a truly great institution.
Marshall-Wythe Law School Foundation now has assets of approximately $3,000,000. The income generated by this endowment works to support professorships, a chair of law, symposia, and scholarships. I am proud to inform you that we now have ten endowed scholarships. Clearly we have come a long way in the five years since the foundation was established.

1987-88 was a year of initiatives. With the help of former Governors Mills E. Godwin Jr. and Albertis S. Harrison Jr., former Senator Harry S. Byrd Jr., W. Roy Smith and Vernon M. Geddy Jr., we successfully raised $100,000 to fund the Carter O. Lowance Fellowship. This program will enable us to invite a distinguished public servant to visit the law school community and speak to students and faculty about issues related to public service.

Two other scholarships were initiated this year. Under the leadership of Marcia Rachy ’66, the law school is currently raising funds for the Thomas C. Atkeson Memorial Scholarship. As many of you know, “Dr. A” was responsible for founding Marshall-Wythe’s Tax Conference and graduate tax program. He occupied the first chair of law in taxation at Marshall-Wythe as well. To date we have raised in excess of $5,000 and will conduct a three-year campaign in an effort to reach our goal of $25,000.

Five members of the Class of 1977 combined forces to establish the Waver Mill Ranch Fellowship. Over the next several years, Stephen Conte, Peter Goergen, Edward Lautenschlager, Michael Mares, and Darrel Sayer plan to fulfill their commitment to fully fund this scholarship.

As the College prepares to launch a five-year comprehensive campaign, the Marshall-Wythe Law School Foundation finds itself in a strong position to increase its current assets. Under the leadership of Foundation President Bob Boyd ’52 and Vice President Shep McKenney ’64, we are confident that we will be able to increase our endowment by $8 to $10 million over the next five years.

We have welcomed three new members to our Foundation board: Butch Barr ’66, Jackie Ray Denning ’76, and Nick St. George ’65. Their talents, combined with the great capabilities of our current board members, will greatly assist us as we endeavor to increase endowment for the support of professorships, scholarships, faculty development, and library enrichment.

Marshall-Wythe School of Law Foundation
Contributions July 1, 1987 - June 30, 1988

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George Wythe
Associates

Named after the first holder of the first Chair of Law in the United States at the College of William and Mary, George Wythe was a signer of the Declaration of Independence and a delegate to the Convention which drafted the United States Constitution. Wythe Associates contribute from $2,500 to $4,999.

R. Harvey Chappell, Jr. '50
Robert Friend Boyd '52
William B. Harman, Jr. '56
Thomas D. Terry '62
Howard J. Busbee '67
Earle T. Hale '70

Marshall-Wythe
Patrons

A new category created to recognize donors who contributed $5,000 or more to the Marshall-Wythe Annual Fund.

James W. McGlothlin '64
Shepard W. McKenney '64

John Marshall
Associates

Named in honor of the Chief Justice of the United States Supreme Court from 1801-1835. John Marshall was a student of George Wythe at the College of William and Mary in 1780. Marshall Associates contribute from $1,000 to $2,499 to the Marshall-Wythe Annual Fund.

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Thomas Richard Frantz '73
James Phillip LaCasse '73
Paul Edward Clifford '74
Edward R. Blumberg '75
Carl W. Harder '75
John G. Kruchko '75
Wayne M. Lee '75
Jacqueline Ray Denning '76
Johnny Mack Farmer '77
Christopher Jay Hundenberger '77
Robert W. Emmet, III '78
Sarah Collins Hundenberger '78
Brian L. Buckley '79
Thomas Jefferson

Named in honor of the Governor of Virginia and member of the Board of Visitors who established the first Chair of Law in the United States at the College of William and Mary. Jefferson studied under George Wythe from 1762 to 1767. Jefferson Associates contribute from $500 to $999 to the Marshall-Wythe Annual Fund.

The Hon. R. Stanley Hudgins '48
Jack M. Gulley '50
Robert C. Stackhouse '51
Peter Shebell, Jr. '54
Ira Bernard Hall '56
Richard Henry Lewis '56
William Taliaferro Prince '57
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Leslie A. Hoffmann '74
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Ingrid Michelsen Hillinger '76
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Jeffrey Brian Detwiler '78
Michael Edward Baumann '79
Richard Randolph Pickard '79
William Joseph Swift '79
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Michael George Hillinger '83
Anne Ballard Shumadine '83
Sarah Shank Hull '84
Gretchen Marie Wolfinger '84

St. George Tucker

Named in honor of the second Professor of Law at the College of William and Mary. Tucker, who had studied under George Wythe, taught law at the College from 1790-1803 and drafted the first formal requirements for obtaining a law degree. Tucker Associates contribute from $250 to $499 to the Marshall-Wythe Annual Fund.

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Stephen David Harris '67
Howard P. Schiff '67
Named in honor of the beloved teacher who for 39 years taught law at the College of William and Mary and served as Dean from 1947-1962. He was recognized nationally and by the College as an outstanding teacher. Woodbridge Associates contribute from $100 to $249 to the Marshall-Wythe Annual Fund.

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Edith Diane Newsom Thompson ’81
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James David Penny ’83

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Jean Penick Watkins '82
William Norman Watkins '82
Lee Edward Wilder '82
David Ralph Wilson '82
Walter Randolph Calvert '83
John Thomas Cookson '83
James Lewis Davenport '83
Elizabeth Alexander Gibbs '83
Joseph F. Giordano '83
Eric George Hoffman '83
James Charles Holahan '83
Kevin McCann '83
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John David Epperly, Jr. '84
Michael John Garvin '84
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Stephen John Horvath, III '84
Donna Susan McCaffrey '84
Steven Michael Miller '84
Philip Lee Russo, Jr. '84
Patrick Christopher Toomey '84
Mary Jo White '84
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Ann Burke Brogan '85
Patrick Michael Brogan '85
Dana Jean Cornett '85
James Michael DeSimone '85
Andrea Shaw Maxa '85
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James Andrew Rauen '85
Carter B. Reid '85
Suzanne Paulette Stern '85
Leonard Claro Heath, Jr. '86
Scott Kevin Sheets '86
James Matheson Boyd '87
Peter Charles Condron '87
<table>
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<tr>
<th>Class</th>
<th>Total Solicited</th>
<th>Number Giving</th>
<th>% Participation</th>
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<tr>
<td>1958</td>
<td>10</td>
<td>5</td>
<td>50%</td>
</tr>
</tbody>
</table>

**Alumni Donors**

- **1926 - 1939**
  - The Hon. Ted Dalton
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  - The Hon. Joseph Nelson Criddin
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  - The Hon. Robert T. Armistead
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  - George Mason, Jr.
  - Torsten E. Peterson

- **1940**
  - The Hon. R. William Arthur
  - The Hon. Robert L. Simpson, Sr.

- **1941**
  - E. C. Ferguson, Jr.
  - Elmo Turton Legg

- **1942**
  - C. Harper Anderson
  - Alexander Nicholas Apostolou
  - Anthony Champa
  - William M. Musser, Jr.

- **1943**
  - Herbert V. Kelly, Sr.

- **1947**
  - The Hon. William Wellington Jones
  - Virginia Till Lemmon

- **1948**
  - Francis E. Clark
  - W. Garland Clarke
  - The Hon. Ira B. Dworkin
  - The Hon. R. Stanley Hudgins

- **1949**
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  - The Hon. Donald H. Sandie, Sr.
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  - Joseph Smith
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- **1950**
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  - Harvey Jacobson
  - Stanley H. Mervis
  - Sidney Schwartz
  - William Luther White

- **1951**
  - The Hon. James Houston Joines
  - Walter M. Oden
  - Robert C. Stackhouse

- **1952**
  - Robert Friend Boyd
  - George I. Gondelman
  - The Hon. L. Cleaves Manning
  - Vincent P. Pirri

- **1953**
  - James A. Murphy, Jr.
  - Rita Rogers Becker
  - Hillsman V. Wilson
  - M. P. Windle

- **1954**
  - Robert Fristoe Banks
  - James David Carter, III
  - The Hon. William L. Forbes
  - Samuel W. Phillips
  - Peter Shebell, Jr.
  - James H. Wesson, Jr.

- **1955**
  - Col. James E. Lawrence

- **1956**
  - Dean Florian J. Bartosic
  - John Hoelt Getreu
  - Ira Bernard Hall
  - William B. Harman, Jr.
  - The Hon. Cecil William Johnson
  - Richard Henry Lewis
  - John Henty Martin
  - T. Howard Spainhour

- **1957**
  - The Hon. John C. Baker
  - John Lee Darst
  - C. Herbert Pearson
  - William Taliaferro Prince

- **1958**
  - Philip G. Denman
  - The Hon. James Asbury Leftwich
  - Otto Lowe, Jr.
  - Janet S. Blakeman
  - Robert C. Vaughan
Dean Timothy Sullivan congratulates Professor John Donaldson, recipient of the Thomas A. Graves Teaching Award.

1959
Number Solicited: 17
Number Giving: 4
% Participation: 24%

J. T. Cutler
Theodore H. Focht
LTC Brian B. Kent
Kenneth H. Lambert, Jr.

1960
Number Solicited: 11
Number Giving: 3
% Participation: 27%

Peter G. Decker, Jr.
A. Overton Durrett
Bernard Goldstein

1961
Number Solicited: 13
Number Giving: 2
% Participation: 15%

Douglas Arthur Boeckmann
Daniel U. Livermore, Jr.

1962
Number Solicited: 14
Number Giving: 7
% Participation: 50%

Frederick A. Bush
Rexford R. Cherryman
Capt. Sebastian Gaeta
W. Kendall Lipscomb, Jr.
Shannon T. Mason, Jr.
Benton H. Pollok
Thomas Duncan Terry

1963
Number Solicited: 21
Number Giving: 9
% Participation: 43%

Richard S. Cohen
John Edward Donaldson
Emeric Fischer
Earle Garrett, III
Owen A. Knoppen
Alan Patrick Owens
Philip P. Purrington, Jr.
William Louis Ringuette
Edmund L. Walton, Jr.

1964
Number Solicited: 21
Number Giving: 6
% Participation: 29%

Richard Crouch
Philip J. Hendel
James W. Mclothlin
Shepard W. McKenney
Thomas A. Shiel
Wallace Bryant Smith

1965
Number Solicited: 36
Number Giving: 14
% Participation: 39%

J. Robert Bray
Johnston Brendel
M. Elvin Byler
C. Lacey Compton, Jr.
James Goodson, III
Mary Catherine Holcomb
Nathan S. Howard
Rosser J. Petit
Nicholas J. St. George

1966
Number Solicited: 46
Number Giving: 16
% Participation: 35%

Stanley Graves Barr
A. Paul Burton, Jr.
Bradford Whitehill Coupe
Gus John James, II
Gordon M. Kent
William R. Keown
Albert J. Mainelli
Daniel David Portanova
Marcia F. Rachy
Charles H. Rideout, Jr.
Joel S. Shapiro
Winston G. Snider
The Hon. Lloyd C. Sullenberger
The Hon. Alfred D. Swersky
The Hon. Kenneth N. Whitehurst, Jr.
Henry Charles Wolf

1967
Number Solicited: 38
Number Giving: 15
% Participation: 40%

The Hon. William C. Atack
Ralph K. Barclay, Jr.
Howard J. Busbee
Craig U. Dana
Stephen David Harris
Winston M. Haythe
J. Rodney Johnson
Raymond H. Kraftson
The Hon. Michael Paul Lesniak
1979

Number Solicited 129
Number Giving 39
% Participation 30%

Cynthia Karen Baskett
Michael Edward Baumann
The Hon. Rebecca Beach Smith
Comdr. Fred Reinhardt Becker, Jr.
The Hon. Rebecca Beach Smith
Michael Edward Baumann
Cynthia Karen Baskett

Number Solicited 135
Number Giving 45
% Participation 30%

Susan Wolff McMakin
Christopher Rowe Mellott
Kevin Duffy Norwood
James E. Osborne
Louis George Paulson
Christine Barlow Simpson
Mark William Strattner
C. Gerald Thompson
Dennis Lee Vasapoli
Mark Bridger Warlick
Walter Lawrence Williams
Richard Ernest Wolff

1981

Number Solicited 151
Number Giving 45
% Participation 30%

Joan Withka Appleyard
Anne M. Barr
Thomas Andrew Boshinski
The Hon. Lynn Curtis Brownley
Raymond Thomas Bules
James Nystrom Burroughs
William Leonard Carey
Charles E. Chamberlain, Jr.
Daniel Patrick Clark
Sumner Edward Couple, III
James Strother Crockett, Jr.
Larry Kent Elliott
Stephen Murray Griffith, Jr.
Michael Warren Hassell
Michael Yves Horton
Rick Lee Hull
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Brian Randall Jones
John Andrew Libby
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Carolyn Faye Shaw
Mark Richard Smith
Steven Godfrey Stancill
Ann C. Suhler
Jeffrey Leroy Tarkenton
Norman Allan Thomas
John Ward Trueax
Jane Fahey Vehko
Susan Cary Watkins

1980

Number Solicited 135
Number Giving 41
% Participation 30%

Charles Swayne Arberg
Francis Cocke Bagby
Catherine Anne Mahoney Blue
Colleen Boles Bardtider
Peter Hartwell Bornstein
Stephen Patrick Carney
Thelma Young Carroll
Gary Stephen Cook
Daniel David Cassano
Walter Randolph Calvert
Capt. Julie Frances Tingwall
Daniel Andrew Valenti
James Patrick Wallibilch
William Norman Watkins
Bill Charles Wells
Lee Edward Wilder
David Ralph Wilson
Douglas Edward Wright
James Bryan Wright

1982

Number Solicited 152
Number Giving 50
% Participation 33%

Georgia Branscom Carter
Bradford J. Bruton
Clement Dean Carter, III
Larry Dean Case
Michael James Casey
Rodney Scott Caukins
Richard Lynn Chidester
Robert Ann Colton

1983

Number Solicited 182
Number Giving 54
% Participation 30%

Richard Fox Aufenger, III
Cpt. Julie Brady Murdoch
Walter Randolph Calvert
Daniel Anthony Cassano
Robert Ray Church
John Thomas Coskoon
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Mr. Eddie W. Wilson, P.C.

THE WILLIAM AND MARY LAWYER 53
To Dean Sullivan, distinguished platform guests, the faculty, and the award winners, to the Class of 1988, to your mothers and fathers, your spouses and children, congratulations on your wonderful achievement.

As Dean Sullivan has pointed out, I was with you at the beginning so I feel a special connection to this class.

Three years ago, I talked to you about what it meant to become a part of this noble profession which is so much involved in the lifeblood of America. I told you then, and I reiterate now, as you embark upon your professional careers, that in America, we are a nation of law and not of men or women. In America it is the law which is the foundation of the rights and liberties we hold so dear. This means that in America people trained in the law, who hold the law in their hands, who help write the law, who shape the law, are critical to the proper functioning of our very society.

You leave now the gentle confines of this great and historic institution to
get out into the rough and tumble of things. Now when I talk about the gentle confines of the Marshall-Wythe School of Law at The College of William and May, I don’t mean to suggest that your course of studies has not been rigorous. I know it has been. I don’t mean to suggest that you have not been challenged in every way possible because certainly you have. I do not intend by talking about the gentle confines of this place to intimate that you have not studied long and hard. I know Dean Sullivan, I know the reputation of this faculty, and I know they have put you through your paces.

But all that you’ve been through here still permits me to describe your law school days as a gentle experience. This is so because as you studied and thought and argued about the law, you did not then hold in your hands the lives, the fortunes and the sacred honor of individuals, institutions and governments as you soon will, now that you are about to practice law. I can still talk about the gentle situation in which you found yourself because as you studied the law, you were not confronted with the problems of making a living from the law, providing for yourself and your family from what you know about the law. I can say that this was a gentle experience no matter how rigorous it seemed to you at the time, because as you studied the law, you did not face the real world pressures of ethics and morality as they impact upon your lives, affecting legal decisions on behalf of yourself and others.

Marshall-Wythe is the first chair of law in the new world. It is the third oldest chair of law in the English-speaking world. This is a place with great history and great tradition. This is a place which gives you something to live up to. This is a place which gives you a course of history and tradition to believe in. This is a place with a reputation for excellence and a role in the history of America that ought to make you, as you go about the business of being a lawyer, take pains to be the best you can be. Before you proceed to further trials and tribulations, whether they be in the form of bar examinations and review courses or trying large cases or working out complex agreements, before you go to those things it is altogether fitting for us to pause and to mark this rite of passage with a few words to acknowledge what you have achieved and to give you a little food for thought as you proceed.

Our society has something of a love-hate relationship with our profession. Love for lawyers seems to ebb and flow; it switches on and off. If you look back at historical documents concerning the beginning of our profession right here in Virginia, you will find that there were actually efforts by the people to stamp lawyers out. We were deemed to be a plague. We were considered to be individuals who made money off of the misery of others. We were looked upon as individuals who sought to encourage disputes in order to have a way to make a living. Consequently, back in colonial times, there were statutes, rules, regulations, and all manner of things aimed at doing away with lawyers. Now, of course, one of the problems may have been that the early lawyers in colonial America were largely educated in England. And, for all I know, those people may really have been trouble-makers. Of course, by 1776 we had to put them out. But in the late 1600’s, with the advent of the College of William and Mary, we started training lawyers our own way. Teaching them, of course, in the English tradition, but bringing to bear some of the hopes, dreams and aspirations that lived in the hearts of people born in this new world. By educating our own lawyers we no doubt brought about a difference in the way they looked at the world and in the way they were perceived by the populace. Yet, the love-hate relationship has not gone away.

There are times, even today, that the people wonder about our purpose. The cost of litigation, the difficulty of getting through court, cause some to say “a plague on all lawyers.” But then, with the next breath, the people love lawyers. We can never be sure what causes the shift from love to hate and back again. But it occurs. For example, the demand for admission to law school shot up this year at an astronomical rate. People say that the demand is caused by different things, including
must come to court and to lawyers to resolve problems associated with their area of expertise and the things that they believe in. Yet here we are, this insular group which teaches ourselves, disciplines ourselves, regulates ourselves, punishes ourselves, here we are appearing to have near total control over ourselves while at the same time having great responsibility for the lifeblood of America, that is to say the law.

The special place lawyers occupy in America means that we must be a careful group of people. We already know that we can't judge or inform ourselves on what we ought to do by what the public thinks about us because that can sometimes be a fickle judgment. I've told you that historically people were afraid of us and tried to eliminate us. But today we are held in generally high esteem in America. We are loved and respected fairly well. Every now and then when we take an unpopular case or an unpopular stand, the public gets upset and says "who needs lawyers?" Even so, we do have a special position. We hold this peculiar place of insularity and we must, therefore, exercise good judgment, be wise and careful, and be informed in the most honorable way about how we go about our business.

The public reaction to us is an insufficient basis to guide us. Is the quest for monetary rewards a better basis? Of course all of you have worked very hard and everybody here is entitled to the financial rewards that come with the expertise you have developed. But if you look back through the law books, if you contemplate the jurisprudence of the United States Supreme Court on many of the great issues of our time, you will find that if it took people of wealth to bring the crucial cases the law simply might not have evolved as it did. Some of the most profound legal principles that guide America today were decided in cases brought by or on behalf of people of meager means; principles so profound that without them, in all likelihood, I could not stand before you today as a member of the Supreme Court of Virginia. In my opinion, the quest for financial reward cannot inform our profession completely concerning the choices we should make as lawyers.

The thing that I think must inform lawyers is something you can't learn in school. It is something you can't learn in college. It is something you can't learn in grade school. It is something you had to learn in life. It is justice, honor, a belief in things that are good, in things that are right, in things that are moral. The thing that has to inform this insular group of people who are charged with dealing with the critical aspects of our society are things internal. We must have, as we go about our business, a moral compass set dead straight on truth and justice. We must have, as we go about our business, the intestinal fortitude to resist the kinds of temptations which exist in the world and which have caused trouble for others as we read in the newspapers and see in the published opinions concerning lawyer disciplines.

Lawyers, as others in society, face temptations to do wrong. A lawyer may have in hand money, in an escrow account, and might say, "Gee, I need some of this today." But to be a good lawyer you must have the internal guidance system which causes you to say, "No, I won't do what's wrong." A lawyer might have in his or her possession secret information about a business deal that will "go down" tomorrow and if that information were put to use by that lawyer it might make him or her wealthy, but a good lawyer must have the moral fiber to say "No, that's not part of what I do." A good lawyer will reflect that the role of a lawyer is so critical to the proper functioning of society that monetary gain pales in significance when compared to the needs of society. A lawyer might have such knowledge of the legal system and all its intricacies so that the system could be used to frustrate a valid, proper, rightful and just claim. But a good lawyer would resist temptations to use the law to "jerk other people around."

Whether you like it or not, we live in an age of heightened scrutiny concerning all who engage in any type of public function. This is certainly true with lawyers. Whether we are in the private sector or the public sector, our work can and does affect all life in America. One little case which you might work on in one little court concerning two little people can have an effect that sweeps across all the nation. All the things we do are important and we must do them with good judgment and high morality. You must develop the judgment; I hope the morality is something you already have within you.

Because of my special connection to this class, I have particularly high hopes for your success. I have a sincere desire that as you practice you will operate at your technical and ethical best. I expect all of you to be the kind of lawyers who will operate with dignity and pride in your profession. I hope you will not conclude that, once you step outside the courtroom and change from your suit or tie, you owe no more obligations to the law and to society. I hope you will conclude that in your whole life, by your every action, you hold the law up to account. If you conduct yourself unscrupulously, greedily, and without compassion, the entire profession will be held up to ridicule.

I hope this class will always endeavor to operate at its best. When you operate at your best you will strive to make legal counsel available to everybody who needs it whether they have meager funds or not; you will represent your clients zealously within the bounds of the law; you will study continuously to retain your proficiency; you will teach others things that you know, in civic organizations and in community groups; you will pass on your passion for justice and the rule of law.

When I came here to be with you three years ago, I was presented with the necktie of the Society of the Alumni of the College of William and Mary, which I wear today. I'm going to continue to wear this, because as I do, I will remember your class, I will remember your potential, and I will believe that you have left this gentle environment well taught, well prepared and committed to upholding the highest principles of our profession.

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SPRING REUNION

Dick Walck (left) and Evan Adair.

CLASS OF 1973
Front row, from left to right: Dan Perry, Earl Thimmus, Byron Wyndham, Sam Powell, John Hooker, Bill Murray, Mike Inman
Back row, left to right: Al Wicks, Royce Givens, Ed Miller, Steve Boardman, Gary Hughes, Mark Korotash, Ed McGuire
Not pictured: Lee Artz, Bill Duncan, Steve Isaacs, Terry Huffman, Tommy Miller, Art Walsh

CLASS OF 1963
Top: Walton, Owens, Radin, Ringette, and Donaldson.
Bottom: White, Cherryman, Moyles, and Fischer.

Ray and Jerri Stoner chat with Georgia McGuire.

Artie Walsh (left) and Bob Emmett.

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