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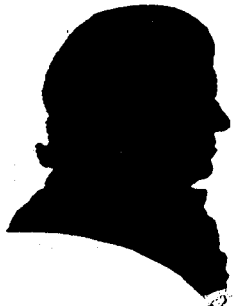
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# LAW LIBRARY BRIEFS

The College of William and Mary  
Marshall-Wythe Law Library



Volume 6, Number 6

April, 1995

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### FROM THE EDITOR'S DESK

**E**ach Spring Marshall-Wythe librarians present a program to help prepare students for research issues they may encounter in their summer clerking positions. This year the program, "Tool Time" -- *Building Research Skills*, is scheduled for Wednesday, April 12 from 2:30 - 5:00 in Room 120.

The Honorable James R. Bradberry, Magistrate Judge, Eastern District of Virginia, Patrick Pettitt, Diamonstein & Staley, and Frosty Owen, Hunton & Williams will discuss research expectations of judges and law firm partners and the use of information technology in a large firm setting.

Public services librarians will discuss skills and sources needed to research a hypothetical legal problem. A copy of the problem will be dropped in student hanging files prior to the program. If you have trouble spotting the issues or wonder what sources to consult, this program will provide the answers. The information and tips conveyed will help you know where to turn when a senior partner hands you that first summer research assignment.

A reception will follow the program to allow one-on-one discussion. Mr. Owen will also demonstrate the LegalVIEWS Information Management Software to interested students. Additional information is posted on the library bulletin board. You do not have to have a clerking position to attend -- all students are welcomed!  
...MWR

### QUOTATION

"A Lawyer without books would be like a workman without tools."

--Thomas Jefferson, Letter to Thomas Turpin, 5 Feb. 1769, in Papers of Thomas Jefferson 1.24 (Julian P. Boyd ed. 1950)

### IN BRIEF

**Extended Library Hours During Exams.** Beginning Friday, April 14, and extending through the examination period (Sunday, May 7) law students may remain in the building until 2:30 a.m. From Monday, May 8 through Sunday, May 28, the Library will be on interim hours. Reduced hours are observed on Memorial Day, May 29. Summer session hours begin Tuesday, May 30.  
...MWR

**Restricted Access.** From Friday, April 21, at 5:00 p.m. until Monday, May 8, at 5:00 p.m. Law Library access is limited to Marshall-Wythe law students and others who require the use of Law Library materials for research purposes. Please remember that patrons needing

legal reference assistance or those using legal materials are permitted access. ...MWR

**Exam Period Typing Carrel Usage.** There are six typing carrels which students may use for study purposes. A sign-up schedule for these carrels is available at the Circulation Desk. Typing carrels and the two Student Conference/Video Viewing Rooms (rooms 244 & 245) may NOT be used for taking exams. ...AF

**Library Lockers.** THE DEADLINE FOR LOCKER CLEAN-OUT AND KEY RETURN IS MONDAY, MAY 8, 1995, BY 5:00 P.M. Lockers must be emptied and the locker key returned (with barcode and key tag attached) to the circulation desk. To continue using your locker during the summer session, you may fill out a locker renewal form in lieu of returning the key. Return the completed form to the circulation desk by the May 8 deadline to renew the locker. There is a \$10.00 replacement charge for keys not returned.

Lockers will be available for the Summer Session as keys are returned from the Spring Semester. Any law student who needs a locker for the summer can obtain a key at the circulation desk. ALL LOCKER KEYS MUST BE RETURNED AT THE END OF THE SUMMER SESSION FOR REASSIGNMENT ON A FIRST-COME-FIRST-SERVED BASIS ON THE FIRST DAY OF FALL SEMESTER CLASSES. ...AF

## **VIRGINIA COURT OF APPEALS MARKS TEN-YEAR ANNIVERSARY: A SHORT HISTORY**

### **Introduction**

The establishment of the Court of Appeals of Virginia grew gradually from a recognized need

to an actual court system. Although the Constitution of Virginia, Article VI, § 1 provides for the establishment of appellate courts, the Court of Appeals evolved slowly. As early as 1968, the General Assembly established the Virginia Court System Study Commission to review the entire judicial system, including as a priority the appellate court system. In 1973, the entire court system of the state of Virginia was reviewed and many modifications were made. Among the myriad of recommendations made at that time was the creation of an intermediate appellate court.

Several driving forces compelled the recommendation and subsequent organization of the Court of Appeals. The caseload of the Supreme Court of Virginia was increasing dramatically. Virginia was one of only two states with no appeal as a matter of right; all appeals were discretionary. And the Supreme Court was not able to fulfill satisfactorily one of its two functions: deciding questions of constitutional and statutory law that were important to and would shape the case law of Virginia.

In 1978, the Judicial Council of Virginia authorized a study by the National Center for State Courts to evaluate past court reform activities in Virginia and to develop plans for the future direction of the Court system. Again, one of the main results of this study was an articulated need for an intermediate appellate court. As a follow-up to this initial study, the Judicial Council prepared and recommended legislation to the 1982 session of the General Assembly. Finally, in 1983, the General Assembly adopted legislation creating the Court of Appeals of Virginia.

During the 1984 session of the General Assembly several significant things occurred. First, the General Assembly appropriated \$3.2 million for the Court of Appeals. Second, an amendment was made changing the criminal appellate procedure from an appeal as a matter of right to a petition or writ of error procedure. Third, the General Assembly increased the number of judges from nine to ten.

Additionally, a change in the process for electing the chief judge was enacted to provide for the selection of the chief judge by a majority vote of the Court of Appeals for a term of four years. Finally, the Court of Appeals embarked on its judicial mission on January 1, 1985.

### **Its Function**

The Court of Appeals is empowered to hear appeals from the Workers' Compensation Commission (formerly the Industrial Commission), appeals of circuit court decisions regarding appeals from an administrative agency, appeals of any final judgment, order, or decree of a circuit court involving divorce, custody, spousal or child support, adoption, control or disposition of a child, as well as any other domestic relations matter. Va. Code § 17-116.05. The Court of Appeals can also hear appeals of convictions in traffic and criminal matters except where a sentence of death has been imposed. Va. Code § 17-116.05:1. Beginning July 1, 1996, if funds are provided, two additional types of appeals will be heard: judicial review of school board actions and of hearing officer decisions [Va. Code §§ 22.1-214 and -214.1] and records of birth [Va. Code § 32.1-260].

In 1985, its first year of operation, 1641 petitions were filed with the Court of Appeals, including 1085 criminal petitions, 538 petitions of right, and 18 original jurisdiction petitions. In 1993, 1894 criminal petitions were filed, a 73% increase from 1985. Additionally, there were 639 petitions of right and 57 original jurisdiction petitions.

The Court sits in panels of three, the membership of which rotates. Appeals are heard in four locations: Richmond, Alexandria, Norfolk, and Salem.

### **The Judges**

Election of the original ten judges occurred in a special legislative session on December 17,

1984. The first judges for the new court were: E. Ballard Baker (Fourteenth Judicial Circuit); Joseph E. Baker (Fourth Judicial Circuit); Bernard Barrow (Second Judicial Circuit); Samuel W. Coleman III (Thirtieth Judicial Circuit); Charles H. Duff (Seventeenth Judicial Circuit); William H. Hodges (First Judicial Circuit); Barbara M. Keenan (Nineteenth Judicial Circuit); Lawrence L. Koontz, Jr. (Twenty-Third Judicial Circuit); Norman K. Moon (Twenty-Fourth Judicial Circuit); and James W. Benton, Jr. (Richmond attorney). Judge E. Ballard Baker was elected by his peers as Chief Judge. Following Judge Baker's untimely death in March 1985, Judge Marvin F. Cole (Thirteenth Judicial Circuit) was elected to the Court of Appeals. Judge Koontz was elected as the new Chief Judge for the Court.

The composition of the Court of Appeals has changed somewhat over the years due to ascensions of judges to higher courts and to retirements. Currently, six of the original appellate jurists continue on the Court of Appeals. Three judges have been designated senior judges pursuant to Va. Code § 17-116.01(D). Norman K. Moon serves as the Chief Judge.

### **Opinions and Research**

Opinions designated by the Court of Appeals as having precedential value or as otherwise having significance for the law or legal system are reported in the Court of Appeals Reports. Va. Code § 17-116.010. For example, of the 1001 appeals disposed of in the Court of Appeals in 1993, 247 (25 percent) were by published opinion and 508 (51 percent) were by unpublished opinion. The remaining twenty-four percent were disposed of by order. Since 1985, the number of published opinions has increased 106 percent and unpublished opinions has grown by 141 percent.

The library has sets of the Court of Appeals Reports in three different locations: reference, first floor Virginia materials, and second floor

Virginia materials. Both LEXIS and WESTLAW load the cases as well.

The decisions of the Court of Appeals are indexed in the Virginia and West Virginia Digest. Additionally, the annotations in the Code of Virginia include opinions of the Court of Appeals. Interestingly, even unreported cases are included in the annotations to the Va. Code. Depending on the date of the opinion, these cases can be retrieved from LEXIS or WESTLAW using the docket number as the search query. Otherwise, copies are available from the Clerk of the Court of Appeals. The library has recently begun to collect the unpublished opinions.

### Sources Consulted

1983 Virginia Acts Ch. 413.

Virginia Code §§ 17-116.01 to 17-116.014 (1988 & Supp. 1994).

Brissette, Martha B. The Virginia Judicial Council's Intermediate Appellate Court Proposal, 16 U. Rich. L. Rev. 209 (1981).

Judicial Council Adopts Proposal For Intermediate Appellate Court, 29 Va. B. News 11 (June 1981).

Lilly, Graham C. & Antonin Scalia. Appellate Justice: A Crisis in Virginia, 57 Va. L. Rev. 3 (1971).

A Report of the Judicial Council of Virginia to the General Assembly and Supreme Court of Virginia 1971 and 1973 (1973) (KFV2909/A811/1972-1973)

Virginia: State of the Judiciary Report 1984, 1985, 1993 (KFV2471/V57/1985)

...ST

### QUESTIONS AND ANSWERS

Q: How do I locate a copy of PRD 23?

A: The first step in answering this question is determining what PRD stands for. A quick look in Bieber's Dictionary of Legal Abbreviations (REF/KF246/B46/1993) produces no answer. Acronyms, Initialisms & Abbreviations Dictionary (REF/P365/A3/1995) lists at least fifty possibilities, none of which is law-related. Finally, a quick search of journals on WESTLAW's journals database (JLR), using the search *p.r.d. /2 23* produces a reference to a likely document name: Presidential Review Directive.

A footnote in the article defines a Presidential Review Directive as a command to an agency to evaluate the current status of an existing law or policy with the intent of remedying any weaknesses it may have. The process evidently includes several exchanges of administration proposals and agency responses.

A few searches on both WESTLAW and LEXIS netted no actual text of directives, and only brief mention of them in various news articles. These directives seem to be a Clinton creation.

A telephone call to the White House Library was the next step in attempting to locate the actual text of PRD 23. These directives, which are called Presidential Directives, Presidential Review Directives, and Presidential Decision Directives, are all initially classified. In particular, PRD 23 is still classified with no release date set. The National Security Council maintains an access number where callers can ask about the status of classified documents. Sometimes fact sheets are available that summarize classified documents.

So, PRD 23 is not yet available, is still classified, and has no fact sheet available. At this time, skimming news stories yields a fair amount of information about the directive, but not the text. ...ST

Q: Where can I find current and historical information on the Consumer Price Index compiled by the Bureau of Labor Statistics, U. S. Department of Labor?

A: There are several resources for CPI information. Tables # 747 - 750 in the Statistical Abstract of the United States -- 1994 (REF/HA202/1994) provide the basic set of CPI Information. Most of the figures can be brought very current (to within a Month or two) in Vol. 3 of the Labor Relations volumes of CCH Labor Law Reporter, (SS/KF3315/C65) at the tab for ¶ 6600. Because of the number of labor agreements featuring a Cost of Living adjustment factor (COLA), many of which date to a period before the current CPI base year 1982-84, the CCH material includes figures on the 1957-59 base year and the 1967 base year, as well.

Speaking of earlier CPI comparisons, Tables E 135 - 166 in Historical Statistics of the United States: Colonial Times to 1970 (REF/HA202/1994) provide consumer price indexes compiled by the Bureau of Labor Statistics from 1800 - 1912 and a variety of other historical data on cost of living and price for particular items.

My own particular favorite resource is the Bureau of Labor Statistics' own Monthly Labor Review. (Current or Bound Periodicals). First and foremost, each monthly issue provides a comprehensive explanation of the data gathering and data analysis techniques applied by the Bureau, as well as concise definitions of the groups, categories, and other captions for the statistics. Several tables are repeated monthly and updated for the period ending

in the prior month. There are also tables which appear on a periodic or occasional basis providing such intriguing information as that the annual employment of workers in legal services industry has risen from 914,000 in 1993 to 928,000 in 1994, with the data for November 1994 suggesting an end of year level in excess of 950,000. Get 'em while the last! The contact number for very current CPI information is in the Division of Consumer Prices and Price Indexes (202) 606-7000. No comment on whether I think the plural of *index* is *indices*. ...WLC

### ODD LAWS

"No vehicle shall be operated upon any highway unless it is so constructed as to prevent its contents from escaping."

Ky. Rev. Stat. Ann. §189.150(1) (Michie 1989).

Susan Savoca Twarog, Comp. A Compendium of Odd Laws. Cambridge/Watertown, MA: Apple-wood Books, 1985, at 66.

...MWR

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