

THE INSTITUTE OF BILL OF RIGHTS LAW

The Institute of Bill of Rights Law at the Marshall-Wythe School of Law is well on its way toward establishing itself as a national center for research on the Bill of Rights, particularly on first amendment speech and press issues. The endowment generously provided by the Lee Memorial Trust Fund has enabled the law school to maintain a diverse full and part-time staff and to establish a framework of symposia and other meetings to encourage research on Bill of Rights-related issues and interaction between journalists and academic and practicing lawyers. The establishment of the Institute of Bill of Rights Law at the Marshall-Wythe School of Law recognizes the substantial impact of Williamsburg and the College of William and Mary in the early history of the Bill of Rights.

The Institute's primary objective is scholarly research on the Bill of Rights, particularly in the area of the first amendment. The major endeavor is modern first amendment law, with an emphasis on speech and press issues, together with the dissemination of knowledge of Bill of Rights law to lawyers, people involved in communications media, and the public. Substantial resources are also dedicated to the study and teaching of legal history, particularly the Anglo-American history of personal liberties, professional responsibility and effective legal writing. The additional professorial staff and opportunities available to the students make the Institute a major contribution to the growth, development and diversity of the Marshall-Wythe School of Law.

The Institute function most noticeable outside the law school is its annual symposium on first amendment issues. The symposium is designed to stimulate and disseminate original research on the first amendment. It attracts a national audience of both practicing and academic lawyers and journalists. The first symposium was co-sponsored by the *William and Mary Law Review*; jointly the law review and the Institute published the proceedings. The Institute separately distributed the proceedings to a large audience of those interested in journalism and the law.

This year's symposium, on March 29 and 30, 1985, will be on "National Security and the First Amendment" and will feature three speakers of national reputation: Burt Newborne, Legal Director of the American Civil Liberties Union and Professor of Law at New York University; Bruce Fein, Vice President of Gray and Company, Washington, D.C.; and Robert Kamenshine, Professor of Law at Vanderbilt University and visiting Lee Distinguished Professor in the Institute of Bill of Rights Law. They will speak, respectively, on "The Use of National Borders to Interfere with Free Trade in Ideas," "Access to Classified Information: Constitutional and Statutory Dimensions," and "Embargoes on Exports of Ideas and Information: First Amendment Issues." Additionally, John Shenefield of Milbank, Tweed, Hadley and McCloy will address the luncheon audience on the subject of "National Security and the Exercise of Civil Liberties." A distinguished panel of varied backgrounds and employment will comment on the papers; both the papers and commentaries will be published soon after the symposium.

The Institute's first symposium, in March, 1984, was a resounding success. The topic was "Defamation and the First Amendment: New Perspectives." The Institute was fortunate in its first year to attract as principal speakers Professor David Anderson of the University of Texas Law School, Professor Marc Franklin of Stanford Law School, and Professor Frederic Schauer, then a visiting professor and now permanently at the University of Michigan Law School. Both Professor Schauer, while Cutler Professor of Law at Marshall-Wythe, and Professor Anderson were instrumental in the formation of the Institute and in setting its direction. The proceedings of the first symposium, published as a special issue of the *William and Mary Law Review*, have received extraordinarily favorable reactions.

The Institute also sponsors and supports other substantial events related to its

mission. On November 7-8, 1984, the Institute invited Professor Lee Bollinger to speak on "Tolerance and the First Amendment" at the annual George Wythe Lecture; that paper, delivered in two sessions, will be published soon. The Institute is sponsoring a plenary session on the making of the Constitution at the annual meeting of the American Society for Eighteenth Century Studies, which will meet in Williamsburg in March, 1986.

The Institute's interest in the relationship between law and media leads it also to co-sponsor events of particular interest to the media. In July, 1985, the Institute is co-sponsoring a conference of the American Society of Newspaper Editors here in Williamsburg. That conference will address libel, privacy and megaverdicts, government restrictions on access to information, and anti-trust. In November, 1985, the Institute will co-sponsor a conference of the Southern Newspaper Publishers Association for the discussion of the development of first amendment press doctrine.

The symposia and other co-sponsored events constitute a vital contribution to the legal and journalism professions and contribute to the educational potential of the Marshall-Wythe School of Law. These programs should grow in stature as the quality already established is maintained.

Although it has a special mission and is totally funded from outside sources, the Institute is designed as an integral part of the law school. To maintain a careful congruence of goals with law school needs and purposes, Dean William Spong, Jr., is ex officio the Director of the Institute. Since Dean Spong is retiring this year, his successor will likewise assume that position. Dean Spong has been Director of the Institute since its inception in 1982. His long career of involvement in state and national politics, including his service both as a senator in the Virginia legislature from 1956 to 1966 and as a United States Senator from 1966 to 1973, eminently qualified him for this position. In teaching the professional responsibility course in the law school, Dean Spong has actively fulfilled that portion of the goals of the Institute. During his three years as Director, he has set the Institute on a course that combines a dedication to research with teaching and service to the school and the profession.

The ordinary administrative tasks, preeminently the organization of the symposia and various functions, are the province of James W. Zirkle as the Deputy Director of the Institute. Professor Zirkle received his J.D. from the University of Tennessee and LL.M. from Yale Law School in 1973. Prior to coming to Marshall-Wythe as Deputy Director of the Institute and Associate Professor, he was an Associate Dean and Lecturer in Law at Yale. At Marshall-Wythe, in addition to his administrative duties, he teaches Constitutional Law. Professor Zirkle has a lively interest in national security problems, particularly in regard to intelligence agencies. He is currently researching the Freedom of Information Act and its functions.

In fulfilling the primary mission of the Institute toward first amendment concerns, the Lee Memorial Trust Fund enables the law school each year to bring in a Distinguished Lee Professor, normally with a light teaching load, to encourage first amendment research while providing additional opportunities for students. Currently Robert Kamenshine of Vanderbilt University is the Lee Professor; David Anderson of the University of Texas was the first Lee Professor. In 1985 R. Kent Greenawalt, Cardozo Professor of Law at Columbia Law School, will be the Lee Professor. He is the co-author of *The Sectarian College and the Public Purse* and the author of *Legal Protection of Privacy* and *Discrimination and Reverse Discrimination*.

Robert C. Palmer is the Adler Fellow of the Institute and an Assistant Professor at Marshall-Wythe. He received his Ph.D. in History from the University of Iowa in 1977, and taught at the University of Michigan Law School for four years, first

as a junior fellow of the Michigan Society of Fellows and then as a Lecturer in Law. Professor Palmer has published extensively in English legal history and, under the auspices of the Institute, is researching also in American legal history. His first book, *County Courts of Medieval England*, received the American Historical Association's Herbert Baxter Adams Prize for 1984, as the best first book of an author in European history. His second book, *The Whilton Dispute, 1264-1380: A Social-Legal Study of Dispute Settlement in Medieval England*, was published in 1984. His most recent work has been on the origins of property law in twelfth century England and on the incorporation of the Bill of Rights through the fourteenth amendment in the United States. He is currently working on a book on the Bill of Rights. Professor Palmer teaches both American and English Legal History as well as a course on the Historical Backgrounds of the Bill of Rights.

Professor Michael Hillinger fulfills the legal writing portion of the Institute's mission as the Director of Legal Writing at Marshall-Wythe and the Moot Court Advisor. He received a Ph.D. in Political Science from Columbia University in 1967 and his J.D. from Marshall-Wythe in 1983. Before receiving his J.D., he taught History and Political Science at the Hampton Institute. Prior to joining Marshall-Wythe in 1984, he was a law clerk to the Honorable Walter E. Hoffman, Senior United States District Judge for the Eastern District of Virginia. Professor Hillinger teaches Appellate Advocacy and Legal Research and Writing. One of his moot court teams recently won the Marshall-Wythe Moot Court Invitational Tournament. His research interests are in the area of immigration law and comparative law, with a special interest in Eastern European legal systems.

The late Laura Lee provided the endowment for the Institute in memory of her parents, Alfred Wilson Lee and Mary I. W. Lee. Her bequest created the Lee Memorial Trust Fund, stipulating that an Institute of Bill of Rights be established to further the principles embodied in the first amendment's guarantee of free speech and a free press. The Lee Memorial Trust Fund provides the Institute with \$250,000 annually for its first seven years, of which 1984-85 year is the third, with the corpus of the endowment to be conveyed in the final year. The Trust is currently managed by Arthur B. Hanson, of Hanson, O'Brien, Birney and Butler, Washington, D.C., the late Laura Lee's lawyer; Lloyd G. Schermer, current President of Lee Enterprises, Inc., of Davenport, Iowa; and Richard Schermer of Hanson, O'Brien, Birney and Butler, Washington D.C. Richard Schermer assumed his position as trustee on the death of Philip D. Adler, a previous president of Lee Enterprises, Inc.