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The Virginia Bar Association Journal

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William Belser Spong, Jr. attended Hampden-Sydney College and was graduated from the University of Virginia Law School in 1947. He also studied at the University of Edinburgh, Scotland.

Mr. Spong is presently a partner in the firm of Cooper, Spong, Davis, Kilgore, Parker, Leon and Fennell, of Portsmouth. On July 1, he will become Dean of the Marshall-Wythe School of Law at the College of William and Mary. He has taught in the law schools at the University of Richmond, University of Virginia and William and Mary.

Mr. Spong has served in the Virginia House of Delegates, the Senate of Virginia and from 1966 to 1973 represented Virginia in the United States Senate. He was Chairman of the Virginia Commission on Public Education from 1958 to 1962.

Mr. Spong is also a long-time member of The Virginia Bar Association. He was President-Elect in 1966, resigning after being nominated for the United States Senate. In 1975 he again became President-Elect. He is a Trustee of the Institute for Congress; a member of the American Bar Association's select committee on Executive-Legislative Relations; was a participant at the ABA's Stanford Conference on Law and a Changing Society; and served as Co-chairman of the ABA's Coalition for Adequate Judicial Compensation.

I AM honored to be President of our Association during 1976. In this Bicentennial year there will be an understandable tendency for Virginia lawyers to recall the magnificent contributions of 18th century Virginians to the legal foundation of our nation. We should be proud of the collective genius of Jefferson, author of the Declaration of Independence; Mason, advocate of the Bill of Rights; Madison, father of our Constitution; Wythe, the first law professor; and his pupil, John Marshall, architect of judicial review.

Concurrent with our tributes to the past, Virginia lawyers must examine the present and future. We might review the lofty language of the purpose of our Virginia Bar Association: "for the purpose of cultivating and advancing the science of jurisprudence, promoting reform in the law and in judicial procedure, facilitating the administration of justice in this state, and upholding and elevating the standard of honor, integrity and courtesy in the legal profession." How do we fulfill this purpose in an age of consumerism, an atmosphere of mistrust of government and at a time when many of the basic tenets of our profession are being attacked? We must have a rational, probing and systematic consideration of how our legal institutions will function in tomorrow's world. A recent study entitled: "Law and the American Future" was introduced with the following observations: Futurism is fun and games for some; for others it is a parade of inevitable horrors. But we need not accept all of the predictions of things to come... to conclude that the world of tomorrow is likely to be very different from that of today."

Twentieth Century Virginians are more cautious than their 18th Century forebears. Nevertheless, it is to the credit of this Association that groundwork to serve a more useful role for Virginia lawyers and for all Virginians was begun a few years back. An able and perceptive study by former President Waller Dudley, subsequently implemented by John Davenport, Vernon Geddy, Gibson Harris and Tom Monahan, has formed a basis for making this voluntary Association more responsive to the problems of the legal profession.

Our pledge to contribute one hundred thousand dollars toward construction of the National Center for
State Courts at Williamsburg is an investment for the future. Expectations for the Center to improve the administration of justice throughout our Nation were eloquently underscored by the two principal speakers at our annual meeting: Chief Justice Warren Burger and Justice Howell Heflin of Alabama.

Our Committee system has been revised and will be revised further to enable the Association to express its views on pending legislation in Richmond and Washington, or on proposals under consideration by the American Bar Association. The ready acceptance by lawyers throughout Virginia of committee responsibilities for this year is evidence of the viability of the Virginia Bar Association.

If we are to determine how to fulfill our purpose better, we must see ourselves as others see us. To that end this Association, as you know, commissioned an in-depth survey reflecting the opinions of the people of Virginia about the legal profession in Virginia. The contents of this survey were made public in December by Tom Monahan. The Committee of our Association that worked on the survey presented a program at our Williamsburg meeting to enlighten Virginia lawyers about public perceptions. It will be my purpose during 1976 to see that the conclusions of that survey are shared and discussed with the members of this Association and with all lawyers in Virginia.

In addition to the program concerning the survey, we had programs at the successful winter meeting on mandatory continuing legal education and malpractice. We should encourage the presentation of programs of this type on controversial subjects facing our profession for our meetings in Hot Springs and Williamsburg.

The bar must provide leadership in taking considered positions on such matters of current controversy as advertising, mandatory continuing legal education, the adequacy of our disciplinary procedures, malpractice and legal specialization—problems that directly concern us as lawyers.

But there is also a broad and general obligation today upon the legal profession. We should be in the forefront of a recovery of civility, which has, in my judgment, suffered greatly in the wake of the assault upon American institutions in this time of iconoclasm. Daniel Patrick Moynihan recently said: "When procedure is destroyed, liberty is destroyed. It is not an aspect of governance. It is the essence of government." For the better part of the two centuries of our country's being, lawyers have been balance wheels for stability in government and society. We must espouse courtesy and consideration toward both individuals and groups, opponents as well as allies, and obedience to established rules of procedure and conduct. We must, by example, encourage others to settle disputes with civility and decency.

This Association has flourished since its organization in 1888. It will continue to do so. I pledge my efforts to see that, as an organization, we continue to make a positive contribution to our profession and to Virginia. Our membership has selected an able President-elect in Hugo Blankingship. With his help, and that of our Executive Committee under the Chairmanship of Ned Slaughter, we will work toward fulfilling the high purpose of our founders.
THE Profession faces a crisis. Public Relations have fallen to an all-time low. The number of malpractice claims filed against practitioners is growing by leaps and bounds. Judgments are sky-rocketing. There is a five hundred percent increase in some insurance premium costs. A few insurers are cancelling policies and others getting out of the field completely. One carrier recently complained that it cost $140,000 a month in counsel fees to defend a single case. Another insurance company settled out of court in a payment of $250,000 on a $1,000,000 claim. Private and professional groups are considering becoming self-insurers. A national Legal Research Group reports having serviced over 100 recent malpractice cases.

Sound familiar? Yes indeed. But the above introduction refers to the Legal Profession and not to the Medical Profession. This is the real shocker which has just burst upon the horizon. Reputable commentators even state that the Malpractice panic faced by doctors in the seventies may well become a frightening reality for lawyers in the eighties.

The American Bar Association is so concerned it has just created a special task force to investigate the situation and render a report for remedial action. A current issue of Time Magazine claims that the fundamental problem may be that too many State Bars have been lax in disciplining lawyers except on grounds of gross misbehavior. “Until judges and Bar Associations find more effective ways of checking on the quality of legal services in their jurisdictions, a major share of the policing power will be left to individual lawyers and their angry clients.”

The reputable New York Times reported in January, 1976, that of the 320,000 licensed medical physicians in the United States, 5% or 16,000 were either unfit or incompetent to practice and yet only 66 licenses to practice medicine are revoked each year on the average in the United States. If a similar study were made for lawyers, what results would be revealed?

Do we presently have too many incompetent lawyers? Chief Justice Warren E. Burger thinks so. He recently reported that “We are more casual about qualifying the people we allow to act as advocates in the courtroom than we are about licensing electricians.” He went on to state further that “Between one-third and one-half of the lawyers who engage in serious litigation are not qualified to do so.” This is a devastating criticism.

Chief Judge Irving R. Kaufman of the United States Court of Appeals for the Second Circuit, among many others, appears to agree with the Chief Justice. He proposes a special examination to determine which

Kenneth R. Redden, after his graduation from the University of Virginia, clerked for U.S. Circuit Judge Armstead M. Dobie and practiced law in New York City before returning to the Faculty of the University. His public service includes consultancy to the Commonwealth of Virginia; U.S. Departments of State, Interior and Labor; Federal Judicial Center and National Center for State Courts and 14 Foreign Countries. Author of numerous books, he presently is serving as Reporter to a Supreme Court of Virginia Committee headed by Judge A. Aubrey Matthews of Marion to draft Model Jury Instructions. The Micbie Company has just published his new service to the Bar entitled Legal Malpractice Reporter.
lawyers should be allowed to practice in the Federal Courts. This is already required in some federal courts, such as the Western District of Texas.

I for one am concerned by the policy of some Law Schools to sanction a system whereby a Law Student is forced to learn how to practice Law after graduation at the expense of his clients. This is not true for doctors, dentists, engineers, architects, ministers, veterinarians or undertakers. Why should it be so for lawyers?

No responsible legal educator would want to convert a Law School into a mere Trade School or a purely Bar Coach Class. But to devote three years solely to brooding about Justice and what the Law is, wholly unrelated to the pressing current problems of life, would seem to be a bit too much. A proper mix between theory and practice is not only feasible but highly desirable if our goal is to prepare our graduates for the successful practice of Law.

As stated by Dean Albert M. Sacks in the Winter, 1976 issue of the Harvard Law School Bulletin, "American law schools have the special distinction of providing their students with professional training which embodies the intellectual depth and range of the university and prepares them for on-the-job training. This balance isn't always easy, but for the most part, we are able to impart effective education in a manner and to an extent that is felt even though its elements cannot be articulated clearly."

An imaginative suggestion along these lines by Dean Michael Sovern of Columbia Law School is worthy of serious consideration. He recommends a full year of exposure to law practice, in some form or another, after a student has completed the second year of Law School, before the student is allowed to enroll for the third and final year of academic legal education. Unfortunately, the implementation of this innovative idea to date has been nil.

An even more extreme solution has been recommended by Justin A. Stanley, President-elect of the American Bar Association. He would eliminate the third year of Law School and give students a National Examination at the end of the second year.

"Then the Supreme Courts of the States could specify what else a student would have to be examined on in order to be admitted to practice in their states," Stanley said. "Studies for these examinations could be offered by continuing legal education programs, structured and prescribed by the organized bar and the law professoriat."

As far as I know, every State has eliminated its former requirement of a period of practical apprenticeship before formal admission to the Bar. Perhaps the time is right to consider a return to this useful professional discipline in one form or another if Law Schools don't provide it.

Last year Indiana became the first state to bear down on Legal Education by listing the 56 hours of instruction in specified required courses which a candidate would have to pass in Law School as a condition of eligibility to take the State Bar Examination. The Association of American Law Schools has understandably opposed this development. They resent this intrusion by non-academics into their exclusive realm of curricular matters. But if the professional educators know what is best, why is there so much disenchantment with their finished product? And why did the American Bar Association in 1975 have to insist that every Law School offer a required course in Professional Responsibility if it wishes to retain its accreditation? The American Bar Association has also reacted vigorously across the board by imposing higher Law School accreditation standards which are to be strictly enforced.

Third year student practice is now permitted in Virginia and a number of states. This is a most welcome development. But since this program must be under the close supervision of a lawyer, only a fraction of those in Law School will receive this valuable professional training. There is a one-to-one training relationship in Medical Schools made possible by suitable financing but apparently the public and the professional legal educators do not think that Justice is as important as Health.

Minnesota proposes to alleviate the problem of too many "incumbent incompetents" after, rather than before, graduation by requiring successful completion of 45 hours of refresher courses by every lawyer every three years. This requirement of mandatory Continuing Legal Education programs has been adopted elsewhere such as in Iowa although the organized Bars have mostly opposed it. Other states such as New York are reacting through stricter enforcement of disciplinary proceedings against lazy, alcoholic, dishonest, abrasive, discourteous or stupid attorneys (and judges too!). Certification of Specialists has been the solution proposed by California and Texas.

The ultimate weapon, of course, for legal incompetency is a suit by an unhappy client against his attorney for damages based upon alleged malpractice in the handling of his case. Such action is unfortunate-
ly encouraged by popular magazines and national newspapers which publish articles with provocative titles such as "How to Fire and Sue Your Attorney."

To dramatize the seriousness of the situation, one has only to look at a recent development in Illinois where the statute of limitations does not begin to run against a claim for legal malpractice until the client first discovers that his lawyer was negligent. This means that a lawyer can be sued long after he has retired from the active practice of law and he must necessarily keep his malpractice insurance in effect until the day of his death.

What can you do to protect yourself from this malpractice onslaught? Here are a dozen suggestions for openers.

(1) John Malone, Executive Secretary of the California Bar, warns that "An attorney who does not take malpractice insurance today is just a damn fool." Assuming that he is not talking about you, be certain that you not only carry malpractice insurance but adequate insurance. How much is enough? A 1975 California case held a lawyer liable to his client for $100,000 for having engaged in "Sloppy Research." Adding insult to injury, the client's successful second lawyer then turned around to sue the same first lawyer on the ground that the first lawyer had originally charged the client an exorbitant fee. This time the second lawyer not only won a judgment against the first lawyer for $25,000 in compensatory damages but also for $35,000 in additional punitive damages. One might note in passing that this second lawyer is one of a growing cadre of experts who specialize in suing their fellow legal brethren.

Also be certain that you understand your malpractice policy and insist on the broadest coverage. If you only have "Claims Made" protection, for example, instead of "Occurrence Insurance," you are in bad shape.

(2) Encourage your Bar leadership to direct its attention to the malpractice problem. Place it on a forthcoming agenda for discussion, a survey and a recommendation for solution. For example, some states such as Arizona, where only 60% of the lawyers carry malpractice insurance, are considering the adoption of a mandatory insurance requirement for every member of the Bar through a single group policy. Washington claims that such mandatory insurance policy should be required to protect the public. Oklahoma, on the other hand, wants it to protect the lawyers.

(3) Read the advance sheets regularly for the Supreme Court of Virginia, the Federal District Courts of Virginia, the Fourth Circuit Court of Appeals and the Supreme Court of the United States plus two or three legal periodicals. Keep up-to-date with municipal, state and federal legislation. Preventive Law is the best therapy against malpractice.

(4) Attend at least two National and State Continuing Legal Educational Seminars each year. Indeed, the South Carolina Bar conducted a highly successful and well attended Institute on Legal Malpractice in January, 1976. Baltimore did likewise in December, 1975. We perhaps should follow their leadership.

(5) Be especially mindful of your courteous treatment of your clients at all times. Respond promptly to their letters and phone calls. Keep them posted. Don't make commitments you cannot keep. Don't overcharge. Itemize your statements instead of submitting a round figure which seems to have been arbitrarily taken out of thin air. Unhappy clients often file unwarranted actions against their lawyers which are eventually dismissed in court but regrettably damage the reputation of the lawyer when they are first filed. The local Press publishes the original claim as "news" in large bold type on the first page and buries the subsequent dismissal of the case in italicized Latin on the obituary page.

(6) Be certain that your office staff (for whom you are liable) is well trained and efficient. This is a constant on-going process.

(7) Choose your partners and associates (for whom you are liable) as carefully as you choose your spouse.

(8) Take an active interest in our four Law Schools. Help us where we are weak. Encourage us where we are right. We seek and need your guidance in our constant struggle to upgrade the quality of our academic performance.

(9) You owe some of your professional time and guidance to the indigent. They deserve the best of legal representation. But remember that you can be sued by a client for malpractice even if he does not pay a fee.

(10) Keep accurate and complete records, especially a detailed daily log, so that you may easily be able to successfully refute any unfounded claim made against you by a client.

(Continued on page 22)
Public Sector Collective Bargaining: An Emerging Reality

Virginia attorneys who find themselves involved in cases dealing with public sector collective bargaining soon learn that the legal issues are often interwoven with many non-legal, emotion-laden political issues. This article attempts to sort out the two and present an overview examination of the background and current legal status of existing or potential public sector bargaining relationships in the Commonwealth, and provide suggestions as to the role an attorney might play in those relationships.

The appearance of public sector unionism in Virginia is not a passing local phenomenon but rather part of a national trend which presently finds over half of the federal employees and nearly 30 percent of state and local employees under union contract. In fact public employee union membership is exploding at a rate 600 times that of its private sector counterpart and defacto, extra-legal bargaining relationships abound even absent authorizing legislation.

Reasons for this growth can be traced historically to management and pay practices; but suffice it to say that regardless of the original reasons for union development, it has today to a large measure become a self-generating and self-sustaining process as the unions have assumed the role of championing the various needs of employees as they arise. And, in view of the present state of our economy which combines inflation with an over-abundant supply of workers there is every reason to predict that public employees will be demanding more compensation and that public employers, in view of a ready supply of labor, need not necessarily be responsive. Thus, the ingredients are present for increased union militancy; and, in view of the Virginia Assembly's decision not to control the situation by creating a statutory framework within which existing bargaining relationships could be supervised, it becomes important to examine the legal status of bargaining relationships which may or do exist in Virginia even absent authorizing legislation.

The Non-Legal Context

To adequately discuss the legal status of such relationships it is useful to assess the existing non-legal context within which the legal arguments are often entangled. The most emotional issue that inevitably becomes part of a discussion about public sector unionism is that of strikes by government employees. Many people equate strikes with the existence of public employee unions. The statistics do reveal an apparent correlation between the existence of enabling legislation for public sector bargaining and the growth of public employee union membership, and, to a degree, an increased number of public employee strikes. Yet according to Labor Department figures, strikes by government employees resulted in approximately .03 percent of total work time lost versus a figure ten times as high (.32 percent) in the private sector. Of course public employee strikes are more highly visible than private sector strikes and cause greater public inconvenience (if not incapacity) and therefore are prohibited in all but a few states. Strikes continue however in states with and without bargaining legislation notwithstanding these statutory prohibitions, which has caused some states to experiment with alternatives to the strike prohibition.

Public opinion polls indicate that a clear majority of the public favors the right of public employees to belong to unions and to bargain and by a closer margin support their right to strike. In Virginia, a recent


2 A poll taken in August, 1974 by Calvin Kytle Associates showed 76 percent of the public supported the right of public employees to organize and bargain. In September, 1975 a Harris poll revealed that 50 percent supported organizational rights of public employees while 20 percent opposed it. Interestingly, 50 percent supported their right to strike while 41 percent opposed it. Washington Post, Thursday, September 4, 1975 p. A3 col. 1.
Ronald C. Brown received his J.D. from the University of Toledo Law School and an L.L.M. from the University of Michigan School of Law. He was an attorney with the National Labor Relations Board for two years before joining the faculty at the College of William and Mary School of Law where he has taught courses in labor law, contracts, and employment discrimination law for the past six years.

Mr. Brown, as a member of the American Arbitration Association and its Public Disputes Settlement Panel, is active as a labor arbitrator and as a consultant in management-labor relations matters. He also is the author of numerous articles in the area of public sector labor law.

The trend towards legitimizing public sector bargaining is illustrated by the fact that nearly forty states have passed some type of enabling legislation for bargaining by some of its public employees. Notwithstanding this relatively recent increased development of state statutory schemes, many groups are promoting federal legislation to cover state and local government employees, claiming that for the most part state statutes are providing too little, too late, for too few of its employees. The two federal bills that have been before Congress would cover public employees either by amending the National Labor Relations Act to remove its present exclusion of public employers or by creating a new agency under a very far-reaching, comprehensive law which among other provisions provides for union shops and bargaining by supervisors. Since the legislation raises issues on the appropriate relationship between the federal and state governments, sponsors of the bills are presently awaiting the outcome of an analogous case before the U.S. Supreme Court which should further define the constitutional restraints of federal regulation of state labor relations.

For the most part only employee organizations have worked for passage of a public sector labor relations law in Virginia. Early attempts were made by organizations representing teachers, police, and firefighters, respectively, to lobby for special legislation that would apply to them. Failing in these attempts, they first formed a Virginia coalition of public employee organizations in the early 1970's which lobbied for omnibus bargaining legislation and later affiliated with the more powerful national Coalition of American Public Employees (CAPE) to work for the same end. In 1976, the Assembly will have considered two public sector labor relations bills, one of which would legitimize bargaining relationships and the other which would establish a statutory framework within which meet-and-confer bargaining could take place. Even

4 Brown, Public Sector Collective Bargaining: Perspective and Legislative Opportunities, 15 Wm. and Mary L. Rev. 57 (1973).


7 The enabling legislation, H.B. 621, is sponsored in the House by Delegate Thompson and in the Senate by Senator Gartlan (S.B. 527); A meet and confer bill, H.B. 986, is sponsored by Delegate Lechner. All died in Committee.
though no state labor relations statute has yet been enacted, recent political pressures did generate legislative creation of a special Commission To Study The Rights of Public Employees. Of the several recommendations coming from this body, none of which included establishing a labor relations law, two were enacted into law. The first placed public employees within the coverage of the Right To Work Law and the second created a grievance system for public employees. Still, notwithstanding the lack of enabling legislation, public sector collective bargaining in Virginia flourishes with thousands of local government employees under collective bargaining arrangements. Since these relationships continue to grow, it is important for Virginia attorneys to understand the legal status of such a relationship.

The Virginia Position

Virginia law like most other states expressly prohibits public employee strikes. However, it is silent on the question of public sector bargaining rights, with the exception of public transit employees who have full statutory bargaining rights with impasses resolved by binding arbitration. Therefore, several legal questions remain in the Commonwealth among which include whether public employees have (1) a constitutionally protected right to organize and join unions; and (2) a constitutional right to bargain (i.e. whether a public employer has a duty to bargain); and lastly, (3) whether public employers have the authority to bargain, if they choose, on the basis of authority implied from the express statutory authority to make employment agreements.

On the issue of organizational rights, as early as 1935 the Virginia Supreme Court held that public employees could not join unions where prohibited by public employers. In 1946 the Virginia Assembly passed its right to work statute which guarantees employees the right to work regardless of union or non-union affiliation. During the same legislative session, the Senate passed Joint Resolution Number 12 which

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in essence stated that it is contrary to public policy for State, county, or municipal employers to recognize or negotiate collective bargaining agreements with a labor union representing public employees and contrary to public policy for public employees to form organizations affiliated with any labor union to discuss conditions of employment or to claim the right to strike. In 1955, a lower Virginia court reaffirmed the power of a local government to promulgate rules barring fire-fighters from unionizing. It also held Virginia's right to work law inapplicable to public employees. Thus, by 1955 the Virginia law clearly prohibited public employees from forming or joining unions.

By the end of the next 20 years however, this prohibition was completely reversed. The reversal began with cases like Atkins v. City of Charlotte arising in federal courts outside Virginia but which clearly placed a constitutional cloak of protection around public employees' organizational rights. Virginia's Attorney General thereafter took cognizance of the developing constitutional right to unionize and in 1969 advised public officials that such rights existed. Although State Attorney General opinions in Virginia are merely advisory to local governments, Virginia federal courts have since ruled on the issue and sustained that opinion holding that public employees have the right to associate and rules or ordinances which forbid the same are unconstitutional. Virginia courts have also held that Senate Joint Resolution Number 12 is merely a statement of policy and is without the force of law.

A second source of law which establishes the right of public employees to unionize is found in the 1973 amendment to Virginia's right to work law which in extending coverage to public employees provided by incorporation that "nothing herein contained shall be construed to prevent or make illegal the peaceful and orderly solicitation and persuasion by union members of others to join a union." In sum, the right of public employees in Virginia to form and join unions

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is clearly established, based both on constitutional and statutory authority.

The second major legal issue is whether public employees have a constitutional right to bargain as a concomitant to the right to organize. In other words does the public employer have a duty to bargain with its employees? Although the right to organize does carry with it a prohibition of employer discrimination against employees engaging in protected union activities, arguments that the constitutional right to organize implies a right to bargain have thus far been unsuccessful. However, the issue continues to be raised, as is illustrated by a recent ruling in a federal district court in Virginia. In overruling a motion to dismiss, the court held that a public employer's refusal to meet with a union could have a "chilling effect" on first amendment rights and the court suggested that "the grant of approval to organize and effect" on first amendment rights and the court suggested that "the grant of approval to organize and associate without the corresponding grant of recognition may well be an empty and meaningless gesture." That type of holding has been the exception and the overwhelming body of legal precedent on the issue at the present time clearly does not mandate collective bargaining absent enabling legislation.19

Two Virginia cases have sustained that position although the opinion of the most recent case, Teamsters Local Union No. 822 of Norfolk, Virginia v. City of Portsmouth, Virginia,20 tended to obfuscate the actual issue being decided, namely whether the constitutional right of public employees to associate includes the right to bargain. Both that case and the Firefighters case held that public employees in Virginia are under no duty to bargain either because of express legislative authorization (since it is absent) nor by judicial interpretation of the constitution. The Firefighters case raised an additional issue by stating that "[w]e hasten to point out that . . . public employees . . . are not precluded from sitting down at a table with representatives of the city and discussing matters concerning the employment relationship."21 The issue raised is whether a public employer may, if it chooses, meet and discuss labor relations matters with a union and if it reaches an agreement in those discussions whether it may embody them in an agreement which will be legally enforceable.

The remaining crucial legal question is whether public employers may voluntarily enter into a negotiating relationship with a public employee union absent enabling legislation and negotiate an enforceable contract on the basis of implied authority. This question has been considered by courts outside Virginia and the traditional view has been that a public employer may not bargain with its employees absent express authorizing legislation.22 The justifications advanced to support this position are usually rooted in concepts of state sovereignty and illegal delegation of powers to public employee unions. The persuasiveness of these arguments have tended to diminish over the years in view of government employers' implicit authority to negotiate innumerable provisions in its construction and supply contracts, by the uniform holdings under state legislation and court rulings that no agreement or even concessions to employee demands are required,23 and by the increasing body of experience built up in those states with legislation.

Current Developments

The current developing law on the implied authority of a public employer to bargain with its employees or their representative indicates that the courts have begun to reject the traditional arguments.24 For example where school boards are explicitly empowered to supervise a school system and enter into individual


23 For example, the NLRA imposes an obligation to bargain but specifically states that "such obligation does not compel either party to agree to a proposal or require the making of a concession . . . ." 29 U.S.C. § 15.8(d) (1970).

contracts, courts are finding less difficulty in implying authority to enter into a master agreement. Recent decisions such as those by the Ohio Supreme Court have explicitly upheld this proposition and held that the school board was unable to arbitrarily terminate its agreement and must honor its contractual duty to bargain in good faith. However, even in view of this emerging trend of law, one cannot safely predict judicial approval of such agreements, due to the traditional jealousy surrounding governmental sovereignty.

The issue in Virginia has not been resolved. Although the recent Teamsters Local Union 822 included language alluding to the lack of authority of a public employer to bargain absent statutory authorization, a close reading of the case shows that the holding is speaking to the issue presented by the case —whether a public employer must bargain with a public employee union because of the constitutional right of public employees to organize. The answer, as discussed, is clearly negative.

Analogous case law in Virginia can be found in McKennie v. Charlottesville and Albemarle Railroad where the Supreme Court of Appeals of Virginia held that a municipal corporation having explicit authority to contract also therefore had implied authority to negotiate an arbitration provision. A similar result was reached in Howard v. School Board of Alleghany County where it was held that the board had implied authority to negotiate on matters incidentally related to the school board’s express powers. In sum, the trend of case law outside the Commonwealth of Virginia is finding increasingly that implied authority to negotiate absent explicit legislative authorization is permitted. In Virginia there is no direct or clear case law to either preclude or permit public sector bargaining though it has been held that meeting and conferring with employees is permissible.

The State Attorney General has issued a series of opinions on the question of implied authority to negotiate in Virginia. In 1970, he stated that if a public agency were to negotiate it would need to be based on implied authority, but in view of the 1946 Senate Resolution against collective bargaining and because implied authority to negotiate had met with scant favor as a principle of law he advised that the better practice would be to enact enabling legislation if bargaining was desired. In a subsequent opinion he observed that a school board could meet and discuss working conditions with employee groups and embody the results of those discussions in resolutions but any agreements reached would be of “dubious enforceability.” In 1974, the Attorney General advised that authority to bargain collectively cannot be implied from general powers granted localities and that local governments may not enter into such agreements absent explicit statutory authority from the General Assembly. In a later opinion he summarized his position that a public employer may not collectively bargain absent express statutory authorization but it may meet and discuss working conditions with its employees and adopt agreements embodying those points agreed upon in the discussion as long as it retained final decision-making power over such agreements.

In summary, the present status of Virginia law on the issue of public sector bargaining rights is that it has recognized a constitutional right to form and join unions and has held that such a right does not give rise to a constitutional right to bargain. However, judicial precedent outside Virginia is building that would permit a public employer, if it wishes, to engage in collective bargaining and to negotiate an agreement absent explicit statutory authorization. Inside Virginia the outcome of that issue is less certain though there seems to be analogous case law to support the finding of implied authority to enter into master contracts with employee representatives.


26 Supra note 20. However a case has been filed on that issue which may soon resolve the question. Newport News Education Ass’n v. School Board of Newport News, Case No. 73-716 filed in Circuit Court on February 19, 1976.


30 Id. at 231, 232.

31 Opinion to Delegate Howard Carwile October 7, 1974.

32 Opinion to the Honorable Frederic Lee Ruck, County Attorney for Fairfax County November 19, 1974.
Drafting Bargaining Agreements

Returning to the original observation that legal issues on public sector collective bargaining are often interwoven with non-legal, emotional, or political considerations, it should be re-stated that some 25 or 30 percent of the Commonwealth's teachers and a significant number of other public employees are presently under collective bargaining agreements. While it is clear that one option available to public employers in Virginia (and being exercised in most cases) is to refuse to negotiate, it is equally clear that some employers have chosen to ”meet and confer,” or engage in “professional negotiations,” or, more simply put, collectively bargain. In each situation the result is the same. The employer has chosen, for whatever reason, to deal with a particular employee-designated representative and negotiate an agreement.

If the employer has chosen this course, it is important for Virginia attorneys to understand that in the absence of legislative guidance there exists both contractual and constitutional pitfalls in the bargaining relationship. Thoughtful drafting of any agreement is required to avoid the real possibility of union-dominated first agreements. First, a contractual obligation may be created notwithstanding the uncertainty of a court finding implied authority if the parties agree to incorporate a memorandum of their understanding into individual teacher contracts. Thus legitimized, other agreed upon provisions substantive and procedural (such as a duty to bargain in good faith, etc.) may be legally enforceable. And as with any contract, in the absence of a clearly stated meaning, a court could be called in to interpret and in some cases define the meanings of such words as good faith, bargainable subjects, grievable items, and unfair conduct. Therefore, it is imperative to draft such procedural agreements with much clarity and as much specificity as is desired, should a court be called in to interpret its provisions. Additionally, some consideration will need to be given to the extent to which certain powers are reserved to the employer such as the right to hire and fire or subjects for negotiations to name just a few.

These so-called management rights clauses can prevent a multitude of later disagreements on issues of authority that inescapably arise even in jurisdictions with statutes. In effect, it is suggested that the draftsmen of bargaining agreements create their own “private statutory scheme” both in the substantive provisions and in procedural requirements that govern the bargaining relationship itself as well as any secret ballot election process used to establish and maintain that relationship.

Of course there are risks to a public employer in agreeing to abide by certain procedures in the pre-election, negotiation, and contract administration phases of bargaining. A measurable degree of flexibility is compromised by such agreement whereas absent that agreement the employer in a non-statutory state such as Virginia would be free to act more unilaterally. However, it is also true that a fairly-arrived at set of procedures provides the necessary constraints for more meaningful bargaining to take place. Additionally, the employer may gain enforceable contract rights to control non-compliance with contractual provisions (union unfair labor practices etc.) and a skillful draftsman can include appropriate remedies for non-compliance such as money damages, loss of dues check off or other privileges, or even loss of union recognition.

The second potential problem area involves constitutional restraints placed on the public employer. Even absent statutory proscription of employer misconduct, the constitution limits the employers' ability to discriminate against employees because of their union activities. However, public employers very often fail to realize that the constitution does not bind it to inaction and the employer especially during the crucial pre-election period retains free speech rights and may actively provide persuasive information on the relative merits of unionism or of one union versus another or to deny the use of institutional advantages such as school mailboxes. Additionally, public employers may limit the rights of their employees to solicit on behalf of the union to certain prescribed non-working periods by establishing a valid no-solicitation rule.

Constitutional limits do exist however. For example, although the employer retains the right of free speech, the 14th Amendment Equal Protection Clause of the (Continued on page 16)

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33 E.g., AFSCME v. Woodward, 406 F.2d 137 (8th Cir. 1969); McLaughlin v. Tilendis, 398 F.2d 287 (7th Cir. 1968); Atkins v. City of Charlotte, 296 F. Supp. 1068 (W.D. N.C. 1969).


Survey: The Public Looks at Virginia Lawyers

Editor's Note: At the Winter Meeting, the Association presented the results of the public attitude survey recently conducted under the auspices of The Virginia Bar Association's Committee on Special Issues of State and National Importance to determine the public's attitude toward lawyers and the legal profession in Virginia.

The survey results were discussed by a distinguished panel moderated by Dean Roy L. Steinheimer, Jr., Dean of the Washington and Lee University, and composed of Peter D. Hart, of Peter D. Hart Research Associates, and John L. Walker, Ammon G. Dunton, Jr., and Randolph W. Church, Jr., prominent Virginia attorneys.

At the request of the President of the Association, the Journal now offers for the information of the membership a portion of the cover report from the Committee and the ten most significant tables from the survey report itself.

Members interested in obtaining further information about the survey may contact Hugh L. Patterson, Chairman, Committee on Special Issues of State and National Importance, 1800 Virginia National Bank Building, Norfolk, Virginia 23510.

QUOTES FROM THE DISCUSSION PANEL

Peter D. Hart

"... [B]y a 53 to 39 margin the people of Virginia agree that there are too many dishonest and unethical lawyers . . . ."

Ammon G. Dunton, Jr.

"... I had expected that rural Virginians would have expressed disproportionately greater confidence in lawyers than urban or suburban Virginians. This was not the case. The confidence levels were low in both areas."

Randolph W. Church, Jr.

"The critical question . . . is—do we care? . . . I think we should care . . . . I think the system is in trouble if there is a large undertorrent of distrust in the profession, and when I say the system, I don't just mean our system, our legal system, . . . I'm talking about the whole system of government."

John L. Walker, Jr.

"... [T]he whole thing goes for nought if we let this report gather dust on library shelves around the State. The key to the whole project is that we use it to take affirmative action . . . ."

To The Virginia Bar Association:

IN 1974 the Committee on Special Issues of State and National Importance unanimously agreed that Watergate and the continuing criticism of lawyers on a national basis demanded that Virginia lawyers attempt a detailed assessment of the public's attitude towards the profession. The committee, dubious as to the ability of lawyers to analyze themselves objectively and doubtful as to the credibility of an in house effort, proposed the hiring of a professional research firm.

The Executive Committee approved the proposal and agreed to finance a professional study of attitudes towards lawyers in Virginia. Five professional research firms were identified and bids were solicited. The committee sought a firm that would first develop a questionnaire and thereafter conduct personal as opposed to telephone interviews. The subject matter of the questionnaire was discussed in detail within the committee and with the various research firms.

Peter D. Hart Research Associates, Inc. was ultimately awarded the project. The Executive Committee studied and approved a draft of the questionnaire at the 1975 meeting at the Greenbrier and the survey was conducted in late August.

The results of the survey were computerized, analyzed and set forth in a seventy page report with an equal number of tables reflecting the statistics developed. The Executive Committee received the report in late October of last year and decided that it should be released to the public . . . .

—Excerpts from the Report of the Committee on Special Issues of State and National Importance, Hugh L. Patterson, Chairman
A Key to the Symbols Used In These Tables

(VOL) Volunteered response.
+ Base too small to be statistically reliable.
(L) Based on those respondents who had consulted, or whose spouse had consulted, a lawyer.

Levels of Confidence in Various Professions and Occupations
Summary Table

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<tr>
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Expectations of Hourly Fees of Various Professions and Occupations
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1 Medians based upon those who expressed an opinion.

Levels of Confidence in Lawyers

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Ratings of Various Sizes of Legal Firms on Selected Professional Factors
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<td>Devoting full attention to each client's problem</td>
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<td>Maintaining high ethical standards</td>
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### Whether Respondent or Spouse Ever Consulted or Hired a Lawyer

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### Respondents' Perceptions of Type of Lawyer Who Would Best Serve Them

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### Feelings on Whether Lawyers Should Be Allowed To Advertise

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Evaluations of Job Being Done by Virginia State Bar in Disciplining Lawyers

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Feelings Toward Specialization Among Lawyers

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Predicted Results of Proposed Specialization Among Lawyers

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Collective Bargaining

(Continued from page 12)

Constitution limits it from denying equal treatment to unions competing for recognition during the pre-election periods in matters such as use of school mailboxes or other facilities. Also, an employer absent statutory authority may again run afoul of the 14th Amendment if it chooses either before or after a union election to meet with only one of several employee organizations seeking an audience with the public employer. Thus, a grant of exclusive recognition by a public body promising to meet only with the union representative, absent some legislative authority, raises significant constitutional questions.

In conclusion, it is apparent to any observer of the legal problems involved in public sector collective bargaining that the legal issues raised are many and complex even in states providing a legislative framework. Questions involving the protection of employees' free choice during the pre-election period, and questions relating to the appropriate bargaining unit, the scope of bargainable issues, the limits on employer and union unfair labor practices are in a statutory state considered within the framework of an administrative structure staffed by labor relations experts. To permit such complex questions to remain in the nebulous state as exists in Virginia invites both disrespect for the law and possible violations of the public interest when public employers and unions negotiate improper subjects or permit an inordinate dislocation of available public resources due to union pressures, all of which presently remain unregulated, and unsupervised in Virginia.

36 Although, as discussed, the use of school mailboxes for organizational activities may be limited, once they are made available to one union it will usually be unconstitutional to deny use to another union absent authorizing legislation. See e.g., Dade County Classroom Teachers Assoc. v. Ryan, 225 So. 2d 903 (Fla. 1973); and Local 1880 of AFT v. Fla. Bd. of Regents, 355 F. Supp. 594 (N.D. Fla. 1973).

Chief Justice Burger Announces LEAA Grant to the National Center

THE highlight of The Virginia Bar Association’s Thirteenth Annual Winter Meeting was an address by Warren E. Burger, Chief Justice of the United States.

On Saturday evening, January 17, 1976, Chief Justice Burger was the principal speaker at the Association’s traditional banquet, held in the Virginia Room at the Colonial Williamsburg Conference Center in Williamsburg, Virginia.

Chief Justice Burger’s main topic was the National Center for State Courts. After discussing the importance of the state courts in our judicial system and the value of the Center to the state courts, Chief Justice Burger announced to the Association membership that the Law Enforcement Assistance Administration has made a grant of one million dollars for the construction and equipping of the Center’s new building, which is to be located in Williamsburg.

The Chief Justice’s announcement was received with great pleasure by the Association, which has pledged its full support to the development of the Center.

Richmond Bar Association Supports the Center

On February 19th, 1976, the Richmond Bar Association presented the National Center for State Courts with a donation of $1,000 for its new headquarters in Williamsburg. E. Milton Farley, III, President of the Richmond Bar Association, presented the check, and Virginia’s Chief Justice Lawrence W. I’Anson accepted the gift on behalf of the National Center.

The gift was specifically designated to honor the beloved retired Chief Justice of Virginia, the Honorable Harold F. Snead. Chief Justice Snead has been a member of and active in The Virginia Bar Association since 1930.

Effective December 30, 1969, the Tax Court of the United States became the United States Tax Court, with status of a court of record under Article 1 of the Constitution. That event marked the culmination of nearly a half century of evolution of the Court and effected fundamental changes in its legal structure and powers. Those changes, in turn, prompted a comprehensive revision of the Rules of Practice and Procedure of the Court. Although the full import of the changes may not be fully felt for some years to come, one immediate result, in any event, has been that tax practitioners, experienced and inexperienced alike, are finding it necessary to familiarize themselves with the reach of the Court's new powers and the changes in the Court's rules.

While the new rules contain significant modifications, they nevertheless continue much of the earlier usage. The authors have treated both with equal care in the present work. Consisting of some 580 pages of text, specimen forms, table of cases and index, the volume provides a basic readily usable reference to the content and interpretation of the Tax Court's rules, as well as a number of aspects of their practical application and operation. Although captioned as a text on Tax Court practice and procedure, thus possibly suggesting a general treatise on the Tax Court as a forum for resolution of tax controversies, the text might be more precisely and informatively described as a publication of the revised Rules of Practice and Procedure of the United States Tax Court, with explanation, annotations and specimen forms keyed to the individual rules.

In this latter respect, much of the effectiveness of the publication is in its format, and the consequent ease of identification and location of explanations and annotations, as well as specimen forms, relevant to a particular rule or portion of a rule with which one may be concerned. This is accomplished (after a brief introductory summary of the jurisdiction and powers of the Court) by the format of the text which follows a general pattern of first stating a rule verbatim in its entirety, followed usually by a brief editorial comment on the general purport of the rule, and then repeating verbatim, again, each individual part of the rule. Each of the quoted portions of the rule is then followed directly by editorial comment concerning interpretation and the function and usage of that particular part of the rule in actual practice. The comments are accompanied by annotations of pertinent case law. Where the rule is new to Tax Court procedures, but is one with respect to which the Court has drawn on the Federal Rules of Civil Procedure, or procedures of other forums, the authors have attempted to provide insight to interpretation by citation of relevant case law of the other forum where available.

A second, and highly useful, portion of the text is devoted to reproduction of some 90 specimen forms relevant to procedures embodied in the formal rules. Ready reference to the appropriate form is provided by the simple but effective device of numbering the forms to correspond with the particular rules to which they relate. The forms are well chosen for both their format as well as for their practical usefulness. In the range of actions covered, they would appear likely to meet most if not all the needs of the practitioner in an average case, as well as providing some forms of less familiar usage. As is the case in any work such as this, the author always has to balance the advantages of thoroughness of content with limitation of space and the convenience of conciseness of the text. While the balance struck by the authors is certainly sensible, an appendix containing the verbatim Notes of the

(Continued on page 22)
SOME COMMENTS ON ADVERTISING

THROUGH the years, the public image of lawyers has been less than flattering. One of Shakespeare's characters said "Kill all of the lawyers." Carl Sandburg's hearse horse snickered as he hauled the lawyer away. Charles Dickens was not kind to lawyers in his novels. Samuel Johnson once observed that "I do not like to speak ill of any man behind his back, but I do believe he is a lawyer." A recent public opinion survey in Virginia which was conducted under the auspices of the Virginia Bar Association indicates that public esteem for lawyers ranks below plumbers and only slightly above television newscasters and members of city councils.

In the past, we may have been able to shrug off this somewhat tarnished image by rationalizations born of a smug complacency about our status as professionals. But the scene is changing. In this age of consumerism, public attitude toward lawyers is giving way to public action against them. The legal profession is increasingly under attack. Despite some resistance from our profession, we have been told to accept group legal services as a viable concept. Our minimum fee schedules have been struck down. Our resistance to change has resulted in an erosion by the courts of our status as a profession. We could well be on the brink of becoming tradesmen rather than professionals if we aren't careful. To maintain our status as professionals, we must demonstrate a capacity to foster change within our ranks which will make lawyering fulfill the needs of the public. We must be willing to experiment with ways and means of bringing legal services to a broader spectrum of the public in a manner and at a price which is acceptable to the public.

One criticism of our profession which is gaining momentum, is that under our Code of Professional Responsibility we prevent the dissemination of information which would make it possible for the public to understand the availability of legal services and to make informed decisions in arranging for such services. The point is made by consumer groups that advertising by lawyers would be the answer to this problem.

Indeed, the Consumers Union now has an action pending in which it charges that the provisions of DR 2-102(A)(6) of the Code of Professional Responsibility violate the First and Fourteenth Amendment rights of the public to obtain and publish information concerning attorneys practicing law in Arlington County, Virginia. Actions along similar lines are pending in California, New York and Wisconsin. The Department of Justice only thinly veils its feelings that the Code's restrictions on advertising may have anti-trust implications.

Once again our methods of conducting our professional affairs are under the guns. It is difficult to gainsay the public's need for more information. But to suggest that such information should be disseminated through advertising would seem to many in our profession to be akin to an attack on motherhood. After all, haven't we always diligently striven to control the size of name plates and the information which can appear on letterheads and cards in order to maintain the dignity of our profession? What, then, should be our reaction to this issue of advertising? Should we fight still another case to the highest court in the-land and put our status as a profession in further jeopardy? Or should we, instead, recognize the public need for information and voluntarily seek ways and means of providing such information in a dignified and responsible manner? Advertising need not necessarily mean neon lights and TV commercials.

I think the reaction of the ABA to the advertising issue is heartening. It indicates a desire to solve this problem from within our profession by orderly change in our methods of operation rather than by resort to the courts. As a trial balloon intended to stimulate discussion, the Committee on Ethics and Professional Responsibility recently suggested that the flat prohibition on advertising now found in DR 2-101 be changed to permit advertising so long as it does not contain a "false, fraudulent, misleading, deceptive, or unfair statement or claim." The text of the proposed amendment to DR 2-101 is as follows:

19
Roy L. Steinheimer, Jr. received his A.B. from the University of Kansas in 1937 and his J.D. from The University of Michigan Law School in 1940. After his admission to the bar in New York and Michigan, he practiced law with Sullivan and Cromwell in New York City until 1950. He then joined the faculty of The University of Michigan Law School. Mr. Steinheimer presently is Dean of the Washington & Lee Law School.

He is a member of the Uniform Commercial Code Committee of American Bar Association Section on Corporation, Banking and Business Law; the Council of the Corporation, Finance and Business Law Section of Michigan State Bar Association; Washtenaw County, Michigan and American Bar Associations and the American Arbitration Association. Mr. Steinheimer serves as Chairman for the Uniform Commercial Code Committee of the Corporation, Finance and Business Law Section of Michigan State Bar Association and Ann Arbor Airport Advisory Committee.

"DR 2-101. Publicity and Advertising"

"(A) A lawyer shall not, on behalf of himself, his partner, or associate, or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, or unfair statement or claim. A 'public communication' as used herein includes, but is not limited to, communication by means of television, radio, motion pictures, newspaper, book, law list, or legal directory.

"(B) A false, fraudulent, misleading, deceptive, or unfair statement or claim includes a statement or claim which:

1. contains a misrepresentation of fact;
2. is likely to mislead or deceive because in context it makes only a partial disclosure of relative facts;
3. contains a client's laudatory statements about a lawyer;
4. is intended or is likely to create false or unjustified expectations of favorable results;
5. implies unusual legal ability, other than as permitted by DR 2-105 [designation of specialty and statement of limitation of practice];
6. relates to legal fees other than a standard consultation fee or a range of fees for specific types of services without fully disclosing all variables and other relevant factors;
7. conveys the impression that the lawyer is in a position to influence improperly any court, Tribunal, or other public body or official;
8. is intended or likely to result in a legal action or legal position being taken or asserted merely to harass or maliciously injure another;
9. is intended or is likely to appeal primarily to a lay person's fears, greed, desires for revenge, or similar emotions;
10. contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived.

"(C) A lawyer shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity unless the fact of compensation is made known in such publicity."

This proposal is so sweeping in its permissiveness on the matter of advertising that it has served the purpose of getting the attention of lawyers and bar groups across the country. It has stimulated discussion and counter-proposals.

In a reaction to this proposal, the Section of Economics of Law Practice of the ABA has criticized the proposal for dropping all bars to advertising so long as the vague prohibition against a "false, fraudulent,
misleading, deceptive, or unfair statement of claim" in such advertising is not transgressed. The Section of Economics of Law Practice suggests that definite limits should be placed on the contents of advertisements. The purpose of advertising is to permit the public to make an informed arrangement for legal services. This, the Section suggests, can be done by furnishing information which would be limited to (1) name, (2) address, (3) telephone number, (4) year of birth, (5) year of admission to state bar, (6) years of total practice, (7) designation of areas including designation as a general practitioner, (8) credit card acceptability, (9) office hours and out-of-office availability, (10) languages spoken and written and (11) initial consultation arrangements, e.g., no charge, fixed charge, etc.

State Bar Associations have also reacted to the ABA trial balloon. For example, at the Mid-Winter Meeting of the Virginia Bar Association, the following action was taken:

"Resolved that the Virginia Bar Association, having reviewed the proposed revisions of Canon 2 of the Code of Professional Responsibility as submitted by the American Bar Association Standing Committee on Ethics and Professional Responsibility, concludes that such revisions are not in the best interests of the public or the profession and should not be adopted. Specifically, the Virginia Bar Association is of the opinion (a) that DR 2-101, DR 2-103, DR 3-104, and DR 2-105 and related Ethical Considerations should not be revised and (b) that DR 2-102 and related Ethical Considerations should not be revised except as to DR 2-102(A)(6) concerning law lists and directories and what information may properly be included therein, but even here the Virginia Bar Association expresses concern about the publication of fees for the reason that such information is likely to be misleading."

With the various responses to the trial balloon in hand, at the Mid-Winter Meeting of the ABA in Philadelphia, the House of Delegates approved the following amendments to DR 2-102(A) of the Code of Professional Responsibility:

"(A) A lawyer or law firm shall not use or participate in the use of professional cards, professional announcement cards, office signs, letterheads, telephone directory listings, law lists, legal directory listings, or similar professional notices or devices, except that the following may be used if they are in dignified form:

* * * *"

"(5) A listing of the office of a lawyer or law firm in the alphabetical and classified sections of the telephone directory or directories for the geographical area or areas in which the lawyer resides or maintains offices or in which a significant part of his clientele resides and in the city directory of the city in which his or the firm's office is located; but the listing in the alphabetical section may give only the name of the lawyer or law firm, the fact he is a lawyer, addresses, and telephone numbers, and the listing in the classified section must comply with the provisions of DR 2-102(A)(6). The listing shall not be in the distinctive form or type. A law firm may have a listing in the firm name separate from that of its members and associates. The listing in the classified section shall not be under a heading or classification other than "Attorneys" or "Lawyers," except that additional headings or classifications descriptive of the types of practice referred to in DR 2-105 are permitted.

"(6) A listing in a reputable law list, [or] legal directory, a directory published by a state, county or local bar association, or the classified section of telephone company directories giving brief biographical and other informative data. A law list or any directory is not reputable if its management or contents are likely to be misleading or injurious to the public or to the profession. A law list or any directory is conclusively established to be reputable if it is certified by the American Bar Association as being in compliance with its rules and standards. The published data may include only the following: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the lawyer or law firm concentrates[;], a statement that practice is limited to one or more fields of law[;], or a statement that the lawyer or law firm specializes in a particular field of law or law practice, to the extent permitted by the authority having jurisdiction under state law over the subject and in accordance with rules prescribed by that authority; [but only if authorized under DR 2-105(A)(4)] date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public or quasi-public offices; military service; posts of honor; legal authorships; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; memberships and offices in legal fraternities and legal societies; technical and professional licenses; member-
ships in scientific, technical and professional associations and societies; foreign language ability; names and addresses of references, and, with their consent, names of clients regularly represented; whether credit cards or other credit arrangements are accepted; office and other hours of availability; a statement of legal fees for an initial consultation or the availability upon request of a written schedule of fees or an estimate of the fee to be charged for the specific services; provided, all such published data shall be disseminated only to the extent and in such format and language uniformly applicable to all lawyers, as prescribed by the authority having jurisdiction by state law over the subject."

This action is a step in the right direction. Whether it strikes the proper balance between the public’s need for information in engaging the services of lawyers and the need to maintain the dignity and integrity of our profession remains to be seen. We need to “stay loose” as the scene unfolds.

Meanwhile the “ball is in our court.” Are the lawyers of Virginia willing to face the issue of advertising in a realistic manner? I, for one, would hope so. Neon lights and TV commercials have never appealed to me in any context and certainly not in the context of a profession. Solutions short of this are possible if we will voluntarily and dispassionately address ourselves to the problem.

Malpractice!  
(Continued from page 6)

(11) Don’t accept a complicated case in an area in which you are not fully competent. Refer it to or associate with a lawyer who is a recognized specialist on the subject.

(12) Meet your deadlines. Failure to file promptly is the main area in which most malpractice cases arise. If you don’t have an office routine or foolproof “tickler” or reminder system which you check religiously every day, with provision made for coverage when you are out-of-town, install one immediately.

In conclusion, in the present epidemic of legal malpractice liability, we face a problem of monumental proportions. This is therefore the time for all of us, collectively and individually, to reflect maturely and react constructively so that we may continue to discharge as successfully as possible our heavy duty of responsibility to the public.

Book Review  
(Continued from page 18)

Rules Committee of the Court—which undertook the revision of the rules—might have been desirable.³

³ Much of the content of these Notes has, of course, been included by paraphrase in the editorial content of the present work. Also, the official Notes of the Rules Committee have been published as a permanent record in Volume 60 of the United States Tax Court Reports. Nevertheless, one of the values of the present work lies in the fact that it brings together in one ready reference the various basic materials relevant to the formal rules of practice and procedure of the Court.

While the work is not exhaustive as a treatise on Tax Court litigation, and is manifestly not a substitute for up-to-date research for late developments, it nevertheless does have real value as a working tool for the tax practitioner by bringing together in one place for ready reference the formal rules of the Court, relevant explanation and comment concerning their interpretation and application, case law, and pertinent forms for implementation of those rules.

ARTHUR B. WHITE
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Memorials .................................................. Cover III
The Winter Meeting

Chief Justice of the United States Warren E. Burger surprised all of Virginia by announcing that the Federal Law Enforcement Assistance Administration had decided to grant one million dollars for the construction of the National Center for State Courts headquarters building in Williamsburg. Burger's unexpected good news, delivered at the closing banquet of the Virginia Bar Association's Winter Meeting, was the highlight of one of the most well-attended Association meetings in recent history.

Williamsburg's Conference Center was filled with more than 1,000 attorneys and spouses during the two-day Winter Meeting, January 16 and 17. Business and committee meetings, professional panel discussions, and a speech by Howell T. Heflin, chief Justice of the Alabama Supreme Court, were punctuated by cocktail parties and individual visits to the 18th century restaurants and other historic attractions of Virginia's restored colonial capital.

Chief Justice Heflin, vice-chairman of the National Center's board of directors, opened the meeting by praising both the work of the Center and Virginia's leading role in establishing the organization and encouraging its growth. Heflin called the National Center "indispensable to the effective administration of justice." He expressed the belief that the construction of the new headquarters could begin in Williamsburg as early as this summer.

In other business, Members of the Association unanimously passed three resolutions on controversial topics. They concurred in the decision of the Committee on Legal Education and Admission to the Bar to ask the General Assembly to end the law office study program. Virginia is one of only a few states still permitting persons to read for the law while serving a three-year clerkship in a law office and then take the bar examination without attending law school. The committee members felt that the people who seek to enter the profession by this route are not as well prepared to practice as those who have been graduated from an approved law school. Association President Thomas Monahan, discussing the proposal to phase out the program, said that there is more to being a competent lawyer than passing the bar exam; and he noted that the majority of people who read for the law do not meet even this requirement. If the General Assembly heeds the VBA's request, the Virginia State Bar would not approve any new candidates for the program, while those already enrolled in such study would have to complete all requirements for admission to the bar by "a date certain."

The Association also declared its opposition to the American Bar Association's proposal to revise the Code of Professional Responsibility to permit lawyers to advertise their services. Concern was expressed in the resolution that the publication of lawyers' fees, particularly, might mislead the public. However, the resolution did favor revisions in the Code to relax the restrictions on information which may be placed in law lists or directories.

A third resolution urged the General Assembly to refuse to authorize collective bargaining for public employees. Such legislation was declared to be "incompatible with the sovereignty of our government" and likely to present "the real and present danger of disruption of necessary and vital services."

In other business, the Association approved 145 new members and elected officers for 1976: President-elect, A. Hugo Blankingship, Jr., of Fairfax; Secretary-Treasurer, A. Ward Sims of Charlottesville; Executive Committee members, Del. Archie Campbell of Wytheville for the Southwest District, L. Lee Bean of Arlington for the Potomac District, and Dean Roy L. Steinheimer of the Washington and Lee University Law School as member-at-large.

Problems of malpractice insurance and mandatory continuing legal education were the focus of two professional panels.

In the Young Lawyers Section's Medical Malpractice session, Dr. Raymond Brown of Gloucester, president of the Virginia Medical Society, blamed rising malpractice insurance rates on a "suit-crazy society." Brown told the members that "professional medical liability seems no longer an insurable risk as the laws and society are presently constituted."

Attorney General Andrew Miller, however, rejected as "possibly unconstitutional" any plan which would put a ceiling on malpractice recoveries, as proposed by the Virginia Medical Society. Miller also opposed a ceiling on attorneys' fees, since extraordinary expenses are often unforeseeable, and he rejected the elimination of the contingent fee on the grounds that it may be the only way some parties can afford to press their claims.
Washington, D.C. attorney Aaron M. Levine, whose principal practice has been in the malpractice arena, strongly supported the status quo. He pointed out, though, that every time an unfounded claim is pressed to coerce a doctor to forget his fee or to force an insurance company to settle just to avoid a court fight, it damages the legal profession.

Also participating in the discussion were Indiana Insurance Commissioner H. Peter Hudson and Jerome A. Whitney, Jr., senior vice president of the Commercial Union Insurance Company. Both men supported the Indiana Bill, which places strict limits on the dollar amount of recovery for malpractice, restricts fees, and reduces the statute of limitations in such cases.

In a second panel discussion, mandatory continuing legal education provided considerable ammunition for debate. Former Minnesota Bar Association President R. P. Brosnahan warned that mandatory CLE is coming for the legal profession as it has for many others. The choice, he said, is for the state to work out its own plan, or have a program thrust upon it. But Boston Bar Association President Edward J. Barshak insisted that forcing lawyers into the education process will not solve the problem of incompetent attorneys. Good lawyers, he argued, will go to CLE programs anyway; bad lawyers may be forced to go, but probably won’t learn much. Barshak said the real problem is that little is done to enforce Canon Six requirements for competence.

Should CLE become required in the Old Dominion, the VBA will be ready. CLE Committee Chairman Arthur B. Davies III said his group could establish such a program by building on and expanding the present voluntary CLE offerings, provided sufficient notice were given.

The Virginia Bar Association will operate the remainder of 1976 under the direction of President William B. Spong, Jr., who took office during the Winter Meeting. Spong pledged his efforts to encourage more programs on controversial subjects facing the legal profession, and promised to provide the conclusions of the VBA survey on public perceptions of lawyers to all members of the profession in Virginia. He called on the Association to provide leadership by taking “considered positions on matters of current controversy... (and) be in the forefront of a recovery of civility” in the wake of assaults on American institutions.

Interwoven among the serious business of the Association were a number of social events. Virginia lawyers and their spouses were treated to a reception and tea dance, hosted by United Virginia Banks. A pre-luncheon reception was given by First and Merchants National Bank. Black tie was the order of the evening at the UVB affair and at yet another social occasion hosted by the Michie Company of Charlottesville, one of the nation’s foremost law book publishers. The Virginia Lawyers’ Wives had a treat all their own: luncheon at the historic King’s Arms Tavern in Colonial Williamsburg. The VBA’s Young Lawyers Section contributed mightily to the festivities of the occasion, providing after-dinner dancing for members and guests following the gala banquet which closed the Winter Meeting.

Activities

YOUNG LAWYERS SECTION ESTABLISHES ENVIRONMENTAL LAW COMMITTEE

With the approval of President Spong and the Executive Committee of the Senior Association, the Young Lawyers Section has established a new committee on environmental law. As its initial project, the committee will be offering its services to the Legislature and the Executive branch of the State government to provide research on, and drafting of, legislation affecting the environment.

The service to be offered by the Environmental Law Committee is similar to that performed by legislative research bureaus which have been established by volunteers at various law schools. Upon referral of proposed legislation, the committee would study the performance, if any, of similar legislative enactments in other states. Additionally, the committee would prepare a memorandum setting forth pros and cons with respect to each aspect of the legislation and would draft or redraft, as needed, any sections of the legislation including several alternatives where appropriate. The ultimate objective of the Environmental Law Committee is to present a neutral report of first-class quality. It would not, however, be within
the committee’s responsibility to make the basic legislative decision as to which alternative should be enacted.

This new committee, furthermore, will complement, rather than compete with, the existing Legislative Drafting Service and the Attorney General’s office. Because the committee would limit the scope of its work to only one or two pieces of legislation per session of the General Assembly, it would do an in-depth research job, and it would be comprised of a diversified cross-section of young lawyers who are interested in environmental law. To avoid any conflicts of interest, the following guidelines have been established:

1. While the Young Lawyers Section will strive to have all points of view represented on the Environmental Law Committee, no one should be a lobbyist for a particular client;
2. The names of all lawyers working on a report will be submitted as part of the report; and
3. Any lawyer who feels that the interest of the client might conflict with the objections of the committee, will disqualify himself from working on that project.

In order to avoid having the Association favor or support any individual legislator in his individual capacity, the Environmental Law Committee is establishing specified procedures so that all requests for study of legislation will be channeled through an appropriate state official.

The committee will begin preparing a compilation of existing state laws and decisions dealing with the environment (particularly in any area in which the committee proposes to analyze legislation) and also will begin preparing a list of appropriate state and local officials who are concerned with environmental problems. The committee is also in the process of advising the various governmental officials and state agencies concerning the availability of this new and indepth service.

Robert C. Goodman, Jr. will act as chairman of the new Environmental Law Committee and the following persons have also agreed to serve:

George William Birkhead
Vandeveiter, Black, Meredith & Martin
Manning Gasch, Jr.
Hunton, Williams, Gay & Gibson
Carol G. Jaenicke
Williams, Worrell, Kelly & Greer
John Y. Pearson, Jr.
Willcox, Savage, Lawrence, Dickson & Spindle
Ross C. Reeves
Kaufman, Oberndorfer and Spainhour
William H. Robinson, Jr.
McGuire, Woods and Battle
James E. Ryan, Jr.
Attorney General’s Office

Anyone interested in serving on the new Environmental Law Committee should contact either J. Robert McAllister, III, Chairman of the Young Lawyers Section, 1415 North Court House Road, Arlington, Virginia 22201 or Robert C. Goodman, Jr., Virginia National Bank Building, Norfolk, Virginia 23510.

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**Announcements**

**ASSOCIATION MEETING DATES**

The meetings of The Virginia Bar Association for 1976 and 1977 are presently scheduled as follows:

- **July 15-18, 1976** — The Homestead
- **January 14-16, 1977** — Williamsburg
- **July 14-17, 1977** — The Greenbrier

Members are urged to make plans now to attend each of the meetings. For further information, contact A. Ward Sims, Office of Development, University of Virginia, Charlottesville, Virginia 22903.
ANNUAL MEETING

At the Annual Meeting of the Association in Williamsburg on January 16-17, 1976, the Executive Committee of the Section was elected as follows:

Officers
J. Robert McAllister, III .................... Chairman
C. Edward Russell, Jr ....................... Chairman-Elect
James A. L. Daniel .......................... Secretary
Charles F. Midkiff .......................... Treasurer
John W. Pearsall, III ....................... Immediate Past Chairman

Division Delegates
Murray H. Wright .......................... Capital Division
Thomas L. Appler .......................... Piedmont Division
William F. Stone, Jr ....................... Southside Division
Thomas F. Lemons, Jr ..................... Southwest Division
John O. Wynne ............................. Tidewater Division
P. Donald Moses ............................ Valley Division

Additionally, the Chairman of each local Young Lawyers Section is an ex officio member of the Executive Committee. Those currently serving as local chairmen are as follows: J. Patterson Rogers, Jr. (Danville Young Lawyers), Rayner V. Snead, Jr. (Lynchburg Young Lawyers), Ronald H. Marks (Norfolk-Portsmouth Young Lawyers), Kenneth R. Weiner (Northern Virginia Young Lawyers), and David C. Landin (Charlottesville Young Lawyers).

The Young Lawyers Section presented one of the Saturday morning programs for the Annual Meeting of the Association. The program consisted of a panel discussion on the subject "Medical Malpractice—Legislative Proposals for Radical Alteration of the Tort System." Panelists were Andrew P. Miller, Virginia Attorney General, H. Peter Hudson, State Insurance Commissioner of Indiana, Jerome A. Whitney, Jr., Senior Vice-President, Commercial Union Assurance Companies, Raymond S. Brown, M.D., President, Virginia Medical Society, and Aaron M. Levine, attorney. This panel discussion was in keeping with the desire of the Section to present programs of high quality on topics of current interest to the Bar and society as a whole, and was a balanced and effective presentation, well attended and received. Kenneth S. White of Lynchburg, a past Chairman of the Section, served as moderator of the panel and contributed greatly to its success, as did Rosewell Page, III of Richmond who worked long and hard to obtain
the panelists and organize the discussion, but was unable to attend due to surgery. I will not comment further on the panel in this article, but direct your attention to the separate discussion of it prepared by Charles F. Midkiff and Edward D. Barnes, Young Lawyers Section editors, which will be included in the Summer issue of the Journal.

In addition to the program, the Section sponsored a dance held in the North Ballroom of the Williamsburg Lodge—Conference Center after the banquet on Saturday night. This event, engineered by Section Social Chairman Wellford L. Sanders, Jr. of Richmond, attracted a large crowd, young and old alike, a good many of whom remained until 2 o'clock a.m. swinging to the music of the Spontanes, a truly versatile and exciting group. The Williamsburg dance was a follow-up to the highly successful Blue-grass affair and dance featuring Maurice Williams and the Zodiaks sponsored by the Section at the Greenbrier meeting last summer. Plans are underway for a repeat of this type function at the Homestead this summer, so please mark your calendars and be sure to attend.

Current Projects

Committees of the Young Lawyers Section are again this year undertaking projects in a number of fields, consolidating and expanding upon accomplishments in the past years and engaging in new activities.

The *Youth and the Law Committee*, one of the most significant of the Section, is further expanding its efforts to institute law-related education courses in the public schools in Virginia. This year’s activities, being coordinated by James A. L. Daniel, Secretary of the Section and organizer of last year’s highly successful Section-sponsored statewide conference on law related education, are organized on a regional committee basis. These regional committees, each with its own chairman, will in a concentrated fashion further develop the ongoing programs of the Section in the Richmond-Henrico, Northern Virginia, Tidewater and Danville-Martinsville areas, and institute new programs in the Roanoke, Lynchburg, Smithfield and Wytheville areas. The regional Co-chairmen are, respectively, Daniel A. Carrell, Thomas C. Brown, Jr., John O. Wynne, William F. Stone, Jr., Thomas F. Lemois, Jr., Rayner V. Snead, Jr., Rodham T. Delk, Jr., and Thomas G. Hodges.

Another significant Section activity this year is membership, this year’s membership campaign being expected to surpass the very successful efforts of last year. The *Membership Committee* is also organized on a regional committee basis, with statewide activities coordinated by Section Chairman-Elect C. Edward Russell, Jr. The regional Committee concept provides us with the vehicle to intensify our membership solicitations in an organized way, and thus helps insure the continued growth and success of the Section and the Association in general. Regional Committees have been established in Northern Virginia (John H. Ariail, Jr. and William E. Artz, Co-chairmen), Richmond-Henrico (Clifford A. Cutchins, Chairman), Norfolk-Tidewater (John Franklin, III, Chairman) and the Valley and Southwestern Virginia (P. Donald Moses, Chairman). Any areas of the State not specifically covered by a regional committee will be solicited by cooperative effort. The regional committees will utilize a variety of methods to obtain new members, including local membership socials. Members of the Section’s Executive Committee will assist in obtaining new members.

Gerald L. Baliles and William L. S. Rowe are serving as co-chairmen of the *Model Supreme Court Committee*. This committee, in the formative stages last year, is currently implementing with the assistance of the YMCA a Model Judiciary Program at the high school level, comparable to the existing Model General Assembly. The students will fill the various roles in the judicial process of judge, jury, witnesses and attorneys. Mock trials are being conducted in February and early March, with arguments on appeal before the Model Supreme Court at the Virginia Supreme Court courtroom in Richmond set for April 22-24. The project is being conducted on a pilot basis this year in Richmond, Roanoke, Lynchburg, Norfolk, Staunton-Waynesboro and Fredericksburg with the objective of expanding state-wide during 1977.

The activities of the Young Lawyers Section commemorating the Bi-Centennial year will be in two areas. The first of these is the *Law Day-Liberty Bell Award Committee* chaired by Alfred J. T. Byrne. The 1976 theme for Law Day is “200 Years of Liberty and Law” and the committee plans to present a special state-wide observance of Law Day through an educational television program of appropriate content, as well as assisting localities around the State in presenting their local Law Day programs. The Committee also plans to give the Liberty Bell Award to appropriate persons this year. This award seeks to accord public recognition to laypersons for outstanding community service which strengthens the effectiveness of the American system of freedom under law.
second area of specific Bi-Centennial observance will be in the form of a program sponsored by the Section at the Homestead meeting this summer on the state of our Constitution after nearly 200 years. This program, being organized by Welford L. Sanders, Jr., will be in the form of a panel discussion, involving in part representatives of the three branches of our Federal Government, and promises to be excellent and most timely.

The Legal Services and the Public Committee, formed last year, conducted a seminar at Blue Ridge Community College, near Staunton, on "Law Everyone Should Know." This series of classes dealing with contracts, wills and other areas of the law confronted in everyday life, was extremely well received. Rudolph Bumgardner, III, last year's chairman, is continuing as chairman this year and developing a teaching package for general use in the Community College system. The committee plans to repeat the course at Blue Ridge this year and conduct courses at several other selected locations around the State.

The Law School Liaison Committee, under the chairmanship of Robert H. Powell, III will again visit all four Virginia law schools and some District of Columbia law schools to acquaint students with practice in Virginia. Panel discussions will highlight the urban and rural practice, large and small firms, single-practitioner and other available opportunities.

Bridge-The-Gap seminar programs designed to assist young lawyers in "bridging-the-gap" between law school and law practice will again be conducted in all major cities and other selected areas of the State under the able guidance of Committee chairman Thomas J. Cawley. Experience has shown that lawyers, both young and old, have benefited from these seminars.

The Criminal Law and Corrections Committee, chaired by Gilbert E. Schill, Jr., is proceeding to implement its pilot project in Richmond in the field of youth corrections, involving young lawyer volunteers serving youth offenders as "big-brothers and sisters" and in other non-legal capacities. The Committee is working with the Virginia Department of Corrections Division of Youth Services.

The Special Issues and Projects Committee, again chaired by Murray H. Wright, will be a "think tank" committee for development of new projects for the Section. This Committee's efforts during the past year have produced a number of useful ideas, some of which will be the basis for new Section Committees to be announced shortly. As an additional activity, the Committee organized a Bermuda trip for the Section last fall, and plans a theatre weekend in New York this spring.

The Moot Court Committee, under the direction of Chairman Gregory N. Stillman, will host in Richmond in November, 1976 the National Moot Court Eastern Regional Competition. Virginia is particularly fortunate to have this competition again this year, having just served as host in 1974. At least twelve law schools will be invited to participate. The National Moot Court Competition is sponsored annually by the Bar Association of the City of New York.

The Disaster Legal Aid Committee, again chaired by Guy K. Tower, is fully organized statewide and prepared to respond with free assistance from local lawyers when a disaster is declared by the Governor or President. The Committee works closely with state and federal disaster agencies.

The Public Relations Committee, newly formed this year and chaired by Section Treasurer, Charles F. Midkiff, is designed to improve the public image of lawyers through more effective publicity of the various activities of the Section, and by other appropriate means. The Committee, through a network of members around the State, will be available to all other Section Committees to help them obtain better local and statewide coverage.

The Virginia Lawyer Committee, again under the chairmanship of Editor Hullihen W. Moore, is planning for this year another significant revision of this most useful and informative publication. This revision will include new chapters as well as updating of existing material. The last major revision was completed in 1974. The Section is committed to keeping the Virginia Lawyer a current and high quality publication of general use to the Bar.

In addition to his other duties, Charles F. Midkiff will again serve as Young Lawyers Section Editor of the Virginia Bar Association Journal, assisted by an associate editor, Edward D. Barnes. As in the past, each quarterly issue of the Journal will have space for reports of all current activities of the Section, as well as activities and other material submitted by young lawyers.

The ABA/YLS Liaison Committee and the Committee for Programs, Tournaments, and Social Activities at the meeting of the Virginia Bar Association are the responsibility of Chairman-Elect C. Edward Russell, Jr. The programs and social events have already been mentioned. The Tournaments chairman for this year is Eric E. Adamson, and plans are cur-
rently underway for the tournaments at the Home-

stead.

It is my hope that those young lawyers who read
this article and are not currently involved in the
activities of the Section will be stimulated to become
active. The Section has much to offer, both in fellow-
ship with fellow lawyers and in the satisfaction that
comes from participation in worthwhile endeavors.
Openings are available for young lawyers on all the

foregoing committees. In addition, the Section is al-
ways receptive to new projects and encourages co-
operation with local young lawyers sections. Please
let me know the activities of our Section that interest
you, and in which you are willing to participate.

Respectfully submitted,

J. ROBERT McALLISTER, III
Chairman

Sign Up For Young Lawyers Section Committees

- ABA/YLS Liaison
- Annual/Mid-Winter Meetings
- Bridge-the-Gap
- Criminal Law and Corrections
- Disaster Legal Aid
- Environmental Law Committee
- Virginia Lawyer
- Law Day/Liberty Bell Award
- Law School Liaison
- Legal Services and the Public
- Membership
- Youth and the Law
- Model Supreme Court
- Moot Court
- Public Relations
- Special Issues and Projects
- VBA Journal

Number your preferences and send to:
J. Robert McAllister, III
1415 North Court House Road
Arlington, Virginia 22216

Committee Reports

Report of the Committee on Administrative Law
To The Virginia Bar Association:

During the past year, the Committee has been active in three areas.

The State Contracts Subcommittee, as a result of careful examination of the
question of whether or not the general subject matter of public contracts is
within the purview of the Committee, has recommended that the Committee
accept responsibility for matters involving state procurement practices and
procedures. In addition, the Subcommittee has proposed several areas within
the field of state procurement law in which it would be appropriate for the
Committee to participate.

The Administrative Law Newsletter Subcommittee is conducting a study as
to the feasibility of publishing in the Virginia Bar Association Journal news-

worthy items in the area of administrative law. It is expected that a report will
be forthcoming from that Subcommittee at an early date.

The Subcommittee to Consider a Seminar on Practice Before Selected
State Agencies, established for the purpose indicated by its name, has sub-
mitted a report which will be heard by the Committee as a whole at the winter
meeting.

Beyond these current projects, it has been suggested that the Committee con-
sider its continued involvement with the Virginia Register Act and the Adminis-
trative Process Act, both enacted during the 1975 Session of the General As-
sembly, by educating the Bar as to the nature of these acts and encouraging
comments as to their utility and possible improvement or modification. It will be
recalled that the movement which led to these measures began with the Com-

mittee in 1971. The Committee takes this opportunity to commend its mem-
bers, past and present, who devoted so much of their time and efforts to these
measures. Among them, Professor Carl McFarland is deserving of special recog-

nition.

Respectfully submitted,

James I. Hardy
Edward E. Lane
William G. Broaddus
Carl McFarland
Paul H. Gantt
Herman T. Benn
Lucius H. Bracey, Jr.
D. Patrick Lacy, Jr.
F. Claiborne Johnston, Jr.
John B. Tieder, Jr.
John H. Tracy
M. Bruce Wallinger
Rosewell Page, III
Phyllis Joyner
William V. Rennie
Robert B. James, Jr.
Robert A. Vinyard
John H. Toole, Chairman
Report of the Committee on Banking and Commercial Law

To The Virginia Bar Association:

At its meeting in Williamsburg in January 1975 the Committee adopted as a project for the year the study of the question of “Usury.” Thereafter the General Assembly made major revisions of the Virginia Usury statutes and at its meeting at the Greenbrier in August the Committee decided to abandon its original project and examine the legal implications of Electronic Funds Transfer techniques now being explored or adopted by banks throughout the Commonwealth.

The Committee is currently engaged in planning a program dealing with this new and interesting field to be offered to the membership at the Summer Meeting in 1976.

Respectfully submitted,
Robert P. Buford, Chairman

Report of the Committee on Corporate Law

To The Virginia Bar Association:

The Corporate Law Committee has been engaged in the review of amendments to Title 13.1 of the Code of Virginia which were passed in 1975; a review of the law affecting cooperative associations; a review of the Fair Trade Act, and a review of disclosure letters made by attorneys for corporate clients. The Committee is also considering a study and review of the report of the Commission on State Governmental Management which will be discussed at its meeting on January 16, 1976.

The Committee will follow closely legislation introduced in the 1976 General Assembly that affects the corporate law of this state.

Specific assignments will be made at the January meeting in Williamsburg to carry out the projects adopted by the Committee.

Respectfully submitted,
Flournoy L. Largent, Jr.

Report of the Committee on Court Procedure

To The Virginia Bar Association:

I wish to report the following actions of the Committee on Court Procedure for the Virginia Bar Association for 1975.

1. The Committee has worked closely with the members of the Code Commission in revising Title 8 of the Virginia Code.

2. We are attempting to accumulate information in regard to the maldistribution of case loads and geographical areas of the several circuits and invite communications from all of the members of the Bar to the Chairman of the Committee, with the hope that we might be of assistance in correcting this situation.

Respectfully submitted,
R. H. Pettus, Chairman

Report of the Committee on Criminal Law

To The Virginia Bar Association:

The Committee met in Williamsburg for its first meeting, January 7, then in Fredericksburg, February 20, Charlottesville, May 17, Greenbrier, August 1, and Lynchburg, October 3.

There were no matters carried over from the preceding year. Therefore, our Committee was initially concerned with a number of items which were both substantive and procedural, such as penalty provisions dealing with possession and distribution of marijuana, expansion of the public defender system, changes in the rules of criminal procedure, implementation of the ABA Standards of criminal justice, and prepaid legal services as it affects criminal law.

As the year progressed, it was discovered that many or most of the topics could be disposed of on the basis that either previous studies had already been carried out or were being carried out. Therefore, we finally zeroed in on five topics, forming five subcommittees to deal with each. The following conclusions were reached after a thorough survey was made by each subcommittee.

Ethical Considerations:

From a practical point of view, due to the recent publication of the Professional Handbook of the Virginia State Bar, Section 2, which deals with Ethical Considerations, it was felt that no recommendation or resolution would be submitted.

Full-Time vs. Part-Time Commonwealth Attorneys:

This now concerns only those areas with less than 90,000 population due to recent legislation. Since it was felt that once the necessary funding becomes available, the Legislature will more than likely address itself to the problem and enact legislation making the Commonwealth Attorney full-time. Therefore, no recommendation or resolution was submitted.

Improving the Image of the Criminal Lawyer:

The image of the criminal lawyer in Virginia today is not a problem. (It may have been at one time.) Therefore, it was felt that no recommendation or further study was needed. However, an interesting conclusion was reached. The certification of attorneys similar to that now being enacted in several western states should be closely watched. It could be helpful to the criminal lawyer if properly implemented.

Jury vs. Judicial Sentencing:

This Committee takes no position at this time since it is an area which is fraught with special problems. Therefore, it was recommended that an additional study be undertaken by a joint committee made up of representatives from organizations outside, as well as inside, our Association, such as Commonwealth Attorneys, Trial Lawyers, and the like.

Committee for Compensation for Court Appointed Attorneys:

Because of the increasing number of Court appointed cases in Virginia (if and until a Public Defender System is made more uniform throughout the State) the subcommittee prepared a questionnaire which is presently being forwarded to all Judges of Courts of record in the State in order to make a survey. Results will be tabulated towards determining what system would best compensate court appointed attorneys for their services and expenses, both at the trial and appellate level. Once this survey has been returned, tabulated, and further studies made, it is anticipated that a recommendation will be made towards implementing an adequate and uniform system of compensation. It is also hoped that the implementation of a better system will also give the indigent better representation as it is further hoped that in the future court appointed attorneys will not only be better compensated, but that they will be compensated for investigative services as well.

Although a subcommittee was never formed to work with the Criminal Law
Section of the Virginia State Bar the idea was suggested, and in lieu thereof, a recommendation was unanimously passed that the President of the Virginia State Bar appoint a member from his Criminal Law Committee as a member of our Committee.

We had one guest speaker, Judge William W. Sweeney, Judge of the Twenty-Fourth Judicial Circuit, who is Chairman of the Commission studying the Virginia Pilot Public Defender System. He joined us for lunch at our Lynchburg meeting and discussed the Commission's study. This was especially interesting and timely since our 1973 Committee had made a study of this system, as was reflected in our Committee's 1973 report.

Although our Committee would like to have keyed in on one or two items for recommendation to the Executive Committee, it was felt that more time was needed for further study in order to narrow the field. Possibly, this could be done in 1976 and your Committee looks forward to working towards this goal during the forthcoming year.

Respectfully submitted,
John Alexander
Howard J. Beck, Jr.
Robert G. Cabell, Jr.
Gwendolyn Jo M. Carliberg
E. William Chapman
Aubrey M. Davis, Jr.
Robert R. Gwathmey, III
Stephen D. Harris
George R. Humrickhouse
William H. Ledbetter, Jr.
Joseph A. Massie, Jr.
James R. Moore
Marvin M. Murchison
E. Carter Nettles, Jr.
Matthew N. Ott, Jr.
James C. Roberson
William S. Robertson
E. Gerald Tremblay
William P. Harris, Chairman

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Report of the Committee on Domestic Relations

To The Virginia Bar Association:

This Committee continued to concern itself during the past year with improving statutory changes in our laws governing domestic relations.

For many years it has been felt by numerous persons, both within and without the legal profession, that the laws of the Commonwealth regulating domestic relations failed to fully respond to the needs of her citizens. Accordingly, this Committee has had a continuity of purpose as to statutory improvements. The more important changes reflected in Title 20 of the Code have been advocated and supported by this Committee. The most recent being the change in Code Section 20-91(9) which allows couples separated for a year or more to obtain a divorce without showing any other grounds.

Citizens of this Commonwealth continue to express concern at the failure of our laws to fully serve their needs in times of family crises. This Committee will continue to work to have laws that meet these needs. An example of this is Code Section 20-107. Under this section, judges are restricted in making division of jointly owned property. We need legislation that will allow our Courts to divide all property a couple owned jointly during their marriage at the same time that a divorce is entered.

This Committee is of the opinion, as in previous years, that efforts should continue to be exerted for the following legislative action:

1. Abolishment of the divorce a mensa et thoro;
2. Section 20-107 to be changed to allow division of jointly owned property at the time of divorce;
3. Statutory authority allowing a Court to award either party in a divorce a lump sum payment, in addition to periodic maintenance and support payments.

The participation and activities exerted by the individual members of this committee has been excellent.

Respectfully submitted,
Charles A. Blanton, II
Carl F. Bowmer
John M. Cloud
Louis B. Fine
William A. Perkins, Jr.
Gordon P. Peyton
Stanley A. Phillips
Herbert L. Sehren, Jr.
Arthur E. Smith
Jack B. Stokes
George F. Tidewy
George W. Warren, IV
Jerold G. Weinberg
J. Frank Shepherd, Chairman

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Report of the Committee on the Judiciary

To The Virginia Bar Association:

On Monday, December 15, 1975, at 2:30 P.M., the Virginia State Bar and The Virginia Bar Association Commit-
proped for a Judicial Nominations Commission and that resolutions be sought in support of the concept.

Mr. Rosenberger stated that he would bring the matter to the attention of the Board of Governors of the Virginia Trial Lawyers Association when it meets on January 18 in Williamsburg. The support of the Board of Governors of V.T.L.A. will be sought for the enactment of a statute establishing a Judicial Nominations Commission. Further, Mr. Willard Walker stated that he would bring the matter to the attention of the Virginia Association of Defense Attorneys and the support of that organization for a Judicial Nominations Commission would also be sought.

Mr. Tolbert stated that he would follow up with Senator Brauldt and keep the committee advised of developments.

Following the conclusion of the joint discussions regarding the establishment of a Judicial Nominations Commission in Virginia, the joint meeting was concluded whereupon the State Bar Committee continued additional discussions regarding various matters which had been referred to the committee.

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Report of the Committee on Legal Education and Admission to the Bar

To The Virginia Bar Association:

On January 17, 1975, during the Mid-Winter Meeting of The Virginia Bar Association in Williamsburg, a joint meeting was held of the Legal Education and Admission to the Bar Committees of the Virginia State Bar and The Virginia Bar Association to consider again the positions of the two organizations with respect to the law office study program which is provided for by Va. Code Ann. § 54-62(2). At that meeting, which was well attended by the members of the two committees, two participants in the program—Jane Bradley and Marc Feldman—presented an excellent report which they had prepared relative to the program. That report contained useful statistical data, suggestions for improvement of the program and a plea for the continuation of the program.

A full discussion of the pros and cons of the program was held and, while the great majority of those in attendance appeared to be of the opinion that the statute authorizing it should be repealed, it was decided that a joint subcommittee should be appointed to give the matter further consideration. Accordingly, E. Carter Nettles, Jr. and Richard B. Spindle, III, of the Virginia State Bar, and Jack E. Greer and Archibald Wallace, III of The Virginia Bar Association, were asked to serve on the joint subcommittee.

On November 4, 1975, a joint meeting of the two full committees was held in Richmond to consider the conclusions and recommendations of the joint subcommittee. Nine members of the committees were present, together with N. Samuel Clifton, of the Virginia State Bar. Several other members, who could not be present, had conveyed their views by letter or telephone.

Three members of the joint subcommittee were of the opinion that the program should be discontinued and that the statute should be repealed. One member was of the opinion that the program should be retained if the procedures were strengthened in several particulars.

Throughout all of the discussions that have been held by the committees and the subcommittees, it was recognized by everyone that the program should be strengthened if it is to be retained. Among the suggestions for strengthening the program are:

1. Removal of the administration of the program from the Board of Bar Examiners to a new Legal Apprentice Committee (L.A.C.) to be appointed by the Supreme Court of Virginia or by the State Bar Council.

2. L.A.C. to administer a "mini" bar examination to participants at the completion of their first year of study.

3. L.A.C. to submit a planned curriculum for each quarter's activities.

4. L.A.C. to implement periodic checks on both the supervising attorney and the participant.

5. L.A.C. to institute required seminars, workshops and submission of briefs by which to evaluate the participants.

6. L.A.C. to require a $200 fee annually from each participant to help defray the expenses of the program.

7. Require all participants to be supervised by an attorney who is affiliated with at least one other practicing attorney (elimination of single practitioners as supervising attorneys).

8. Require quarterly affidavit by each participant and supervising attorney reporting on such things as: actual material studied and read; number of hours spent in various activities; and workshops, seminars and other courses attended or completed by the participants.

9. Establishment of cooperative programs with Virginia law schools and those of neighboring states to permit participants to use law libraries and to audit courses offered by the law schools.

10. Upon completion of the program, require participants and supervising attorneys to submit detailed evaluations of the program.

At the meeting on November 4, the advantages and disadvantages of the program, together with suggestions for its improvement, were again thoroughly discussed.

The joint subcommittee considered the following reasons for continuing the program:

a. The program offers an alternative to the structured legal education provided by law schools.

b. The program enables persons to obtain admission to the Bar who are unable to attend law schools for financial or other personal reasons.

c. The program provides a method of legal education for those who cannot obtain admission to law schools because of the fallibility of admission procedures of the law schools.

The following reasons for discontinuing the program were considered:

a. It is difficult if not impossible to assure that the supervising attorney is qualified to and otherwise able to fulfill his responsibilities to the participant.

b. It is difficult if not impossible to assure that the supervising attorney does not take advantage of the participant by utilizing him or her to perform work which may not be in the best interest of providing the participant with the type of experience, education and training envisioned by the program.

c. It is difficult if not impossible to assure that the participant obtains the foundation of a basic legal education deemed necessary for a member of the legal profession.

d. It is difficult if not impossible to administer and monitor the program to assure that the participants and the supervising attorneys carry out their respective responsibilities.

c. The program should not be offered to those who could not qualify for ad-
mission to an accredited law school but there is no practical way to safeguard against this.

f. The program should not be offered to those who are qualified for admission to an accredited law school and who are able, financially or otherwise, to attend. While there are some persons who are so qualified, but who are not able to attend for financial or other personal reasons, it is believed that this number is so limited that the continuation of the program, because of all the problems, is not warranted just for them.

While the program in Virginia should be judged on its own merits, it is perhaps significant that the American Bar Association's section on Legal education and Admission to the Bar has advised that only Virginia, California, Washington and Mississippi presently have some form of "law reader" program. Likewise, the Virginia Association of Professionals has advised that it is unaware of any other profession which provides for licensing by means of an apprenticeship program.

After considering fully all of the advantages and disadvantages of the program, with the paramount objective of deciding whether the continuation of this program is in the best interest of the public, it was determined that on balance the disadvantages of the program far outweigh its advantages. This conclusion was reached by all but two of the members of the two committees who expressed themselves concerning it. Accordingly, the joint committee of the Virginia State Bar and The Virginia Bar Association adopted the following resolution:

Resolved that the Committee on Legal Education and Admission to the Virginia State Bar and The Virginia Bar Association, acting jointly, recommend to the Council of the Virginia State Bar and the Executive Committee of The Virginia Bar Association that appropriate action be taken by those organizations to seek the repeal of Va. Code Ann. §54-62(2), which authorizes the law office study program, with provision being made to permit those participants in the program on the date of the repeal to complete the program provided that they do so by a date certain to be provided in the repealing legislation.

Be It Further Resolved that the Council and Executive Committee are urged, if they concur in the above recommendation, to initiate a strong and effective program to inform the members of the General Assembly of the reasons for the proposed legislation and to make clear that such legislation is deemed to be in the public interest and is in no way an effort to restrict or limit the number of licensed attorneys.

Respectfully submitted,

Report of the Committee on Legal Ethics and Professional Responsibility

To The Virginia Bar Association:

Your Committee on Legal Ethics and Professional Responsibility has had a busy year considering a number of important topics. They are as follows:

1) Client Security Fund and Accounting by Attorneys. Our committee considered the Virginia State Bar proposal for a Client Security Fund. We recommended that the Executive Committee of the Virginia Bar Association go on record as endorsing the establishment of the Client Security Fund. The committee has also considered eliminating the $10,000 limit on claims contained in the present proposal. After careful consideration the committee recommended that the $10,000 limit be kept. The committee did so because it felt we had no experience under the plan upon which to base the size of claims which might be presented. In addition, if experience shows that the limit was not needed, the limit could be removed at a later date. If the opposite course with no limit were chosen and experience then showed that a limit was needed, the Bar might then be in the position of appearing reluctant to "pay" for "meritorious" claims. Also, in the absence of a limit on claims, whenever the Client Security Fund committee denied full compensation for larger claims the committee could have a public relations problem, a result contrary to the one of the intents of the plan.

The committee also considered whether it was necessary to give the Client Security Fund committee certain powers to require accounting of all attorneys. The committee decided that each district committee now has sufficient powers to carry on adequate investigation of lawyers' conduct. Since each investigation, most likely, will be carried on jointly by the district committee and the Client Security Fund committee, we felt it was unnecessary to add these additional powers to the Client Security Fund committee. We would consider at a future date whether a broad plan of required accounting by lawyers to a Bar committee would be beneficial.

2) Bar Disciplinary Proceedings. The committee has considered from time to time review of the operations of the various district disciplinary committees. We think this would be appropriate and that it could appropriately be handled in conjunction with a consideration of "proposed new Rule 13," which was considered in 1972, but dropped. That proposed rule would, among other things, give district committees more authority to consider "intermediate relief" without actually turning a case over to a court. We believe that a review of the operation of the district committees, in conjunction with a consideration of proposed new Rule 13, could be handled, without generating the hard feelings possibly associated with a strictly "oversight" study of the operation of the district committees. We would recommend such a review during the coming year, but, if undertaken, we would need additional members added to our committee.

3) Continuing Legal Education. The committee conducted a study of "Mandatory Continuing Legal Education" under the guidance of subcommittee chairman Kenneth Lambert. After a review of the available materials, the committee decided the matter required additional study during the coming year as a matter of primary importance. A program on the subject is to be presented at the mid-winter meeting in Williamsburg.

4) Legal Specialization. Under the charge of subcommittee chairman William Ellyson, our committee also reviewed materials related to plans adopted in several states on legal specialization. The committee voted to continue its study as a matter of primary importance in the coming year.

5) Ethics Brochures. Subcommittee chairman Robert Wood is undertaking a review of a "Legal Ethics" flyer, which has evidently been used with good success in New York. The adaptation of the flyer to Virginia is almost complete and we would ask for the necessary appropriations for its publication in the Spring.

6) Advertising. The committee devoted several meetings to advertising by lawyers. During the year it heard a report by Merrill Pasko who is representing the American Bar Association in the
Report of the Committee on Real Estate Law

To The Virginia Bar Association:

The principal project of the Committee on Real Estate Law during the past year was the organization of the Residential Real Estate Transactions seminar which was given in six locations throughout the state during this past October. A total of 1,054 attended this seminar, a record for Virginia, which acknowledges the widespread importance and interest in this area at the present time.

The success of this institute was directly attributable, as usual, to the efforts of Professor Peter C. Manson, Director, Continuing Legal Education Committee and special thanks is given to David S. Cohn, Hunton, Williams, Gay & Gibson, Richmond, for his editing of the course handbook.

In addition, the Committee has also been studying and attempting to keep abreast of the many important issues and developments in the real estate area with particular attention to the Real Estate Settlement Procedures Act of 1974 and the question of title examination fees raised by the Goldfarb case.

Respectfully submitted,

Jack Spain, Jr., Chairman

Report of the Committee on Taxation

To The Virginia Bar Association:

During the past twelve months the Committee has functioned with respect to the following objectives or goals:

(1) Sponsorship of the Virginia Conference on Federal Taxation by the Virginia State Bar as well as the Virginia Bar Association and the Virginia Society of Certified Public Accountants in an effort to cause greater attendance by attorneys.

(2) Review of state legislation relating to the field of taxation.

(3) Unauthorized practice of law in the field of taxation with emphasis on:

(a) The use of master and prototype retirement plans by laymen;

(b) Involvement of lay persons in the legal aspects of retirement plans generally;

(c) Involvement of lay persons in tax controversies.

Respectfully submitted,

Benjamin M. Butler, Chairman

Report of the Committee on Torts and Insurance

To The Virginia Bar Association:

At the mid-winter meeting the Torts and Insurance Committee decided the following areas were of concern to the Bar: 1. Medical Malpractice; 2. Third Party Practice; 3. Public Relations. Subcommittees were appointed to study the medical malpractice and third party practice problems. It was felt that the Virginia State Bar had made sufficient efforts in the area of public relations and that this committee should not devote any further time in that direction.

The Medical Malpractice Subcommit-
The subcommittee was chaired by William W. Eskridge of Abingdon and the Third Party Practice Subcommittee was chaired by Richard W. Schaffer.

The Third Party Practice Subcommittee reported there were varying interpretations by trial judges in the state of Rule 3:10 of the Rules of the Supreme Court of Virginia. Probably the most frequent inconsistency is whether or not a defendant can use Rule 3:10 for a contribution action against a joint tort-feasor. Most of the courts do permit such an action, but in certain areas, mainly in northern Virginia and the Tidewater area, it is not permitted. In fact in several circuits there is a split among the judges in the same circuit.

Of the problems which have arisen concerning the proper interpretation of Rule 3:10 are 1. Can a U.M. carrier, which has filed pleadings in its own name, avail itself of the rule? 2. Can an insurance company be sued as a third party defendant, when it has denied coverage to the defendant, and the third party action is to determine the validity of the denial?

In addition, the foregoing subcommittee was advised that in at least one instance a court has permitted the plaintiff to recover only against a third party defendant, when no claim was filed directly against that defendant.

Additionally, the subcommittee reported that to its knowledge our Supreme Court has never interpreted Rule 3:10. Therefore, it was felt that Rule 3:10 should be rewritten to eliminate the problems that have arisen since its original enactment. This solution was felt to be preferable to a "test case."

The purpose of third party practice should be to dispose of as many actions as possible. Yet the committee found some courts throughout the state reluctant to avail itself of this practice. This committee, therefore, recommends that the Supreme Court be advised of the various interpretations of this rule, and that it be rewritten so that it will truly have uniform meaning throughout the state.

The Subcommittee on Medical Malpractice last formally met in Richmond on July 25th. The meeting was attended by seven members of the subcommittee as well as N. Samuel Clifton and Marvin F. Cole as unofficial representatives of the Virginia State Bar and The Virginia Trial Lawyers Association, respectively.

One of the original assignments of the subcommittee was to consider the "claims made" approach to writing malpractice insurance which is now being employed by St. Paul Fire and Marine Insurance Company. The subcommittee was unanimous that this approach is now an accomplished fact and there was no reason that the organized Bar should oppose it in any event.

The major part of the subcommittee's time was spent in considering the Indiana plan, which the Virginia Medical Society is trying to have adopted as law in Virginia. It was the opinion of the overwhelming majority of the subcommittee, with two dissents, that the Indiana plan contains numerous features which are neither in the public interest nor the best interest of practicing lawyers. Among other features, the Indiana plan places a ceiling on permissible recovery in malpractice cases, makes a two year statute of limitations applicable to infants over the age of six years and to other persons under a legal disability to file a suit. Due to the amount of contingent fee which may be charged in malpractice cases, requires the submission of all malpractice cases to a panel of doctors before suit can be filed, and would place the State of Virginia in the business of writing excess insurance policies. It was the opinion of the majority of the subcommittee, and the opinion of this committee, that there is no problem with regard to medical malpractice claims in Virginia which could not be cured with a scalpel instead of a meat cleaver. It was the recommendation of this committee that a joint committee be formed by the Virginia Bar Association, The Virginia State Bar, The Virginia Trial Lawyers Association, The Old Dominion Bar Association and The Virginia Defense Attorneys Association. The purpose of this joint committee would be to prepare a detailed analysis of the Indiana plan for presentation to the Virginia General Assembly and other interested groups. It was anticipated that the joint committee would prepare an analysis and recommendations as to what parts of the Indiana plan should be opposed by the organized Bar Associations in Virginia, and what parts, if any, should be supported by such organizations.

On October 2, 1975, the following Ad Hoc Committee was appointed by the various Bar organizations. Representing the Virginia Bar Association Edward W. Taylor, Morton S. Spero, John E. Clarkson and William W. Eskridge; representing the Virginia State Bar Wilbur C. Allen, Clarence Flippo Hicks, Jackson L. Kiser and T. J. Marko; representing the Virginia Trial Lawyers Association Emmanuel Emroch, Kenneth E. Trabue and Marvin F. Cole; representing the Old Dominion Bar Association George Minor, Jr. and Thomas L. Hicks, Jr.; representing the Virginia Defense Attorneys Association G. Kenneth Miller. At the present time, the Ad Hoc Committee sees no reason to recommend any change in the present tort system in Virginia.

Respectfully submitted,
Edward W. Taylor, Chairman

Report of the Committee on Tours
To The Virginia Bar Association:

The Committee on Tours has held two meetings this year, the first in Williamsburg in January and the other at the Greenbrier on July 31. The recommendation that the Association sponsor a two-week Balkan Tour with departure in September was approved by the Executive Committee as was the recommendation with reference to a nine day Central American Tour (Intrav's Mayan Adventure) with departure on February 20, 1976.

The members of the Committee have devoted considerable time throughout the year to planning a short (eight days) Edinburgh-London trip for next year, but with frustrating results. As a result of personal contacts made by Justices Cochran and Harrison in the fall of 1974, representatives of the Faculty of Advocates and the Law Society of Scotland had indicated a willingness to arrange appropriate professional and social activities in Edinburgh for members of the Virginia Bar Association in June of 1976.

Acceptable hotel accommodations in Edinburgh are limited and unfortunately the first reservations which were secured by the travel agencies with whom the Committee had been dealing conflicted with the Annual Meeting of the Virginia State Bar the third weekend in June 1976. Alternate hotel reservations were secured for a departure on June 26, 1976, but shortly thereafter the Committee was advised that a tour at that time would conflict with a major State Bicentennial event in late June, 1976. It was the judgment of the Committee that it would be neither politic nor practical to undertake the tour under the circumstances. Accordingly, the plans for the 1976 tour were cancelled and the Committee is now developing plans for a comparable event in 1977.
The limited participation in the South American Air-Sea Tour and the Balkan Tour was quite disappointing and of concern to the Committee. There are a number of factors which could have contributed to these results including, of course, the unsettled economic and international conditions. Another factor of some significance is the proliferation of tours sponsored by various organizations in Virginia. This clearly indicates the desirability of coordinating the offerings of professional organizations in the State, something the Committee will undertake to do.

Respectfully submitted,
Bernard C. Baldwin, III
R. Closton Christian
George M. Cochran
Edward M. Hudgins
John L. Walker, Sr.
Jess B. Wilson, III
Duncan Cocks, Chairman

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Report of the Committee on Wills, Trusts and Estates

To The Virginia Bar Association:

At the 1975 annual meeting the Executive Committee approved a resolution that the Association sponsor a project for the drafting of a revised probate law for Virginia. As indicated in last year's report the project was to use the Uniform Probate Code as a model, because of the practical necessity of using the most acceptable available codification of probate laws as a point of departure and in recognition of the growing currency of the Uniform Probate Code among Virginia's sister states. It was thought at that time that the Committee would enlarge itself in the form of a special project body and that it would enlist the aid of experts on probate law from the law schools in the State.

Shortly after the annual meeting adjourned a joint subcommittee of the Virginia General Assembly appointed at the 1973 session to conduct a study of the procedures for probate of wills and administration of estates and to investigate the various model acts pertaining to those subjects to determine how such procedures could be made more efficient published its report. The subcommittee recommended that the Uniform Probate Code not be adopted in Virginia and made a series of recommendations for changes in the existing statutory framework. The report indicated that it was based upon the subcommittee's evaluation of public sentiment at a series of hearings it conducted throughout the State at which it found that public reaction strongly favored retaining the present system with some changes.

The Committee decided, almost unanimously, to proceed with the drafting project despite the report of the General Assembly subcommittee. We had recognized from the beginning, and continue to recognize, the desirability of preserving existing Virginia practices, procedures and precedents to the extent they can be interwoven with the realities of our modern social and legal structure. But we kept advertising to the many familiar grounds upon which a revised law seems to be desirable: that formidable areas (for example, the laws governing guardians of the persons and property of infants) in the probate field in Virginia must be faced by the practitioner with practically no statutory or case law; that the body of statutes generally applicable to the probate field is scattered throughout the Code of Virginia in an inconvenient and disjointed manner; and that there are numerous substantive areas in which the existing Virginia statutes are anarchistic.

The original schedule called for completion of the first draft by the 1976 annual meeting. It now appears that various delays have rendered this schedule impossible but we are confident that the project will be completed, in time for submission to the 1977 session of the General Assembly.

The drafting project has been almost the sole occupation of the Committee this year. The support of the membership will be essential as the drafting project progresses, both in the form of criticism of the preliminary drafts and advocacy of the final proposal.

Respectfully submitted,

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Report of the Secretary-Treasurer

To The Virginia Bar Association:

During 1975 the Association continued to broaden its commitment to the cultivation and advancement of the science of jurisprudence and actively promoted reform in the law and in judicial procedure through the dedicated service of its members. Special study programs as well as standing committee activities surveyed and reviewed important programs concerning no-fault insurance, medical malpractice, mandatory continuing legal education, and public attitudes toward the legal profession.

Committees: These committee activities as well as the general activities of the Association required a substantial increase in the work load of the Secretary-Treasurer's office which was already committed to a reorganization during the year. To provide for the sharp increase in correspondence and administrative details necessary for the appointment of committees, planning and development of Association general meetings, support of the Executive Committee and regular committee activities, and maintenance of Association rolls and records, a full time administrative secretarial assistant to the Secretary-Treasurer was employed. This addition has been vital to the completion of Association work.

Membership: In 1975 the membership of the Association increased substantially through the commitment and activity of the Membership and Admissions committee. Total membership as of the end of the year includes 1941 Regular members, 915 Young Lawyers, and 395 Judicial members. Noteworthy is the fact that for presentation to the membership at the 1976 Annual Meeting, the largest number of new members to date, 146, will be received into the Association. This continued membership growth is the true foundation of the Association's ability to work in various areas of law reform and to uphold and elevate the standard of honor, integrity and courtesy in the legal profession.

Finances: Because this year involved special commitments of Association financial reserves for support of important projects including the National Conference of Chief Justices, the Young Lawyers Section Seminar for Educators, development of the Bar Journal, the special survey on the public's attitude toward lawyers, and the reorganization and equipping of the Secretary-Treasurer's office, the Executive Committee authorized an increase in annual dues.
effective in 1976. In addition, a portion of the dues increase was allocated to a pledged support by the Association over the next four (4) years of $100,000 to the National Center for State Courts. Finally, increased program and speaker activities at the Association's Winter and Summer meetings demanded further financial commitment.

An audit report for the entire year 1975, as well as the interim report for the six month period June 30, 1974 to December 31, 1974 will be found on pages 43 and 44. This report will now follow annually on a calendar year basis for publication in the Spring issue of the Journal.

Meetings: The annual business meeting of the Association is now established in January and the Summer Meeting will generally be held in July. Considerable administrative work was required in the change-over from the past meeting arrangements but the meeting activities are now organized for maximum participation by the membership.

Listed below are the dates and places for the Winter and Summer meetings for the next few years:

January 14-16, 1977—Williamsburg
July 14-17, 1977—The Greenbrier
January 20-21, 1978—Williamsburg
July 21-22, 1978—The Homestead
January, 1979—Williamsburg
July 14-17, 1979—The Greenbrier

Handbooks. The Committee has just published two outstanding handbooks. Defending Criminal Cases, covering new Title 19.2 of the Code, was published in September and to date 1100 copies have been sold. Residential Real Estate Transactions, a comprehensive guide to the purchase and sale of real estate, was distributed in connection with a recent institute on that subject. We are presently working on a revision of the popular handbook originally published in 1964, Sources of Proof in Preparing a Lawsuit.

Institutes and Seminars Presented. Programs presented since the last annual report to the Virginia Bar Association are:


(2) Criminal Law Seminar. This committee assisted the Criminal Law Section of the Virginia State Bar in organizing and presenting the 5th Annual Criminal Law Seminar presented in Fredericksburg on February 21, 1975. Lecturers were: Lewis W. Hurst, Director, State Crime Commission, Richmond; William H. Fuller, III, Commonwealth's Attorney, Danville; Hon. Alfred W. Whitehurst, Judge, 4th Judicial Circuit, Norfolk; Carl R. Deavers, Jr., Department of State Police, Richmond; Morris Shenken, former president National Association of Criminal Defense Attorneys, St. Louis, Missouri; Jack E. Davis, Director, State Department of Corrections, Richmond; Hon. Robert S. Wahab, Judge, 2nd Judicial Circuit, Virginia Beach; Harvey R. Cohen, Leonard, Cohen and Gettings, Arlington; Morton B. Spero, Spero and Levinson, Petersburg; and Robert F. Horan, Commonwealth's Attorney, Fairfax. Two hundred forty attorneys registered for the seminar.

(3) Some Aspects of a Civil Jury Trial. A one day institute was presented in Abingdon, Roanoke, Staunton, Alexandria, Norfolk and Richmond during the latter part of April and early May, 1975. Lecturers were: S. James Thompson, Jr., Caskie, Frost, Davidson, Hobbs and Hamblen, Lynchburg; Thomas P. Mains, Alexandria; Everette G. Allen, Jr., Hirschler and Fleischer, Richmond; Fred C. Alexander, Jr., Boone, Brichard and Dudley, Alexandria; Henry C. Morgan, Jr., Pender, Coward, Addison and Morgan, Virginia Beach; E. Gerald Tremblay, Tremblay and Smith, Charlottesville; John L. Walker, Jr., Woods, Rogers, Muse, Walker and Thornton, Roanoke; and J. Riley Johnson, Jr., Williams, Worrell, Kelly and Greer, Norfolk. Nine hundred fifty-eight attorneys attended the program.

(4) New Federal Rules of Evidence. A one day program presented at the John Marshall Hotel in Richmond on May 23, 1975. Lewis T. Booker of Hunton, Williams, Gay and Gibson, Richmond, was the Presiding Chairman. Lecturers were: Charles E. Friend, Professor of Law, University of Richmond; William R. Rakas, Gentry, Locke, Rakas and Moore, Roanoke; John M. Oakey, Jr., McGuire, Woods and Battle, Richmond; and Stephen Saltzburg, Professor of Law, University of Virginia. Five
hundred sixty attorneys attended the program.

(5) First Annual Recent Developments in the Law. This was a three hour program presented in conjunction with the Annual Meeting of The Virginia State Bar in Arlington, Virginia on June 21, 1975. Senator James Harry Michael, Jr., Michael and Dent, Charlottesville, was the presiding Chairman. Speakers were: Stephen R. Larson, Christian, Barton, Epps, Brent and Chappell, Richmond; Jack E. Greer, Williams, Worrell, Kelly and Greer, Norfolk; Professor Robert E. Scott, University of Virginia School of Law, Charlottesville; Professor Joseph E. Ulrich, Washington and Lee Law School, Lexington; Professor Charles H. Woodward, II, University of Virginia School of Law, Richmond; Professor David S. Cohn, T. C. Williams School of Law, Richmond; Professor Lawrence D. Gaughan, Washington and Lee School of Law, Lexington; and Joseph C. Wool, Jr., McGuire, Woods and Battle, Richmond.

(6) Legal Problems of the Aged. A two day program presented in Charlottesville at the Boar's Head Inn Conference Center on September 12 and 13, 1975. Lecturers were: Neill H. Afford, Edmunds, Williams, Worrell, Norfolk, Richmond and Alexandria during the month of October, 1975. Lecturers were: Michael K. Smeltzer, Smeltzer and Hart, Roanoke; Edmund Schaefer, III, Edmunds, Williams, Robertson, Sackett, Baldwin and Graves, Lynchburg; John F. Carman, Simmonds, Coleburn, Towner and Carman, Arlington; James M. Gallagher, Hofheimer, Nusbaum and McPhaul, Norfolk; Fred S. Landess, McGuire, Woods and Battle, Charlottesville; Donald H. Spitzizi, Jr., Willcox, Savage, Lawrence, Dickson and Spindle, Norfolk; F. Shield McCandlish, Booth, Prichard and Dudley, Fairfax; G. Andrew Nea, Jr., Wallerstein, Goode

and Dobbins, Richmond; and Philip J. Bagley, III, Mays, Valentine, Davenport and Moore, Richmond.

(8) Sixth Advanced Business Law Seminar. This seminar was presented at The Tides Inn, Irvington, Virginia on November 6, 7, and 8, 1975, in cooperation with the Business Law Section of the Virginia State Bar. Lecturers were: David M. Osnos and Joel N. Simon, Arent, Fox, Kintner, Plotkin and Kahn, Washington, D. C.; Harry H. Mansbach, Kaufman, Oberndorfer and Spainhour, Norfolk; Hugh V. White, Jr., and Mark S. Dray, Hunton, Williams, Gay and Gibson, Richmond; and Benjamin M. Vandegrift, Professor of Law, Washington and Lee University, Lexington. Fifty-three attorneys registered for the seminar.

Future Programs. At the present time, the schedule through 1976 is as follows:

Dec. 2, 3, 4, 5, 1975, Practicing Law Profitably II, Roanoke, Alexandria, Richmond and Norfolk
Feb. 12, 13, 19, 20, 1976, Bankruptcy, Roanoke, Alexandria, Richmond and Norfolk
Feb. 27, 1976, Sixth Annual Criminal Law Seminar (Cosponsor: Criminal Law Section, Virginia State Bar), Fredericksburg
April 22, 23, 29, 30, May 6, 7, 1976, Administration of Decedents' Estates, Abingdon, Roanoke, Staunton, Alexandria, Richmond and Norfolk
May 26-June 2, 1976, Summer School for Lawyers, University of Virginia, Charlottesville
June 3, 4, 5, 1976, 28th Annual Virginia Conference on Federal Taxation, University of Virginia, Charlottesville
June 17, 1976, Second Annual Recent Developments in the Law Seminar, presented in conjunction with the Virginia State Bar Annual Meeting, Virginia Beach
September 17, 18, 1976, Civil Rights Actions (tentative), Conference Center, Boar's Head Inn, Charlottesville
Oct. 14, 15, 21, 22, 28, 29, 1976, Proving a Civil Case, Abingdon, Roanoke, Staunton, Alexandria, Richmond and Norfolk
November 11, 12, 13, 1976, Seventh Advanced Business Law Seminar (Cosponsor: Business Law Section, Virginia State Bar), The Tides Inn, Irvington

Nov. 18, 19, Dec. 2, 3, 1976, Family Law, Roanoke, Alexandria, Richmond and Norfolk

Advertising brochures will be distributed five to six weeks before each program takes place.

Although the members of the committee and the staff are to be commended for their fine work, the program could not succeed without the dedicated assistance of the many members of the bar who have given of their time and talents as lecturers, without remuneration.

Respectfully submitted,
Arthur B. Davies, III, Chairman
Charles K. Woltz
Ernest T. Gearheart, Jr.
Richard F. Pence
Lawrence D. Gaughan
Lewis T. Booker
Henry C. Morgan, Jr.
Harold G. Wren
Richard E. Walck
James T. Turner
Peter C. Manson, Director
Gardener G. DeMalie, Jr., Assistant Director

YOUNG LAWYERS SECTION

Report of the ABA-YLS Liaison Committee

To The Virginia Bar Association:

The Virginia Bar Association Young Lawyers Section was well represented at the American Bar Association Young Lawyers Section Annual Meeting in Montreal, Canada from August 7-11, 1975. Jack Pearsall of Richmond, Chairman of the Virginia YLS, Bob McAllister of Arlington, Chairman Elect, and Ed Russell of Norfolk, Secretary, were all in attendance and participated in the meetings and activities of the ABA-YLS. Bob McAllister also served as a Judge in the ABA-YLS Awards of Achievement Competition on August 6-7. The purpose of the competition is to recognize state and local YLS organizations for their outstanding projects. Furthermore, our YLS was represented by Rod Mathews of Richmond, and Ken White of Lynchburg, past
Chairmen of our YLS. Rod has been appointed a national director of the ABA-YLS for the 1975-76 year, and Ken is the new District 4 Representative (Virginia, District of Columbia and Maryland) on the Executive Council of the ABA-YLS, replacing Rod who had previously occupied that position. All who attended thought the Montreal meeting was a useful one.

The ABA-YLS is committed to greater communication and coordination with the state and local YLS affiliate organizations. The new publication "The Affiliate" is being sent every six weeks to all officers of state and local YLS organizations. It is hoped that the new effort at communication will be a two-way street, all state and local organizations being encouraged to contribute to "The Affiliate" so the ABA-YLS and other state and local organizations can benefit from the experiences of the other organizations.

Officers and Committee Chairmen, and other interested persons should contact Jack Pearsall if they wish to make contributions to "The Affiliate." As a further part of the ABA-YLS commitment to communication and coordination with state and local affiliates, the ABA-YLS is sponsoring a series of Affiliate Regional Workshops in addition to the regular meetings of the Conference of Affiliates as a whole. The Regional Workshop for our region will be held in Point Clear, Alabama on January 10-11, 1976. Bob McAllister and Ed Russell are planning to attend as representatives of our YLS. We believe that "The Affiliate" and the Regional Workshops are important steps toward a more meaningful relationship with the ABA-YLS.

A particularly important issue in the ABA-YLS at present is the structure of the ABA-YLS Assembly. Currently, ABA-YLS By-Laws give one vote in the Assembly to each local affiliate and two votes to each state affiliate (with the exception of Virginia where our YLS and the Virginia State Bar Young Lawyers Conference each have one vote by agreement between the two groups), without regard to membership size or geographic area. Much pressure is being brought to bear by the larger state and local affiliates for proportionate representation. A Special Committee on Representation is studying ABA-YLS By-Laws and will submit recommendations for proportionate representation in the Assembly by December 31, 1975. A special meeting of the ABA-YLS Assembly is to be held at the ABA mid-winter meeting in Philadelphia in February, 1976; which representatives from our Section will attend, to consider and act upon the Special Committee's recommendations. The Virginia Bar Association YLS is providing input regarding this important matter and is committed to the best possible result for our Section.

Respectfully submitted,
J. Robert McAllister, III
Chairman

Report of the Bridge-the-Gap Committee

To The Virginia Bar Association:

Educational programs for younger lawyers were recently conducted statewide. A myriad of subjects were included in these programs such as: Legal Ethics, Criminal Law, Corporate Law, Domestic Relations, Real Estate, Trial Techniques, Land Use and Zoning, Creditors' Rights and many others.

Southwest Virginia Area

Thanks to the efforts of Thomas G. Hodges, Chairman of the Southwest Virginia program, a very successful and comprehensive seminar series is underway. Four two-hour sessions are scheduled and the topics covered include civil actions in courts of record, Workmen's Compensation claims, criminal actions, domestic relations, title examinations and real estate closings and administration of estates. Two sessions have already been held and upcoming sessions are scheduled for November 5th and 12th.

Roanoke Area

James F. Douthat has served as the Chairman of the Roanoke area program. James W. Jennings, Jr. assisted in coordinating efforts which have resulted in a very successful program just recently concluded. Like the Southwest Virginia area program, the Roanoke program was divided into four two-hour sessions with a variety of topics covering both the trial-practice and the office practice.

Norfolk Area

John J. O'Keefe, III and W. Jon Wilkins have recently concluded a very successful Bridge-the-Gap seminar series in Norfolk. Like several of the other areas, Norfolk's program was divided into four two-hour sessions and covered a variety of topics including legal ethics. The Continuing Legal Education Committee of The Norfolk-Portsmouth Bar Association suggested inclusion of this topic in the seminar series. It was felt that a number of the newer lawyers had not had a sufficient background in legal ethics. This particular session dealt with complaints frequently received by the District Committees and with recent opinions interpreting the canons. A portion of the registration charges was used to purchase token gifts for the speakers in the program and it is suggested that this would be a good idea for other areas to consider in next year's programming.

Northern Virginia Area

Thanks to a tremendous effort by Thomas J. Cawley, Chairman of the Northern Virginia program, one of the most comprehensive programs in the state is now underway in that area. The Northern Virginia program was divided into eight two-hour sessions, almost twice as many as any other area. Working with Tom Cawley on developing this fine program were Edward Rodriguez and Francis McDermott. Without question, this program, which is the first held in Northern Virginia in some time, has turned out to be a very fine one.

Peninsula Area

Because of other commitments, Conway H. Shield, III, turned the chairmanship of the Peninsula program over to Robert R. Hatten. Conway remained in the program as an advisor. The Peninsula program will be getting underway on November 5th and has been divided into five sessions of approximately two hours each. As with other area programs a variety of topics are being covered and from all forecasts it appears that this program will be very successful.

Richmond Area

Benjamin C. Ackerly has served as the Richmond area Chairman and has been assisted by Fred J. Bernhardt, Jr. and Julious P. Smith, Jr. The Richmond program recently concluded and from all reports the reception from the Richmond area Bar was overwhelming. The Richmond program was divided into five two-hour sessions and covered a mixed variety of trial and business related subjects.

Martinsville-Danville Area

John W. Swezey, Chairman, Philip G. Gardner, M. Lee Stilwell and Randy
W. Sinclair have coordinated their efforts in planning the Martinsville-Dan-ville area program. The first session was held on September 16, 1975 and was very well received by the approximately fifty lawyers in attendance. The program dealt primarily with personal injury actions, including negotiations with insurance companies and discussions regarding the examination and cross-examination of witnesses. Planning has not been finalized for the next session, but current plans are to have a dinner program in Martinsville in November with two speakers. Tentative plans are to have an administrative law judge make a presentation on Social Security claims and recent developments in the administrative law area.

**Future Programs**

In connection with planning for next year’s programming it is suggested that prospective area chairmen be contacted now so that the planning for next year can be started. It would be helpful to have either this year’s chairman from a particular area, each of whom did an excellent job, or someone who worked on the committee and is familiar with what was done this year, serve as next year’s chairman. It would also be helpful for each of this year’s area chairmen to evaluate their own program and make written suggestions regarding improvement or expansion of the program. As indicated above in connection with the report on the Norfolk area program, I believe it will be very beneficial for each area to give serious consideration to the idea of including in their program a seminar on legal ethics.

A considerable amount of effort in 1974 was devoted to the possibility of initiating a “How To Practice Law” course at each of the four Virginia law schools. The Deans of each school were contacted with regard to the program, but the response received was less than enthusiastic. It appeared that the greatest problem raised by all contacted was one of scheduling. There simply did not seem to be sufficient time in the existing law school schedules to work in a program of this nature. I do have a considerable amount of information on this program if next year’s chairman decides to expand the program in this area. I personally, however, do not feel that the effort expended would be justified. As a possible alternative, I think some consideration should be given toward expanding the Bridge-the-Gap program so that the Lexington, Williamsburg and Charlottesville areas would be included. The program could then be made available to law students in these areas in the same way that the Richmond program was opened this year to students at T. C. Williams Law School.

Finally, I cannot overemphasize the importance of selecting area chairmen who are interested in the program and willing to devote the time necessary to establish quality programs in their areas. The success of this year’s program is directly and solely attributable to very hard-working area chairmen and the members of their committees who assisted them in establishing very well conceived and conducted programs.

Respectfully submitted,

Robert H. Powell, III, Chairman

**Report of the Disaster Legal Assistance Committee**

*To The Virginia Bar Association:*

A new draft of the “Handbook For Disaster Legal Assistance” has been prepared and distributed. It reflects, among other things, the transfer of the Federal disaster relief function from the President’s Office of Emergency Preparedness to the Federal Disaster Assistance Administration. The Handbook also reflects the enactment of the Disaster Relief Act of 1974 (P.L. 93-288), the most recent disaster legislation which generally supersedes the Disaster Relief Act of 1970 (P.L. 91-606) referred to in the earlier version of the Handbook.

The Committee has been designated, at the request of the Attorney General of Virginia, to provide legal services to individuals pursuant to the Virginia Emergency Operations Plan—Peacetime Disasters promulgated by the Governor of Virginia under the Virginia Civil Defense Act. In this connection, we have participated in “VOPEX-76,” a comprehensive exercise to test the validity of the Plan. “VOPEX-76” was conducted October 23-29, 1975. The exercise was structured around a hurricane which entered the United States through the Gulf of Mexico and proceeded to Virginia with such force and devastation as to require the Governor to request Federal disaster assistance. Our principal contact with the exercise was the staffing, together with Federal and State agency representatives and quasi-public relief organizations such as the Red Cross and the Salvation Army, of a Disaster Assistance Center which was established following the theoretical declaration of a major disaster in this State by the President.

We observed a “type” briefing, conducted by FDAA, which is normally held for prospective applicants for public assistance after a major disaster, and we attended an orientation session on Disaster Assistance Center organization and operations. Simulated disaster victims were registered and processed through the Center.

The Disaster Assistance Center was operated here in Richmond on Wednesday, October 29. The Committee and the Young Lawyers Section were represented at the Center.

Through projects such as these we hope to be prepared to provide valuable services to the citizenry should real disaster strike.

Respectfully submitted,

Guy T. Tower, Chairman

**Report of the Membership Committee**

*To The Virginia Bar Association:*

Continuing its efforts to attract new members to the Section the Committee and the Young Lawyers Section of the Norfolk-Portsmouth Bar Association recently sponsored an oyster roast on the Chesapeake Bay. The event, which was held the Sunday after the traditional Oyster Bowl game in Norfolk, attracted over 150 lawyers, judges and local politicians and their families. The occasion afforded many young lawyers the opportunity to meet Section members and ask questions respecting Section activities.

In addition, the Committee has communicated with recent graduates of the Virginia bar examination, inviting them to join the Association. Committee members in the Richmond area also made a special effort to contact prospective members by telephone. The Committee believes that these efforts and the Association’s willingness to waive its usual first-year dues and registration fee have generated new interest in the Section and resulted in many new applications.

Respectfully submitted,

C. Edward Russell, Jr.
Thomas L. Appeler
Co-Chairmen
January 10, 1975

The Virginia Bar Association
The Executive Committee

Gentlemen:

We have examined the statement of changes in cash account balances for the six month period ended December 31, 1974, and the related statements of cash receipts and disbursements. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statements of changes in cash account balances and cash receipts and disbursements present fairly the cash balances of The Virginia Bar Association as of December 31, 1974, and the recorded cash receipts and disbursements for the six month period then ended in accordance with generally accepted accounting principles for the cash basis method of accounting applied on a basis consistent with that of the preceding year.

/s/ SALLEY, WEISSINGER AND COMPANY
Certified Public Accountants

January 10, 1975

EXHIBIT A

STATEMENT OF CHANGES IN CASH ACCOUNT BALANCES FOR THE SIX MONTH PERIOD ENDED DECEMBER 31, 1974

Cash Account Balances, July 1, 1974:

Virginia National Bank Checking Account ...... $10,024.16
Virginia National Bank 6% Certificates of Deposit
Number 03557-1-000279097 With Interest Accrued to June 17, 1974 ......................... 8,163.77
Number 03557-1-000279100 With Interest Accrued to June 27, 1974 ......................... 12,409.89
Number 03557-1-000331332 With Interest Accrued to June 1, 1974 ......................... 5,521.27
United Virginia Bank 6% Certificate of Deposit Number 09072 With Interest Accrued to September 7, 1974 .................................................. 20,000.00
First and Merchants National Bank 4½% Passbook Savings Account Number 10-13343-9 With Interest Accrued to June 30, 1974 ......................... 10,812.69
Total .................................................................. $66,931.78
Add Excess of Cash Receipts Over Disbursements (Exhibit B) .................................. 21,284.19
Cash Balance, December 31, 1974 .................. $88,215.97

Cash Account Balances, December 31, 1974:

Virginia National Bank Checking Account ...... $ 5,251.12
Virginia National Bank 6% Certificates of Deposit
Number 03557-1-000279097 With Interest Accrued to September 17, 1974 .................. 8,287.24
Number 03557-1-000279100 With Interest Accrued to September 27, 1974 .................. 12,597.57
Number 03557-1-000331332 With Interest Accrued to September 1, 1974 .................. 5,604.78
United Virginia Bank 6% Certificate of Deposit Number 09072 With Interest Accrued to September 7, 1974 .................................................. 20,000.00
First and Merchants National Bank 4½% Passbook Savings Account Number 10-13343-9 With Interest Accrued to December 31, 1974 .................. 36,475.26
Total .................................................................. $88,215.97

EXHIBIT B

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS FOR THE SIX MONTH PERIOD ENDED DECEMBER 31, 1974

Receipts:

Dues:
Current .................................................. $57,460.00
New Members ........................................ 1,365.00
Total .................................................. $58,825.00

Registrations and Reservations:
84th Annual Meeting .................. $ 8,370.25
12th Midwinter Meeting ................ 2,650.00
Total .................................................. 11,020.25

Interest on Savings .................. 2,257.23
Sale of Annual Reports ................ 226.34
Total Receipts ........................................ $72,328.82

Disbursements:

Operating Expenses:
Secretary-Treasurer's Salary ........ $ 4,500.00
Postage and Mailing List Mainte-
ance ........................................ 4,121.55
Secretarial Salaries ....................... 3,578.00
Salary of Editor of the Bar Journal ........................................ 3,000.00
Office Expenses ....................... 2,511.53
Travel ........................................ 994.15
Publicity ........................................ 910.00
Reimbursement of President's and
President-Elect's Expenses ........ 900.00
Taxes ........................................ 698.46
Insurance .................................. 529.00
Telephone .................................. 285.57
Audit ........................................ 275.00
Dues and Subscriptions ................ 154.00
Other ........................................ 307.83
Total .......................................................... $22,564.89

Meetings:
84th Annual Meeting ................ $11,992.90
12th Midwinter Meeting ................ 467.90
Total ........................................ 12,460.80

Publication of 1973 Annual Report ................ 10,987.75
Young Lawyers ..................... 2,870.53
The Bar Journal ....................... 1,387.29
Committees .................................. 773.37
Total Disbursements .................. $51,044.63

Excess of Receipts Over Disbursements ................ $21,284.19

EXHIBIT C

SIGNIFICANT ACCOUNTING POLICIES
DECEMBER 31, 1974

The Virginia Bar Association employs the cash receipts and disbursements method of accounting in maintaining its financial records. Certificates of deposit are stated at cost with interest accrued to the maturity date next preceding the Association's year end, December 31, 1974.
The Virginia Bar Association
The Executive Committee

The Virginia Bar Association

Gentlemen:

We have examined the statement of changes in cash account balances for The Virginia Bar Association for the six months ended June 30, 1975, and the related statement of cash receipts and disbursements. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statements of changes in cash account balances and cash receipts and disbursements present fairly the cash balances of The Virginia Bar Association as of June 30, 1975, and the recorded cash receipts and disbursements for the six month period then ended in accordance with the basis method of accounting applied on a basis consistent with that of the preceding year.

/s/ SALLEY, WEISSINGER AND COMPANY
Certified Public Accountants

EXHIBIT A

STATEMENT OF CHANGES IN CASH ACCOUNT BALANCES FOR THE SIX MONTH PERIOD ENDED JUNE 30, 1975

Cash Account Balances, January 1, 1975:

Virginia National Bank Checking Account ........................................... $ 5,251.12
Virginia National Bank 6% Certificates of Deposit
Number 03557-1-000279097 With Interest Accrued to September 17, 1974 ........ 8,287.24
Number 03557-1-000279100 With Interest Accrued to September 27, 1974 ... 12,597.57
Number 03557-1-000331332 With Interest Accrued to September 1, 1974 ........ 5,604.78
United Virginia Bank 6% Certificate of Deposit
Number 09072 With Interest Accrued to September 7, 1974 ...................... 20,000.00
First and Merchants National Bank 4½% Passbook Savings Account Number 10-13343-9 With Interest Accrued to December 31, 1974 ...................... 36,475.26
Total ........................................................................... $88,215.97

Less Excess of Cash Disbursements Over Receipts (Exhibit B) .................... 41,218.99

Cash Balances, June 30, 1975 .................................................................. $46,996.98

Cash Account Balances, June 30, 1975:

Virginia National Bank Checking Account ........................................... $ 380.91
Virginia National Bank 6% Certificates of Deposit
Number 03557-1-000279097 With Interest Accrued to September 17, 1974 ........ 8,287.24
Number 03557-1-000279100 With Interest Accrued to September 27, 1974 ... 12,597.57
Number 03557-1-000331332 With Interest Accrued to September 1, 1974 ........ 5,604.78
United Virginia Bank 6% Certificate of Deposit
Number 09072 With Interest Accrued To September 7, 1974 ...................... 20,000.00
First and Merchants National Bank 4½% Passbook Savings Account Number 10-13343-9 With Interest Accrued to June 30, 1975 ...................... 126.48
Total ........................................................................... $46,996.98

SIGNIFICANT ACCOUNTING POLICIES
JUNE 30, 1975

The Virginia Bar Association employs the cash receipts and disbursements method of accounting in maintaining its financial records. Certificates of Deposit are stated at cost plus interest accrued to the maturity date of the certificates, nearest preceding the Association's year end, June 30, 1975. Fixed Assets are written-off as purchased. Consequently, no depreciation is computed herein.
Memorials

The Association notes with deepest regrets the passing of the following members:

Bass, Horace Greeley .................. 1905 - 1975
Birchfield, Harris S. .................. 1895 - 1975
Coleman, Hon. S. Bernard ............. 1901 - 1975
Gilmer, Howard Cecil, Jr. .............. 1906 - 1975
Goode, Virgil H. .................. 1902 - 1976
Heberle, Robert J. .................. 1907 - 1975
Jones, Hillary H., Jr. ................ 1923 - 1975
Lewis, J. M. B., Jr. ................ 1900 - 1975
Lowe, Otto .................. 1899 - 1975
Porter, Harry W. .................. 1902 - 1975
Shapero, Maurice B. ................ 1897 - 1975
Smith, Joseph Wysor .................. 1919 - 1975
Sutherland, Roby K. ................ 1909 - 1975
Wiltshire, Ellsworth ................ 1898 - 1975
Wise, John S. .................. 1905 - 1975