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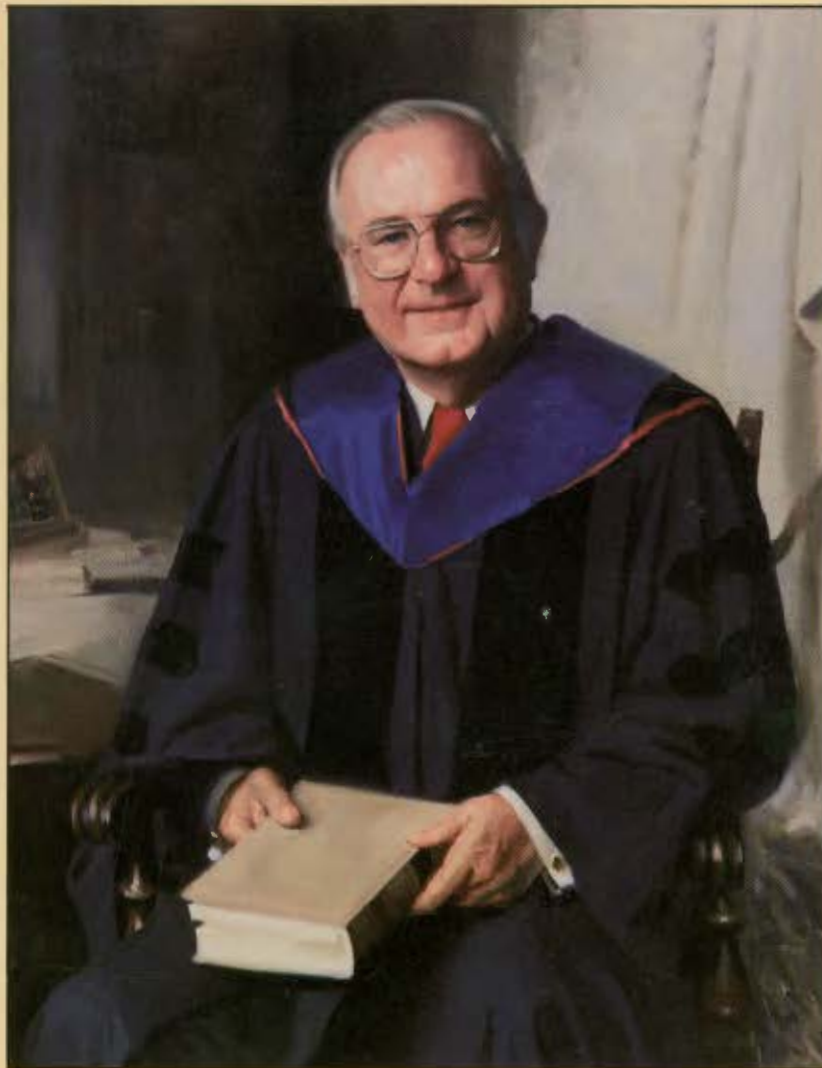
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GEORGIA ADVOCATE



J. Mark Beaird

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GEORGIA ADVOCATE

Spring, 1987

Vol. 22, No. 2

"The Georgia Advocate" is an alumni news magazine published twice a year by The University of Georgia School of Law.

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ASSISTANT TO THE DEAN AND
DIRECTOR OF ALUMNI PROGRAMS
Gwen Y. Wood
EDITOR Fran Thomas



On the cover is a portrait of J. Ralph Beard by Paul C. Burns (photographed by Walker Montgomery). Above, Dean Beard and his granddaughter Meredith Scarboro are pictured at unveiling ceremonies during Law Day. (See page 17.)

Graphic design by Louise M. Jones
Photography by Walker Montgomery,
Chuck Moore, Hope Ziffer and Fran
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Tort Reform

and the Formulation of Public Policy

by Thomas A. Eaton



The very first bills introduced in both the House of Representatives and Senate during the most recent session of the General Assembly concerned the issue of tort reform. This was no coincidence, for tort reform was considered perhaps the most important issue of the session. In relatively short order, Georgia joined the ranks of over forty states that have enacted some form of tort reform legislation in the past two years.

The Georgia package contains an assortment of features. Some of the legislation is targeted exclusively at

medical malpractice litigation. As of July 1, 1987, medical malpractice claimants must file along with their complaint an affidavit of an expert witness specifying some negligent act or omission of the defendant. The statute of limitations for minors will begin to run at age five or the date of treatment, instead of the age of majority as under current law. The Good Samaritan rule has been expanded to protect all health care providers who render medical services voluntarily and without the expectation of compensation.

Other legislation applies to tort ac-

tions generally. Officers and directors of public or charitable organizations are shielded from civil liability by a new limited immunity. Punitive damages may not exceed \$250,000 in most cases other than those involving defective products. The collateral source rule has been modified so that juries will now be informed of compensation provided the claimant from public or private sources. Georgia judges will have limited authority to modify a jury's determination of the amount of damages. Finally, the Tort Reform Act eliminates the rule of joint

and several liability in cases where the plaintiff is partially responsible for his or her own injury.

Each of these reforms either makes it more difficult for a claimant successfully to bring an action or reduces the amount of damages recoverable. The ultimate goal is to bring the cost of liability insurance under control. By reducing the frequency and/or severity of claims, insurance costs may be stabilized. Whether the Georgia legislation will accomplish this goal remains to be seen. I am somewhat skeptical. But rather than debate the merits of any particular aspect of the legislation, I would prefer to discuss how the policy issues have been developed. The parameters of the tort reform debate have become bogged down in a futile exercise of finger pointing. We need to re-focus the debate towards a broader assessment of the proper role of tort law in modern society. Until we more precisely identify what we expect from the tort system, we cannot begin to determine whether it is performing well.

I. The Problem: the High Cost of Liability Insurance

The debate over tort reform centers on the high cost of liability insurance. Everyone agrees that insurance premiums have increased dramatically in recent years. Nationally, general liability premiums increased 81% last year alone. Medical malpractice insurance costs for all physicians doubled from \$1.7 billion in 1983 to \$3.4 billion in 1985. Georgians, too, have felt the sting of rapidly escalating insurance costs. Liability premiums for members of the Georgia Day Care Association have risen 100-200 percent with some members reporting a 700 percent increase in one year. In 1982 the average neurosurgeon in Georgia paid approximately \$14,000 to buy a \$1 million liability policy. The same policy cost over \$44,000 in 1986. Clearly, the cost of insurance is reaching a critical level for many segments of our society.

II. The Cause of High Insurance Costs: Competing Versions of the Truth

The "cause" of high liability insurance premiums is the subject of intense disagreement. On one side of

the issue are the pro-tort reformers led by the insurance industry and health care providers. Opposing tort reform are trial lawyers and an assortment of consumer groups. Each side has marshalled an impressive array of facts to support its own version of the truth.

A. The Case for Tort Reform

The insurance industry and its supporters maintain that high premiums are the inevitable byproduct of an ever-increasing litigious society. They point out that over a nine-year period, federal courts have witnessed a 758 percent increase in the number of product liability claims filed. The number of medical malpractice claims more than doubled between 1979 and 1983. At the same time the frequency of claims was rising, so too was the average cost of a claim. One jury verdict reporting service found that the average award in a personal injury case increased at a rate of more than 15 percent per year since 1975. The average award for a wrongful death claim rose from \$22,259 in 1975 to \$946,140 in 1985. In 1974 there were only 24 verdicts of a million dollars or more. Ten years later, there were more than 400 such awards.

The only way to halt the trend of increasing insurance costs, so the argument goes, is to halt the trend of increasing the frequency and severity of claims. That is the precise goal of most tort reform legislation, including Georgia's.

B. The Case Against Tort Reform

Those opposing "tort reform" view the "insurance crisis" as a creature of the insurance industry itself. Property and casualty insurance carriers are far more profitable than they let on. Industry accounting practices overstate losses and disguise profits. Tax credits enable an industry with a net income exceeding \$23 billion between 1981 and the first half of 1986, to pay no federal income tax during the same period. These tax credits do not appear on industry profit and loss statements issued to the public. It is indeed ironic that physicians were advised in a recent issue of *Medical Economics* to invest in liability insurance companies, including those that underwrite medical malpractice insurance. The article states that "these guys are going to make enor-

mous profits, much larger than people think."

If there is any problem with current profitability, critics maintain it is due to poor underwriting decisions of the past. During the last 1970's and early 1980's when interest rates were very high, insurance companies were willing to write policies for bad risks at low prices. Their goal was simply to attract as many premium dollars as possible to invest in high yield money markets. The bad underwriting risk and low premium were more than offset by the high interest rate. When interest rates fell in the mid-1980's, many of those bad-risk policies remained outstanding. Companies raised premiums dramatically in order to cover poor underwriting decisions.

According to this scenario, it is insurance mismanagement and not tort litigation that is responsible for the increased cost of liability insurance. The so-called litigation explosion is dismissed as being nothing more than a myth. The number of civil actions filed in federal and state court has remained fairly constant in relation to the population. To underscore their point, insurance industry critics note that jurisdictions that have enacted tort reform legislation continue to experience significant increases in insurance costs. The "answer" to the "insurance crisis" is greater regulation of the insurance industry.

III. The Futility of Finger Pointing

As outlined, the main protagonists in this policy debate view each other as the party responsible for the problem. They are convinced that the "facts" vindicate their respective positions. Unfortunately, this posture is not likely to get us very far. In the first place, the sources of empirical data are quite limited. We simply do not have enough information to determine which version of the truth to believe. Secondly, it does not consider the possibility that both sides may be correct in their empirical assertions.

A. Limited Information

The sources of empirical data concerning the tort system are few and limited. Aggregate data on filings and dismissals are maintained by the Administrative Office of the United States and the National Center for State

Courts. The data are not sufficiently detailed to tell us very much about the tort system. They do not, for example, indicate how often the plaintiff prevails in various types of personal injury actions or what the average level of recovery is. The Rand Corporation and others have commissioned more detailed studies of jury verdicts. Most of these pertain to verdicts in San Francisco, Chicago, or other particular localities. While these studies are valuable, they may not be representative of jury behavior in other parts of the country.

I was asked by the Governor's Advisory Committee on Tort Reform to report on jury verdicts in Georgia. I was somewhat surprised to discover there is no systematic recording of such information. Records maintained by the Judicial Council of the Administrative Office of the Courts deal only with aggregate filings and disposition of cases. These records do not even differentiate between types of civil actions. Thus, no one knows how many personal injury cases were tried in the state of Georgia last year, much less how often the plaintiff prevailed or what the amount of the average award of damages was.

If we know very little about jury verdicts, it should come as no surprise that we have even less information on settlement practices. Data concerning the impact of tort law on insurance premiums is also largely unavailable. One might assume that insurance commissioners would routinely collect such information in order to rule on requested rate increases. Until very recently, however, most commissioners did not do so. A representative of the Georgia Insurance Commissioner's Office testified before the Governor's Advisory Committee that his department did not have the data to determine whether there is any insurance liability crisis in this state.

With such fragmented and incomplete information, reasonable people can draw different conclusions. For every study that supports tort reform, there is another that does not. The Tort Policy Working Group of the United States Department of Justice concludes that tort reform is essential if insurance is to be available and affordable. A report prepared for the National Association of Attorney Gen-

erals strongly disagrees. The neutral policymaker is thus presented with conflicting sophisticated statistical studies drawn on limited data. It is difficult to determine which version of the truth to believe.

B. Could They Both Be Right?

The present posture of finger pointing is not helpful for another reason. It is possible that both sides are substantially correct in their primary contentions. Insurance companies may be financially healthy as trial lawyers maintain, but still entitled to a higher return on their investment than they are currently making. Higher premiums may be necessary to cover underwriting risks and provide a reasonable profit. Similarly, the frequency and severity of claims may be rising, but those claims and awards may be justified. I am suggesting that we should consider the possibility that high insurance rates are necessary to sustain even a properly functioning tort system. Presently, neither the trial lawyers nor the insurance industry appear willing to address this prospect. The tort reform debate must be recast to include a discussion of whether society is able or willing to pay for the current tort system. In order to consider this question, we must reexamine the role of tort law in our society. Only when we decide what tort law is supposed to do can we determine whether it is doing it well and whether it is worth the cost.

IV. Where Do We Go From Here?

The issue of tort reform is likely to return if not during the next session of the General Assembly then in a few years. The proponents of tort reform did not promise that the Georgia legislative package would reduce insurance premiums. At best, it will slow the rate of increase. Having now established the legitimacy of responding to high insurance costs by modifying tort rules, it is only a matter of time before new reforms are proposed.

Between now and then I suggest that our policymakers do three things. First, we must identify and evaluate justifications for the tort system. Upon reflection we may challenge assumptions often taken at face value. The characterization of tort law as a scheme for compensation is one of

the common perceptions that is most suspect. The role of tort law as a deterrent to undesirable behavior needs to be more carefully analyzed. The value of vindication must be assessed. How one views these theoretical issues will point the way for future changes in the law.

Second, we must improve our sources of empirical data regarding both tort litigation and insurance regulation. It is unfortunate that the Legislature did not follow the lead of other states and establish a standing body empowered to collect data on personal injury litigation. Perhaps the Administrative Office of the Courts could begin collecting more detailed information on different types of cases filed, how they are disposed, and at what cost. The insurance commissioner should be encouraged to require insurance companies to report data reflecting the impact of Georgia tort law on Georgia insurance rates. I fear that without this type of data the Legislature will be no better informed when facing the next battle over tort reform.

Finally, each reform proposal must be considered on its own merits. It is relevant to take into account the probable effect that the changes in legal rules will have on the frequency and severity of claims. But we must also assess the impact of new rules on the processing of legitimate grievances. It is one thing to confer immunities and limit damages in order to stabilize insurance premiums. It is another, and far more difficult task, to do so in a way that does not prejudice valid claims. The debate over tort reform should be more than an exercise in raw political power. It is an opportunity to reconsider the role of civil litigation in our society and shape the law to accommodate current needs. The formulation of sound public policy requires us to rise above the futility of blame assessment and begin a principal discussion of broader issues.

Thomas A. Eaton is an associate professor of law at the University of Georgia. On the law faculty since the fall of 1979, he teaches courses in torts, law and medicine and workers compensation.

The Fate Factor in Legal Education

by Fran Thomas

Justice Thurgood Marshall easily qualifies as a legend in his own time. This year he will celebrate his eightieth birthday and his twentieth year as Associate Justice on the U.S. Supreme Court; the first and only black ever appointed to the nation's highest court. In this term Glen Darbyshire, a Moultrie, Georgia native and a graduate of the University of Georgia School of Law, is clerking for the venerable judge.

Darbyshire is the third Georgia law graduate to clerk at the Supreme Court. Ironically, Bruce Brown, his former classmate and friend both at Davidson College and Georgia law school, clerked for Warren Burger in his final year as U.S. Chief Justice. Darbyshire's tenure with the Court encompasses William Rehnquist's first term as Chief Justice. "Doubtless for years to come Bruce and I will still be comparing notes on our experience and observations in these transition years," says Darbyshire.

There are 34 clerks currently at court; four clerk for Justice Marshall. Of the four, two are Yale law graduates and one is a graduate of Columbia Law School. Competition for these positions is fierce, and Darbyshire is one of few Southerners. Among the 34 only four are from Southern schools. (Two Southern clerks are law graduates from the University of Virginia and the other is from the University of Texas). Nine of the current clerks hold law degrees from Yale.

"Sometimes Justice Marshall kids me and calls me 'boy,' an endearing reminder of his own Southern cases," he adds. Marshall had a long career as counsel for the NAACP after a few years practicing what he calls "simple justice." In many ways it is ironic and yet almost predestined that a Georgia "boy" came to be appointed clerk for



Glen Darbyshire

the renowned civil rights attorney-turned-jurist.

Many people retire at the age Marshall began to serve on the Supreme Court. Born in Baltimore, Maryland on July 2, 1908, he was the grandson of a slave and the son of a railroad waiter. But his family put a premium on education and he attended Lincoln University and earned a law degree from Howard University. He spent most of his career in New York City as an attorney for the NAACP (1936-61), arguing scores of civil rights cases. He was appointed to the U.S. Court of Appeals for the Second Circuit in 1961, a post he held until 1965 when President Lyndon Johnson appointed him U.S. Solicitor General. In 1967 Johnson appointed him to the Supreme Court.

Says Darbyshire, "In 1908 the promise was not there for a black born in Baltimore." His future was hard to predict. His aunt taught him to

cook, he tells his clerks, "so that he could always have a skill to fall back on and always find work." But his family stressed education. "A combination of education, hard work, and fate placed Marshall where he is today," he said. Indeed, in many ways the same could be said for Glen Darbyshire.

Darbyshire attended Moultrie High School and graduated *magna cum laude* from Davidson College in 1979 with a B.A. degree in history. His credentials at Davidson and at Georgia are pretty much what one might expect of a candidate for a prestige clerkship: Phi Beta Kappa, ODK, president of the Student Service Organization as an undergraduate; and articles editor of the *Georgia Law Review* and Honor Court Justice in law school. A Castellow Scholar at Georgia, he graduated *cum laude*. Georgia law professor Ronald Ellington says of him, "Glen is astute, well-read, and interested in politics and world affairs. He has a commitment to social justice and a high sense of personal integrity and honor. I think he is capable of becoming one of the leaders in the legal profession."

But other items on his resume distinguish Darbyshire as a unique scholar with an unusual range of experiences. He spent his summers as a painter, carpenter, camp counselor, loan collector or law clerk. He once did a six-month internship with the surgical department of a public hospital. He took two years off between college and law school, one of which he spent in East Africa as a biology teacher at a rural community high school in Kenya. He considers the Kenya experience the best thing that could have happened to him at the time. "For sheer fun and excitement, it was one of the most rewarding experiences of my life."

Post-Kenya, he put in a year at the

University of Georgia taking selected studies, feasting on a banquet of courses in agricultural science and economics, ecology, accounting and graduate studies in entomology. Following graduation from law school he married law classmate Connie Kennedy from Savannah and accepted a premier appointment to clerk for Judge Frank M. Johnson, Jr. of the Eleventh Circuit Court of Appeals in Montgomery, Alabama.

Certainly Darbyshire's tenure with Johnson put him in good stead among applicants for a clerkship with Marshall. "It's the judge you clerked for who is the most important factor in an appointment to the Supreme Court clerkship," he says. But a Kenya connection might also have caught Marshall's interest. Marshall himself went to London in 1961 to help write a constitution to govern Kenya following her independence. Then Marshall was an

fate-factor in gaining the clerkship.

"Justice Marshall came to the University of Georgia in 1969 to lecture," adds Darbyshire, "and he had a good time. He had known J. Ralph Beard when Beard was in Washington as associate solicitor of labor and Marshall was Solicitor General, and he has followed the progress of the Georgia law school ever since. His memorable trip to Athens followed by his continuing interest in the University's law school is another quirk of fate that brought us together."

"The best thing about being a Supreme Court clerk," Darbyshire says, "is the daily personal contact with the Justice. He is extremely accessible to his clerks, and our time with him is substantive." Marshall's office annually handles more than 5,000 petitions for *certiorari*. Each of his clerks may expect to draft 1,200 memoranda to those petitions. Darbyshire's prescription for being a successful clerk is: write quickly, be confident, and argue persuasively ... and then defer to the justice. "We look up case histories and make recommendations; we simply service the judge. He, of course, makes up his own mind."

"His hours are not as long as ours," he adds. (Darbyshire puts in a nine-hour working day and about two

"Drafting a flood of legal memoranda in the nation's highest court and discussing issues with justices has got to be the ultimate in good legal education. This is definitely a crash course in the Supreme Court and its decisions."

"I owe a lot to Judge Johnson, both personally and professionally," says Darbyshire. "Clerking for Judge Johnson, I gained an insider's view of the legal process. We tend to cloister judges (or they cloister themselves), but clerks become confidants—family members—to judges. Two years ago Judge Johnson celebrated 30 years on the bench; three decades of public service. Nearly 60 of his former clerks came back to Montgomery to celebrate that anniversary with him, indicative of the loyalty and confidence Judge Johnson instilled in each of us. He is a man of tremendous courage of commitment and public awareness, and his sense of serving his country and his abiding respect for the legal system has had a great influence on me."

Thirty years ago Thurgood Marshall, then an attorney for the NAACP, argued the landmark school desegregation case *Brown v. Board of Education* before the Supreme Court. Then on the District Court in Alabama, Judge Johnson enforced that and other civil rights decisions throughout the late 1960's and beyond. "Johnson was tough but fair," says Darbyshire. "I really feel he was one of the South's greatest constitutional jurists."

American representative at the independence celebration in 1963 in Kenya. He returned there in 1978 for President Kenyatta's funeral. A shared interest in African development is part of what Darbyshire would term the



Georgia clerks past and present: Solomon, Darbyshire and Brown

hours reading at home at night.) "When in session the court hears arguments for four hours each day. Afterwards we meet with the Justice and discuss the cases that were argued that day. We summarize, and he writes down what he is going to say. That is our chance for real input, and sometimes there is a good debate. Once Marshall has made up his mind, he doesn't change it. And it is often difficult to predict just what his

lecture—both to the press and sometimes even to the clerks."

Touching upon the longevity and age of justices, Darbyshire has only praise for the justices: "Perhaps it's the challenge of being a justice that keeps them going so long. They are smart and they are committed. They judge from experience gleaned over decades. They don't have to continue on the bench; they could take their salaries and retire, but they are com-

been asked to lecture in celebration of the historic document. He has reminded his clerks that the document written 200 years ago counted each slave as 3/5 of a person. "He plans to celebrate not the birth of the Constitution, but rather the life of that document and the promise of equal protection and due process. If you look at just the original text we wouldn't be where we are today. Its meaning has changed through the years, particularly with the incorporation of the fourteenth amendment."

"For Marshall," says Darbyshire, "ours is a living constitution to be interpreted in changing times in order to better society."

Darbyshire can only conjecture what the impact of his current experiences will be on his future. "The impressive thing to me now is that these people (the justices) have devoted their entire lives to the law. None set out with an agenda of what they wanted to happen, but they exemplify what can be done with hard work, study and good fortune in a lifetime in the law."

A recent incident with Chief Justice Rehnquist raised Darbyshire's consciousness about setting aside time for public service. "Some of us had played tennis with Rehnquist, and he was driving us back to the office in his compact car. He began to talk about the changes to the legal profession over the last 20 years—from what we in Georgia call 'country lawyers' with time for civic affairs to the recent years when many law graduates are attracted by salaries which are four times the earlier wages in jobs that demand the billable hour. He lamented how little time young lawyers have to devote to public affairs."

In looking toward the future, Darbyshire hopes to set aside time for public service. He sees the need for balance and the importance of finding time for family and community involvement. In assessing the present, he says, "Drafting a flood of legal memoranda in the nation's highest court and discussing issues with justices has got to be the ultimate in a good legal education. This is definitely a crash course in the Supreme Court and its decisions."



Justice Marshall on campus in 1969

decision will be. He is relatively inscrutable."

"Justice Marshall is by no means a knee-jerk liberal. He leans to the left more often than not, but he is often unpredictable. In arriving at his decision he draws on a vast reservoir of past experience on both sides of the bench, and that experience is so wide-ranging from the point of view of a clerk that while it is not always possible to predict him, the exercise itself is always fascinating."

Darbyshire maintains that it's fun to see how little the press knows about how the court arrives at its decisions. "Court deliberations are behind closed doors, and just how one justice builds a consensus is a matter of pure con-

mitted to public service. They do this as their service."

On Marshall and his activist days, he says: "He was constantly asking for major reform in the South and the North. While the cases were always controversial, he always worked within the legal system, using the system to make social change. That's not like taking your case to the streets. Marshall has tried more criminal cases than any other justice, I am sure. But he would have gone down in history simply on his civil rights record, had he not become a justice. He carries great weight as the first black justice, and he is a remarkably forgiving man."

This year of the Bicentennial of the U.S. Constitution Justice Marshall has

Beyond Negotiation

Antonia Handler Chayes and Alternative Dispute Resolution

by Fran Thomas

Many of her colleagues consider Antonia Handler Chayes a pioneer taming the wilderness. She doesn't dress in buckskins, moccasins or a coonskin cap. Rather her uniform is more likely a designer suit and Gucci shoes. She carries a briefcase rather than a rifle as she confronts the forest primeval.

But Chayes is an explorer: an innovator in a new and complex field of law practice. She is the chairman of ENDISPUTE, Inc., a law firm and consulting service she helped found in 1982 to provide cost-effective alternatives to traditional litigation. With a national office in Washington, D.C., regional offices in Chicago and Los Angeles, and associates in other major cities, ENDISPUTE is the nation's first provider of a full range of dispute resolution services.

ENDISPUTE is a catalyst for mediation. The overall objective is simple: cut the costs imposed by disputes of all kinds—from multi-million dollar complicated corporate conflicts and massive product liability litigation to smaller scale contests between individual tort claimants or small business claims that clog the nation's courts.

Ms. Chayes is a *magna cum laude* graduate of Radcliffe who attended Yale Law School and earned a J.D. with highest honors from George Washington University. As Under Secretary of the U.S. Air Force in the Carter administration, she administered selected programs such as MX missile development, international base rights, and the organization and management of Israeli air base construction under the Camp David accords. A former partner in the Boston law firm of Csaplár & Bok, Ms. Chayes pioneered a new area of practice, advising corporations on their legal func-



Antonia Handler Chayes presented the Fourth Annual Edith House Lecture at the University of Georgia School of Law, March 12, 1987.

tion and educating them in litigation management, dispute resolution, and preventive practice.

Her management skills honed with the Air Force and her experience as a corporate advisor for Csaplár & Bok have armed her well for her current role as founding mother of ENDISPUTE. Those skills are in finding zones of agreement between parties by identifying and breaking down the barriers that divide them. By encouraging information sharing, she offers alternatives to polar extremes.

"ENDISPUTE," she explains, "offers a choice beyond negotiation and litigation. Two-party negotiation is often impossible. Litigation is expensive and

disruptive; it means that a previously-existing relationship is terminated. And traditional arbitration has not proved to be very satisfactory."

She points out that 90% or more of all lawsuits actually settle on the courthouse steps, but the transaction costs are enormous. "We are developing alternatives, using third parties either as straight mediators or in some kind of quasi-formalized process like a summary jury trial. A third party can seek to diffuse anger, improve communications, and get people unstuck."

For example, ENDISPUTE has assisted in designing, negotiating, and conducting more "mini-trials" than any other organization in the country. U.S. Chief Justice Warren Burger cited an ENDISPUTE resolution in his 1983 year-end report to the judiciary:

"An impressive example of the success of the mini-trial is that a multi-million dollar contract dispute between the Wisconsin Electric Power Company and the American Can Company was settled out of court this fall after each side presented a condensed version of its case to company representatives and a neutral third party. Following the presentation, negotiation between the parties led to settlement at substantial savings to both sides and the public."

"In that case," explains Ms. Chayes, "American Can and WEPCO jointly hired us to analyze the dispute. We advised both parties on their options for breaking a negotiation impasse. We proposed the mini-trial and detailed a procedure to implement it. We helped the parties choose the neutral third party and carry through the process."

She views these mini-trials as an interesting device for dispute resolution,

"a kind of truncated or compressed presentation of facts in the law, usually before a neutral but mainly before somewhat disinterested higher levels of management of the squabbling companies. In a day or so, senior management can see the best case each side presents and has a basis for settlement."

ENDISPUTE also trains numbers of corporate and law firm attorneys in negotiation and alternate resolution techniques. They teach them cost-effective legal and litigation management.

As neutrals and as traditional consultants, ENDISPUTE professionals assist clients in better management of disputes, particularly in circumstances involving complex litigation and multiple parties. For example, principals of the firm have served as court-appointed neutral experts and intermediaries in helping to develop a common information base and computer model against which to evaluate remedial proposals in a Los Angeles desegregation case. An ENDISPUTE partner has been a Special Master in Ohio and Massachusetts courts dealing exclusively with asbestos cases. Working with a coalition of involved companies to analyze high overhead costs in asbestos litigation, ENDISPUTE developed a computer program that displays a historic range of settlements in similar cases to give all interested parties an opportunity to understand their options. "They have been able to resolve these cases very quickly," observes Ms. Chayes.

ENDISPUTE also helps design long-term plans for corporation litigation, assisting management in evaluating their portfolios of existing cases for suitability for diversion to alternate processes. And they often work with insurance company claims departments to cut costs, achieve better dispute resolution, and reduce extra-contractual damage exposure.

"We are very interested in contractual clauses," says the pragmatic Ms. Chayes, "because we find the standard American arbitration clauses are in wide use but need a great deal of revision. We encourage parties to develop their own clauses and their own procedures that fit the problem. That's important, particularly in large scale disputes."

In regard to tort reform, Chayes

The Edith House Lecture Series



Edith House, a native of Winder, Georgia, was co-valedictorian of the Class of 1925, one of two female graduates in that first University of Georgia law class to graduate

women. Following graduation, she practiced law in Clearwater, Florida. She was then appointed assistant U.S. attorney for the Southern District of Florida, a post she held for thirty years.

When the Southern District of Florida was subdivided in 1963, she served as U.S. attorney for the district during the transition period. She retired in 1963 and lives in Jacksonville, Florida.

The Edith House Lecture Series is named in her honor and annually brings to campus outstanding women legal scholars. The series is supported through contributions of alumni, students, faculty and friends to the endowment for the Edith House Lecture Series in Law. The Women Law Students Association sponsors the series.

does not consider a cap on punitive damage awards the answer for massive product liability litigation. "A cap," she says, "will not prevent runaway juries in these cases."

She cites her involvement with the Manville Trust and previously with the Proctor and Gamble Dalcon shield litigation. "If a product has caused immense damage, there has to be an answer to going into Chapter 11 reorganization to deal with claims against a corporation. In Manville a trust was created that is essentially a stakeholding trust of about \$2.5 billion and that includes projected revenue from the reorganized company. This revenue will be used for the many claimants that have or will suffer asbestos-related diseases."

"What the court has done there is to get a neutral organization with very distinguished trustees (i.e., a retired federal court judge, a plaintiff's attorney, an investment banker, etc.) as truly neutral parties to develop a claims facility. We have been working on this," she explains. "Many, many devices are more imaginative than a cap."

"We do not think that alternative dispute resolution is a panacea," she says. "Rather we think that knowledge of such techniques and the ability to implement them are necessary complements to traditional negotiation, litigation and management skills."

ENDISPUTE may have been a pioneer, but disciple groups are now beginning to appear. "Some other companies are doing some work, for example, in 'Rent-a-Judge,' which is really a quick either binding or non-binding arbitration of very small cases," she illustrates.

"There is also a great increase in court annexation, where the court requires the parties to go through some sort of arbitration before a trial. So judges themselves are seeing the value of these techniques."

She is excited that alternative dispute resolution is now gaining real academic respectability. She adds, "What pleases me is that I now understand that techniques we have been developing work — they really work."

Mock Trial Takes Off!

by Kevin Gough



“... a chance to get back to the ‘Perry Mason’ mystique which drew so many of us to the law...”



Judge Anthony A. Alaimo and mock trial action with student witness Kent Duke (above); witness Kit Carson and advocate Russell Bryant (center); and Jim Jordan and jury (below) during Spring competition.

Once a law school novelty, mock trial has bucked the national movement toward alternative dispute resolution to become the leading co-curricular activity at the University of Georgia School of Law. Over 120 second and third-year law students have competed in this year's intramural mock trial competitions, with another 100 students acting as witnesses. So popular has the mock trial become that the student ATLA chapter (which began the competition in 1982-83) has transferred responsibility for the program to a newly created Mock Trial Board. "By any objective standard," boasts Joleen Casey, student ATLA chapter president and Mock Trial board chair, "mock trial has become one of the law school's most competitive events."

"The rapid growth of student in-

terest in mock trial has surprised everyone," says Thomas A. Eaton, the faculty advisor for the competitions. "It has already become larger than we ever thought it could be here."

Dean J. Ralph Beaird agrees: "Student interest in mock trial has dramatically accelerated. I haven't seen anything like it since I became dean here in 1972. Two years ago, I never gave mock trial much thought. You did not hear much about it. Hardly a week goes by now, however, when one or more of the mock trial people does not come through my office with a new request. We have a hard time keeping up with student demand for trial advocacy experience. The depth of student interest is remarkable."

Given all the other demands on students' time, the popularity of mock trials is all the more surprising, for trial preparation involves a significant commitment. Although there is no brief requirement and motions in limine, motions for directed verdicts, and other motions are optional, each competitor must make either an opening or closing statement, take a witness on direct, and cross-examine a witness. The mock trial rounds, which are judged by experienced trial lawyers, last from three to five hours. "Whoever said mock trials are easy," remarks finalist Mary Jo Bradberry, "has obviously never competed in one. The general level of preparation each semester seems to rise. The days when you could 'wing' a mock trial round and expect to win are long-gone."

"It is the very competitiveness of the intramural mock trial program which has led to its current popularity," says veteran mock trial and moot court participant Michael Terry. "Law students are, on the whole, a competitive lot. The chance to win or lose on your own merits is a welcome departure from the sometimes mundane nature of daily classes. Mock trial is also a chance to get back to the 'Perry Mason' mystique which drew so many of us to the law in the first place."

Georgia's mock trial teams are the greatest beneficiary of increased student interest in trial advocacy. Professor Eaton remembers "stalking" promising candidates for the trial teams and pulling them into his office one by one to sell them on the in-

Carlson Named 1987 Best Trial Advocacy Teacher in the Nation

Every year the Roscoe Pound Foundation of the American Trial Lawyers Association selects a national winner of the Richard S. Jacobson Award established to recognize publicly excellence in teaching the principles of trial advocacy. This year their unanimous choice is Georgia professor Ronald S. Carlson.

According to Foundation president David S. Shrager of Philadelphia, the award also recognizes the outstanding curriculum and strong program in trial and criminal advocacy at the University of Georgia School of Law. "As in the past," said Shrager, "the competition was extremely strong, including many well-known candidates at leading law schools in this country."

The thirty-year-old Roscoe Pound Foundation is a vehicle for legal research and education, promoting the highest aims of ATLA and continuing the dedication of Pound, former dean at Nebraska College of Law and then at Harvard Law School, to preserving and improving



the American system of justice. Carlson will accept the award at a dinner of the Fellows of the Foundation in San Francisco on July 13 at the ATLA 1987 Annual Convention. ATLA currently has a membership of 68,000 trial lawyers.

terscholastic competitions. "Today we have three or four applicants for every position on our mock trial teams."

Professor Ronald Carlson, who teaches trial advocacy and helps coach the teams, says, "We have always had good students, but now we attract even the *Law Review* and *Journal* writers who traditionally followed pursuits other than mock trial. With the caliber of students mock trial attracts now, it is just a matter of time before we bring back a national mock trial championship. And having coached a national winner before, I know we have the talent here to take a national championship."

On several occasions Georgia has already come close to a national championship. In 1985, for example, the Georgia mock trial team won the southeast regionals for the ATLA National Student Trial Advocacy Competition to advance to the "final eight"

tournament in Washington, D.C. There Georgia defeated one of the national finalists on the oral scores but got eliminated by the addition of "trial brief" scores to the point totals.

In 1986 both of Georgia's mock trial teams advanced to the regional semifinals of the ABA National Trial Advocacy Competition. One of those teams advanced to the national rounds in San Antonio.

In 1987, the ATLA Mock Trial team almost won another regional by defeating Mercer, the University of Florida, and St. Thomas to reach the final round of the competition where they narrowly lost to Cumberland (Samford) School of Law on a split decision. The 1987 ABA Mock Trial team, competing only one week before the Georgia Bar Examination, managed a fifth place finish in the field of twenty teams. Another Georgia team defeated Emory in that competi-

tion before being eliminated.

Georgia has also dominated the Intrastate Mock Trial Competition. The University of Georgia has won the state title five times over eight years—more than Emory, Georgia State and Mercer together.

Professor Carlson attributes much of Georgia's success to the quality of its intramural mock trial competitions: "The spring and fall competitions provide an opportunity unique in the law school world. The best explanation for our success is that our law students learn better by *doing* mock trials instead of simply listening to famous people lecture about them."

Many former law students have found mock trial experience useful in their work. Sue Smith, an associate with the Atlanta law firm of Peterson, Young, Self & Asselin, won the 1986 Georgia Intrastate Mock Trial Competition. "As a litigator," she says, "I have found my mock trial experience invaluable. All law students should be required to participate in mock trial competitions."

Debbie Ausburn, 1986 ABA Mock Trial Competition southeast region co-champion and now a clerk for Judge James L. Edmondson of the U.S. Court of Appeals for the Eleventh Circuit, says "Mock trial is a powerful complement to coursework. Several federal judges have told me that they consider mock trial good practice for future trial advocates."

Richard Murray, 1985 ATLA National Student Trial Advocacy Competition southeast regional champion and now an associate in the LaFayette firm of Fletcher & Womack, reports "Mock trial has been extremely useful to me. I did not fully appreciate as a law student just how useful mock trial experience would be to my legal practice."

Alumni interested in learning more about mock trial are invited to attend the final round of the Third Year Mock Trial Competition. It will be held October 23, 1987, in the Hatton-Lovejoy Courtroom. The legendary Judge Robert R. Merhidge, Jr., of Richmond, Virginia, will preside over the trial.

Kevin Gough is a member of the Class of 1987. He was a member of the ATLA National Student Trial Advocacy Competition team and he was selected for the Georgia team to moot with Gray's Inn in England.

Moot Court Champs



Region V National Moot Court Champions. Pictured left to right is the team of Terry Williams, Richard Kopelman and Mike Terry (with advisors Jere Morehead and Bob Brussack) with their trophy for first place in the region. Kopelman won Best Oralist and the team also won the Best Brief Award.



Georgia won its fourth title in five years when a team of second-year law students became the 1987 Intrastate Moot Court champions. Pictured from left to right are Jere Morehead, faculty advisor; Richard Ford (who also won Best Oralist); team coach Jennifer Northrop (a third-year law student); Ben Brewton; and Stephanie DeBerry. They defeated teams from Emory and Georgia State in semi and final rounds in the annual competition sponsored by the Younger Lawyers Section of the State Bar of Georgia.

A Bicentennial Celebration: Georgia's Impact on the U.S. Constitution

An address by former U.S. Attorney General Griffin Bell, Eighteenth Century entertainment by the University of Georgia Historic Dance Ensemble, a mock constitutional convention, and a performance of *A Funny Thing Happened on the Way to the Forum* were but a few of the highlights of a Bicentennial celebration attended by approximately 350 participant "delegates" at the 1987 Alumni Seminar, "Georgia's Impact on the U.S. Constitution" held in Athens in February.

Co-chairmen Dean J. Ralph Beard and Professor Milner S. Ball of the School of Law set an ambitious agenda and a lively pace for the three-day program of lectures, panel discussions, and group caucuses, all culminating in a mock constitutional convention on Sunday to endorse or amend the historic document or to write a new constitution and thereby alter the basic structure of the government.

An introductory address by distinguished legal historian Sanford Levinson of the University of Texas helped place the Constitution in historical perspective. In between group meetings to consider amendments and elect representatives to the convention, participants benefitted from panel discussions by an impressive array of political and legal personalities. Professor Louis B. Sohn moderated a panel of former Secretary of State Dean Rusk, U.S. Senator Wyche Fowler, and former White House Counsel to the President Robert J. Lipshutz. They addressed legal questions interpreted by branches of the government other than the courts.

In his keynote address, Griffin Bell called for a balanced budget and an increase in personal income tax, stating that "Congress should work toward balancing the budget at least



Griffin Bell



Milner Ball

once a generation." Bell argued that the president should be limited to one six-year term, and federal judges should have their terms limited to 12

to 14 years, instead of serving for life. "We should fix it so the president is not spending his first four years running for re-election," he said.

He added, "There should definitely be an age cap for judges. The U.S. Supreme Court justices are complaining about the workload, but five of them are more than 75 years old. I think there may be an energy level problem."

Chief Justice Thomas O. Marshall, Jr. of the Georgia Supreme Court introduced sessions on historic U.S. Supreme Court cases that originated in Georgia. Judge James C. Hill of the U.S. Eleventh Circuit Court of Appeals and Professor Robert Brussack took on the first 100 years of such decisions, followed by Judge John Godbold, also of the Eleventh Circuit Court, and Dean J. Ralph Beard who tackled the second hundred years.

On Sunday when the small groups assembled as states for the mock constitutional convention, their elected representatives called for assorted amendments to the Constitution, addressing such issues as compulsory school prayer, a line-item veto, compulsory national service, 12-year terms for the federal judiciary, and English as the national language. Quipped moderator Ball in response to the suggested amendments: "There shall be prayer in the schools. The children shall pray in English for a balanced budget."

When the laughter died down, representatives voted yes on the amendments, calling for a balanced budget, a 77.5 cap on the age of U.S. Supreme Court justices, a single appeal for court cases at the appellate level, and a six-year single term for the president. The final proposal was then put to a vote of the whole assembly. The vote was heavily in favor of the proposed amendments.

We the People





U.S. Secretary of Transportation Elizabeth H. Dole delivered the 1987 Law Day address in outdoor ceremonies on historic North Campus April 25. Currently the only female cabinet member in the Reagan administration, Mrs. Dole became transportation secretary in 1983, taking charge of a \$27 billion budget and 100,000 employees. She sets policy for the nation's aviation, highway, railroad, mass transit and maritime resources; and she is the first woman to head a branch of the armed services—the U.S. Coast Guard. She serves on the National Drug Enforcement Policy Board and the Vice President's Task Force on Terrorism. She spoke on the Bicentennial of the U.S. Constitution and the current challenges of the Transportation Department. Mrs. Dole is a graduate of Duke University and Harvard School of Law.

Hope Zither



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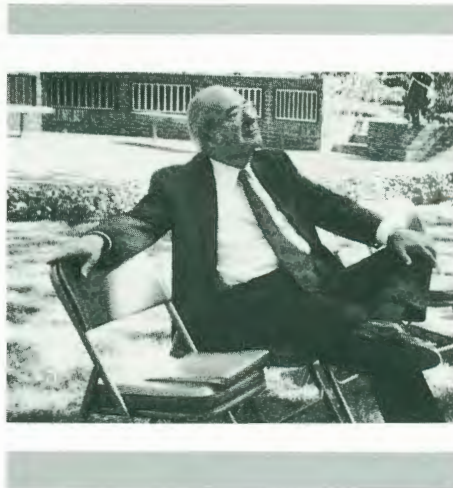


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(1) Dean Beard, Secretary Dole, and Interim University President Henry King Stanford (2) Secretary Dole at the podium (3) LSA president Edward Killorin, Secretary Dole, Virginia Killorin, and Mrs. Henry King Stanford at the President's House (4) LSA president-elect Larry Walker with Secretary Dole (5) John Daniel Reaves, Dean Beard, Secretary Dole, Dr. Stanford and the Rev. Jon Appleton.

Honoring J. Ralph Beaird

Throughout Law Day festivities alumni, faculty, students and other friends found occasion to acknowledge the career accomplishments of J. Ralph Beaird, now in his last year of a thirteen-year tenure as dean of the University of Georgia School of Law. After outdoor ceremonies during which Law Day speaker Elizabeth Dole, U.S. Secretary of Transportation, commended the dean and the School of Law, there followed a presentation of a portrait of Dean Beaird to the Law Library by the members of the Law School Association. An overflow crowd of well-wishers gathered in the Hatton Lovejoy Courtroom to hear remarks by former Beaird student Michael J. Bowers, Attorney General of Georgia; and LSA president Edward W. Killorin. Beaird granddaughters



Kristin and Meredith Scarboro unveiled the portrait of their grandfather painted by artist Paul C. Burns and commissioned by a group of 16 alumni and friends, including several former presidents of the Law School Association. The portrait will hang in the library among other portraits of former deans of the School of Law.

Dean Beaird received further recognition at the LSA Law Day luncheon, where alumnus and current majority leader of the Georgia House of Representative Larry Walker presented him with a Special Distinguished Service Award on behalf of the alumni. Richard Paulson, a member of the Class of 1935, then surprised the dean with an informal watercolor portrait by artist Alan Campbell.



(Clockwise) Dean Beaird and family (left to right) Carol Beaird; Meredith, Becky, and Kristin Scarboro; and Jean Beaird; Judge Harold Clarke, Michael J. Bowers, Edward Killorin and Dean Beaird following the portrait presentation in the Hatton Lovejoy Courtroom at the School of Law; Dean Beaird, Mrs. Harmon W. Caldwell, and Richard Paulson at LSA luncheon presentation.

1987 Distinguished Service Award Recipients

During Law Day weekend Jule W. Felton, Jr. and Charles H. Hyatt received the 1987 Alumni Distinguished Scroll Awards. In addition, J. Ralph Beard, dean of the School of Law for the past 13 years, received a Special Distinguished Service Award. Presenting these awards were L. Clifford Adams (J.D., 1960), the Hon. George H. Carley (J.D., 1962) and Larry Walker (J.D., 1965). The Law School Association annually presents awards in recognition of and appreciation for services to the School of Law and the University of Georgia.

Jule W. Felton, Jr.

by L. Clifford Adams, Jr.

Leadership is the quality which comes to mind when I think of Jule Felton. His entire career has been distinguished by the untiring leadership which he has generously given to the Bar and to this law school.

Beginning from the time he graduated with honors from the School of Law, Jule has served in every important leadership position of the State Bar of Georgia, including his successful term as President in 1985-86. His most notable contributions have been as a member of the Executive Committee of the State Bar from 1980 to the present, member of the Board of Governors from 1978-1985, trustee of the Georgia Bar Foundation, member of the Judicial Nominating Commission, and liaison to the Organization of the State Bar Committee. He has probably chaired as many important committees as any member of the Bar, including the committees on Legal Economics, Local Bar Activities, and Mid-Year Meeting (which he chaired twice). He has also served

as chairperson of the Study Committees on Rules of Practice and the Judicial Article.

Jule's father, Justice Jule W. Felton, had an illustrious career on the bench. He served as judge and chief judge of the Georgia Court of Appeals for 32 years, I believe the longest judicial tenure in Georgia's history, and then in 1969, was elevated to the Supreme Court of Georgia where he served until 1971. By heritage, Jule was no stranger to the law, or to politics, and it was natural that he would successfully run for the Georgia House of Representatives where he served with distinction for two terms. Again, his experience and considerable influence gained as a member of the General Assembly benefitted the Bar when he

served as member and chairperson of the Legislative Committee for eight years. He has also served as president of the Atlanta Bar Association and as a member of its Executive Committee.

He is a Fellow of the American College of Trial Lawyers, and in spite of his consuming activities on behalf of the Law School and the Bar, he finds time to be an outstanding practicing lawyer with his firm, Hansell and Post, which he joined in 1955. I'm sure that Jule has been instrumental in the establishment this year of the Allen Post Professorship at the School of Law by Hansell and Post, together with Mrs. Post and Allen Post, Jr., a chair which will honor the memory of the distinguished founder of that firm.



Felton and Adams

Charlie served as a member of the Law School Association Council from 1975-1977. He is presently class agent for the Class of 1951. He is a member of the Presidents Club, earmarking his entire gift for the University of Georgia School of Law. Charlie is an avid Bulldog and has remained an ardent supporter of the University and all of its activities.

Not only is Charlie tall of stature, he is a giant of the legal profession: a lawyer's lawyer, a compassionate counselor and a true Southern gentleman. In recognition of and appreciation for outstanding service to his profession, his Law School, and his fellow man, it is my pleasure and privilege to present this Distinguished Service Scroll to Charles Howard Hyatt.

Carley is Judge of the Georgia Court of Appeals.

Presentation of the Special Distinguished Service Award to

Dean J. Ralph Beard

remarks by Larry Walker

In his speech to the Massachusetts State Legislature on January 9, 1961 John Fitzgerald Kennedy said;

"For those to whom much is given, much is required. And when at some future date the high court of history sits in judgment on each of us, recording whether in our brief span of service we fulfilled our responsibilities to the state, our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage ... Second, were we truly men of judgment ... Third, were we truly men of integrity ... Finally, were we truly men of dedication?"

Using President Kennedy's criteria, has the recipient of this special award fulfilled his responsibility to this institution that means so much to each one of us and that we all love, the University of Georgia School of Law?



Hyatt and Beard

Certainly, Ralph Beard has been a man of courage. He is fiercely competitive and does not shy away from confrontation when he feels that his position is right and in the best interest of our law school. I know this from personal experience, for I have not always been with him on the same side of controversial issues. Nonetheless, I salute his courage, as I truly believe that he always does what he feels is in the best interest of our school.

Is our recipient a man of judgment? The record speaks for itself. The indicators by which law schools are compared and judged nationally have climbed faster and higher during the Beard deanship than would seem possible for a state-assisted law school. There is no better example of this than the school's private endowment. When Ralph Beard became acting dean in 1972, the total endowment was less than \$450,000. By the end of the current academic year, the endowment will reach \$16 million. Obviously his judgment has been excellent.

Is Ralph Beard a man of integrity? Without integrity, courage, judgment, and dedication would amount to

naught. His integrity is unquestioned. He is a man of sterling character; and he is impeccably honest.

Is Ralph Beard dedicated? Obviously. The record of the University of Georgia School of Law during his 13 years—two as acting dean and 11 as dean—speaks for itself. Justice Harold G. Clarke in an article for the March/April issue of the *Georgia State Bar News* states Dean Beard's motto: "Never aspire to and accept anything short of excellence on all fronts in setting all goals." This is dedication!

J. Ralph Beard has fulfilled his responsibility to the Lumpkin Law School of the University of Georgia. He has given our law school so much, and in order to carry forth his legacy the future will require much of his successors and of us.

With pleasure, I present to J. Ralph Beard, a man of courage, a man of judgment, a man of integrity, and a man of dedication, the University of Georgia Law School Association Special Distinguished Service Award.

Walker is Majority Leader of the Georgia House of Representatives and a member of the LSA Council.

The Sibley Lecture



Judge Browning

James R. Browning, chief judge of the U.S. Ninth Circuit Court of Appeals, the largest unit in the federal judicial system, delivered the sixty-seventh John A. Sibley Lecture to a packed house of students, faculty, and friends gathered in the School of Law Auditorium. Twenty-three years ago, Sibley himself introduced the first lecture endowed by the Charles Loridans Foundation of Atlanta and named in Sibley's honor. Since then it has become a popular and prestigious series. The April 15, 1987 lecture was the first to be held since Sibley's death in October, 1986. Dean J. Ralph Beard presented a resolution in memory of Sibley to Mrs. Barbara Sibley, his widow. The law faculty adopted the resolution with "its profound respect, affection, and esteem for John A. Sibley and its deep regret at his death."

Browning, a 25-year veteran of the federal bench who is noted for implementing progressive court system reforms, spoke on "Judicial Review and Judicial Restraint." Daniel Fessler, professor of law at the University of California, Davis, and Browning's former law clerk (1966-67), introduced the judge. Fessler will join the Georgia faculty in the fall as Distinguished Visiting Kilpatrick Professor of Law. Fessler noted that at the time his mentor Browning was appointed to the bench by John F. Kennedy, Browning was one of the youngest members of the federal judiciary. He noted also

that under Browning's philosophy of "justice delayed is justice denied," the Ninth Circuit, the largest component of the federal judicial circuit, is "absolutely current" in its cases.

In his address Browning stated that narrow restraints should not be placed on the federal court system's obligation to decide whether laws are in conflict with the Constitution. "No one wants to abandon judicial review," Browning said, "but there is an uneasiness about the way the courts have exercised this extraordinary power, a concern that the courts may have gone astray, usurping power that is not properly theirs."

Browning said existing restraints on judicial review prevent the courts from abusing that power. He classified the restraints under personal, institutional and contextual areas.

"Judges are just people," he said. "We are drawn from our society. We reflect the standards and aspirations of our society. And when we become judges we do not shed the mental, emotional and spiritual points of view we've acquired in our lifetime."

Browning became chief judge of the Ninth Circuit in 1976. The Ninth Circuit includes the federal courts in eight western continental states as well as Hawaii and the territories of Guam and the Northern Mariana Islands.

With 26 active and 10 senior circuit judges, the Ninth Circuit includes about one-sixth of all judicial officers in the federal judicial system. The court decides between 5,000-6,000 appeals annually—about 20 percent of the federal caseload.

In Memory of John A. Sibley



Dean Beard, Mrs. Barbara Sibley, Interim President Henry King Stanford

A Resolution in Memory of John A. Sibley adopted by the Faculty of the University of Georgia School of Law on April 15, 1987, salutes Sibley for "a long and productive life of 98 years as a great Georgian and a great American who achieved marked distinction in notable careers as lawyer, banker, businessman, farmer and philanthropist." The resolution also cites Sibley, the 1960 chairman of the Georgia General Assembly Committee on Schools, as the person "credited with saving

education in the State of Georgia and shaping the future of education in the state."

The late John A. Sibley graduated in 1911 from the Joseph Henry Lumpkin School of Law. He remained interested in the development and excellence of the University of Georgia from his student days and throughout his long life, "a friend of the University and the School of Law who emphasized the human qualities in the development of the institution."

The resolution reads in part, "John A. Sibley is remembered in the School of Law for his generosity and by his portrait which has hung in the halls of the school since it was unveiled in 1977 and by the distinguished professorship which bears his name and by the great and distinguished lecture series in his name established in 1967 by the Charles Loridans Foundation of Atlanta to bring to the School of Law outstanding legal scholars of national reputation."

Japan in the '80's Conference

Relations between Japan and the United States was the topic of a day-long conference in Athens March 30th sponsored by the Rusk Center in cooperation with the University of Georgia College of Business Administration and the Committee on Asian Studies. The traveling seminar featuring four scholars from Japan

was funded by a grant from the Japan Foundation, an organization that seeks to promote international understanding between Japan and other nations through the exchange of ideas.

The lecturers addressed such topics as U.S.-Japan trade conflict, U.S.-U.S.S.R. relations and the implication for Japan, post-war developments in Japanese science and technology, and the structure of agricultural protection and the adjustment problem in Japan.



Gathered for Japan in the 80's conference are (left to right) Toshihito Suzuki, Atlanta Consulate General; Professor Shiger Nakayama, University of Tokyo; Professor Soichi Shinohara, Doshisha University; Professor Hiromi Teratani, Aoyama Gakuin University; Professor Masayoshi Honma, Otari University; Thomas J. Schoenbaum, director of the Dean Rusk Center.

Rusk Center Lecture Series

The Rusk Center Lecture Series featured two prominent international scholars during the spring semester: George H. Quester, noted authority on nuclear diplomacy and international politics; and Takeo Iguchi, a career Japanese diplomat currently a scholar-in-residence at the University of Virginia.

Quester, professor and chairman of the department of government and politics at the University of Maryland, lectured in February on the topic, "Nuclear Proliferation: Bad News and Good News." His recent books in-

clude *The Future of Nuclear Deterrence and American Foreign Policy: The Lost Consensus*. He has taught on the faculties of Harvard University, Cornell University and the National War College.

Iguchi visited the campus in April and lectured on the topic "U.S.-Japan Relationships: Political and Economic Dimensions." Iguchi has held diplomatic posts in Japanese embassies in London, Manila, and Paris. In 1980 he became consul general of Japan in Boston. Since 1986 he has been attached to the Japanese Embassy in Washington, D.C. with the rank of ambassador.

Maritime Boundaries Symposium

The Rusk Center and the Department of Geography at the University of Georgia sponsored a timely international symposium May 1-2 on "Rights to Oceanic Resources: Deciding and Drawing Maritime Boundaries." The symposium attracted a multidisciplinary group of distinguished experts involved in recent years with the resolution of maritime jurisdictional disputes at state, national, and international levels. Participants included specialists from Belgium, the United Kingdom, France, Canada, Germany, and the United States.

Speakers shared their experiences and opinions with conferees drawn from a wide spectrum of government and private-sector agencies as well as a number of academic disciplines and fields of law. The sessions covered two main areas of concern: case-oriented examinations of geographical areas and problem-oriented examinations of practical aspects of dispute resolution.

Among the speakers were representatives from the Office of the Geographer and the Office of Legal Affairs of the U.S. Department of State; and the Land and Natural Resources Division of the U.S. Department of Justice. Eugene Odom, director *emeritus* of the University of Georgia Institute of Ecology spoke on "The Life Support Value of Maritime Resources." Keith Highet, president of the American Society of International Law, addressed the topic "The Future of Maritime Boundary Delimitation by the Court" and Louis Rey, founding president of the Comité Arctique International and Regents Lecturer at the University of California, Los Angeles, spoke on "Resource Development in the Arctic Regions: Environmental and Legal Issues." Georgia law faculty participants included Milner Ball and Louis Sohn.

The symposium was made possible by a grant from the Georgia Sea Grant Program.



Whitley

Whitley Appointed to U.S. Justice Department Post

Georgia's former Middle District U.S. attorney has been appointed assistant attorney general to the U.S. Department of Justice. Macon's Joe D. Whitley, a 1975 graduate of the University of Georgia School of Law, assumed his new post in Washington, D.C. in February, 1987. Whitley's duties include supervising the Narcotic and Dangerous Drug Section of the Justice Department and coordinating a national strategy for drug prosecution.

A native of Columbus, Whitley was appointed U.S. attorney for the Middle District of Georgia in September, 1981. At the time of his appointment he was, at age 31, the youngest U.S. attorney in the nation.

As U.S. attorney for the Georgia Middle District (including Macon, Columbus, Athens, Valdosta, Thomasville, and Albany), Whitley supervised the prosecution of hundreds of drug cases, including those involving cocaine and marijuana importation rings. The Federal Middle District encompasses 70 of Georgia's 159 counties and borders the states of South Carolina, Alabama and Florida.

A *magna cum laude* graduate, Whitley earned a B.A. degree in political science from the University of Georgia in 1972. As a Georgia law stu-

dent, he was active in the Legal Aid and Defender Society. Following law school, he was in private practice in Columbus, where he served as assistant state district attorney.

Active in alumni affairs, Whitley helped sponsor his class reunion in May, 1986. And he helped organize a Macon reception for Georgia law alumni last October.

Legislature Allots Planning Funds For Law School Addition

The Georgia General Assembly apportioned \$100,000 to begin planning for an addition to the University of Georgia School of Law. The money, contained in the Supplemental Appropriations Budget passed by the legislature February 17, 1987, is being used to hire an architectural firm to prepare blueprints for the addition.

Initial plans call for the addition to be located to the south side of the present law building, with the Main Library on the east and Brooks Hall on the west. The Dean Rusk Center, which has been temporarily located in Waddell Hall on the north campus since 1977, would go into the new addition along with the law library's collection in international law, facilities for the *Georgia Journal of International and Comparative Law*, and the school's graduate legal studies program.

Clinical and judicial education programs are slated for the new structure as well. These include the Prosecutorial Clinic and trial practice teaching courtroom, the Institute for Continuing Judicial Education, and the moot court/mock trial co-curricular programs.

Georgia Journal Enjoys Recognition

On February 24, 1987, U.S. Supreme Court Justice Sandra Day O'Connor, writing an opinion for the majority, cited the *Georgia Journal of International and Comparative Law* not once, but twice, cited an article by Professor Gary Born of the University of Arizona in Volume 17:1 of the *Jour-*

nal. The Supreme Court decision in this case, *Asahi Metal Co., Ltd. v. Superior Court of California*, is expected to be influential in the area of foreign sovereign immunity.

Other national recognition for the *Journal* came with an invitation to the staff from the National Conference of International Law Journals to conduct a workshop at their annual meeting in Boston. The conference is held in conjunction with the annual meeting of the American Society of International Law. The workshop focused on recent efforts to establish an endowment fund for the *Journal*, a topic of great interest to other national journals.

This spring a special supplement to Volume 16 of the *Journal* commemorates the Bicentennial of Congress and the U.S. Constitution. Says Editor-in-Chief Stephen Cummings, "We are hoping to make a joint presentation of this issue with the forthcoming special issue of the *Georgia Journal*, but also upon the Law School as a whole. We have had strong initial response from the alumni for our endowment fund, and we count on their continued support in the future."

Law School Becomes EC Documentation Center

An already strong program in international and comparative law is destined to become even stronger with the recent designation of the University of Georgia School of Law as a Specialized European Documentation Center by the European Communities. Georgia will be the only center in the state and region to receive this designation.

By early May the Law Library began to receive the first of what promises to be thousands of materials donated by the EC including cases, legislation, parliamentary debates and special studies in virtually every field, as well as all the foreign affairs aspects of the EC. Much of the material is not for sale and therefore otherwise unobtainable.

"This designation will significantly strengthen the Law Library's already

substantial European Communities law collection," explains Dean J. Ralph Beard. "And this moves us forward in our goal to become Law Center South: the library of last resort for members of the legal profession in this region."

According to Georgia professor of international law Gabriel Wilner, the Commission Des Communautés Européennes, which administers the dissemination of EC documents, selected the University of Georgia because of the strong interest among students and the expertise of the faculty in international law—and particularly in the law of the EC.

"Evidence of our interest," says Wilner, "is apparent through our course offerings, international exchange programs, the presence of the Rusk Center for International and Comparative Law, the strength of the graduate legal studies program, the publication of the *Georgia Journal of International and Comparative Law*, and the annual Brussels Seminar on the Law and Institutions of the European Communities which we sponsor."

J. Lastenouse of the EC Commission explains, "The status of EDC/S is reserved solely for universities which have courses and research on Europe integrated into their teaching programs and depends upon the academic standards of the teachers concerned with these European studies. I am pleased that we have been able to establish this collaboration between the University of Georgia and the European Communities."

UGA Law Student Elected ABA Delegate

Second-year student Greg Hecht of Atlanta is serving a term as student delegate to the legislative body of the American Bar Association. Hecht is one of two students who represent the more than 40,000 students nationwide who attend the 174 ABA-accredited law schools in the association's House of Delegates. Hecht represents the law school in international competition as a member of the Jessup Moot Court Team, and he is a member of the Prosecutorial Clinic.

Georgia Students to Clerk for U.S. Tax Court

For the first time Georgia law graduates will clerk on the U.S. Tax Court in Washington, D.C. Chris Neligan will clerk for Judge Mary Ann Cohen, and Ruth L. Barrett will clerk for Judge C. Maxley Featherston. Both Neligan and Barrett graduated from the School of Law May 16. Law placement director Jill Coveny Birch says, "It is most unusual for individuals to be selected straight from the J.D. program, as most judges hire only graduates of LL.M. tax programs."

Neligan is articles editor for the *Georgia Journal of International and Comparative Law*, and he served as the national student liaison for the ABA Section on Taxation. He served as a legal intern with Judge Arthur Nims III on the U.S. Tax Court in the summer of 1986. A native of Milledgeville, he holds an A.B. degree in history from Duke University.

Barret was an intern for the district counsel of the Internal Revenue Service in Atlanta last summer, and she participated in VITA in 1985. She holds a BBA *cum laude* in accounting and general honors from the University of Georgia.



A team of third-year students accompanied by advisor Robert Brussack journeyed to London and Oxford, England in May for moots with a team of young barristers from Gray's Inn. Pictured from left to right are Kevin Gough, Brussack, Richard Kopelman, and Steve Cummings. A Gray's Inn team will visit in Georgia in September for moots in Athens and Savannah in the ongoing international competition between the School of Law and the famous Inn of Court. While in London the Georgia team toured the court and other English institutions. Mrs. Pat Brussack also accompanied the team.

Workers' Compensation Hearings Held on Campus

The State Board of Workers' Compensation held case hearings at the Law School on April 28. In its second venture out into the State to conduct hearings, the Board met in the Law School courtroom, so that law students could observe the proceedings. Attorneys argued seven workers' compensation cases before the Board. James W. Paris, one of the directors of the Board of Workers' Compensation and a 1952 graduate of the Law School, arranged the visit.

Class of '42 Reunion Set

The Class of 1942 will hold its 45th reunion on October 24 in Athens. Class members will attend the Georgia-Kentucky football game and hold a reunion dinner at the Athens Country Club. Co-chairman for the event are Verner Chaffin and Robert Norman.



Dean J. Ralph Beard congratulates students selected for the 1987 England Summer Clerkship Program. Pictured are first-year students who will clerk with London law firms this summer: (left to right) David Ormond, Robert Bush, Scott Birdwell, Kirby Gould, and Laura Head. Not pictured is second-year student Mark Richardson. They represent a record number selected for this growing, four-year old program administered through the Law Placement Office.

Heirloom Presented to Lumpkin House

A table crafted c. 1800 on the plantation of William Lumpkin near Lexington in Oglethorpe County now graces the north parlor of the Joseph Henry Lumpkin House in Athens. William Lumpkin IV and other members of the South Carolina branch of the Georgia Lumpkin family recently presented the heirloom to the historic site.

The cherry table is most appropriate to the home of Georgia's first Chief Justice of the state Supreme Court, for it was in use at William Lumpkin's home for dinners attended by Alexander Stephens, Secretary of State of the Confederacy; General John B. Gordon, C.S.A.; and family kinsmen Joseph Henry and Wilson Lumpkin, who was Governor of Georgia and a U.S. Senator. By family tradition the table had passed from eldest son to eldest son until May when it was donated to the legal landmark.



The Rev. Dr. Joseph L. Roberts, Jr. of Ebenezer Baptist Church, Atlanta, delivered the invocation for Commencement May 16. With him is his daughter Cynthia, a graduate in the Class of '87.

The Georgia Journal Endowment Fund

The impetus for the *Georgia Journal* Endowment Fund stemmed from the initial efforts of two former *Journal* staff members and the publication's current faculty advisor. Kenneth Klein and Terry Smith, both of the Class of 1976, met with Professor Gabriel Wilner to devise a plan for soliciting funds from former editorial board members last fall. Smith was editor-in-chief of volume six and Klein was articles editor. Their campaign netted more than 40 contributors by the end of March.

A bequest which came to the Law School this year was directed by Dean Beaird to establish the new endowment. Kenneth Klein, Charles Hunnicutt and Terry Smith made Presidents Club commitments to the fund with \$10,000 gifts each to be made over a 10-year pledge period.

The goal of the fund-raiser is to reach \$100,000 through continuing gifts from former editorial board members. The endowment now stands at \$15,000 with \$30,000 in pledged gifts.

Student Gains International Experience in Brazil

Last summer law student John Wallace (Class of '88) was selected for a British clerkship with the London law firm of Farrer & Co. Through connections he made there, he was able to land two internships for this summer in Rio de Janeiro, Brazil. The Atlanta native will work first for Stroeter, Trench e Veirano, an affiliate of Baker and McKenzie, a Chicago-based international law firm. While in their international and finance department, he hopes to work in the area of restructuring external debt. He will spend the second half of the summer with Castro, Barros e Sobral, a Brazilian law firm with affiliated offices throughout Latin America and Western Europe. There he hopes to gain experience in direct foreign investment in Brazil as well as in general international legal transactions.

Class of '75 Gift

The Class of 1975 made a cash gift to the School of Law from the proceeds of their class reunion held last May. Reunion organizers Sam Chesnutt, Joe Whitley and Frank Butler presented the gift on behalf of the class.

SBA Student/Faculty Auction Becomes Annual Affair

For the second year the Student Bar Association sponsored a spring auction of donated faculty and staff offerings for fun and profit. Students got the opportunity for spirited bidding on such treats as lunches and breakfasts, cocktails and cookouts, sailing trips and windsurfing lessons, tennis, golf, biking, and volleyball competitions—all courtesy of professors and staffers.

Last year's auction netted a surprising \$2,000-plus and provided opportunities for student/faculty fraternization outside the confines of hallowed halls and classrooms. Profits help SBA finance several other student activities and contribute to law school programs such as the Vaughn Ball Library Fund.



The great-grandchildren of Eugene Talmadge recently unveiled a portrait of the former Georgia governor. The portrait will hang at the School of Law among those of other graduates who held the office of governor, including Talmadge's son Herman. Pictured left to right are Tyler, Herman III, Murphy, Elizabeth, and Robert Talmadge.

Pearson Selected U.S. Supreme Court Judicial Fellow



Pearson

Georgia law professor, Albert M. Pearson, III, has been selected from among over 100 candidates to serve as one of two Judicial Fellows with the Supreme Court of the United States. He will spend a year in Washington under the program beginning August, 1987.

During its 14-year history, the Judicial Fellows Program has consistently attracted exceptional young professionals capable of making significant contributions to the improvement of the judicial system. Each year two or three Fellows are chosen to spend one year working with top officials in the judicial branch of the government.

Pearson will serve primarily at the Supreme Court in the Office of the Administrative Assistant to the Chief Justice. The administrative assistant aids the Chief Justice in completing his planning and administrative responsibilities for the Supreme Court and the federal judiciary. The Fellow assigned to the Court participates in long-range projects as well as day-to-day administrative tasks and works closely with the administrative assistant in carrying out the duties of that statutory office.

Fellows assigned to the Court have contributed to projects such as speech writing and other drafting assignments, briefing visiting foreign dignitaries, preparing analytical

reports, and developing projects to enhance public understanding of the court.

The Judicial Fellows Program is designed for professionals in the early stages of their career development who will contribute to improvement of the judicial process, both during and after the fellowship. Competition for the positions is intense. Pearson was invited to Washington in late January as one of ten finalists to participate in an orientation session and a judicial Fellows Reception with the Chief Justice and other high-level officials and to interview with members of the Judicial Fellows Commission.

Pearson holds a B.A. degree from Birmingham-Southern College and a J.D. from Vanderbilt. He joined the law faculty at Georgia in 1974.



Brannen and Reaves

Two Presidents

The Executive Directors of Georgia's Institute for Continuing Legal Education and Institute for Continuing Judicial Education currently play key leadership roles as elected presidents of their national associations for continuing professional education. Barney

L. Brannen, director of ICLE, will serve a year's term as president of the American Association of Continuing Legal Education Administrators, beginning in August, 1987. This association is the largest organization of state and nationally based providers of continuing legal education and has over 200 members in the United States, Canada, Austria and the United Kingdom. Richard D. Reaves, director of ICJE, began a two-year term in October, 1986, as president of the National Association of State Judicial Educators, the largest organization of persons involved in the basic and continuing education of judges in the United States and Canada.

Ponsoldt Testifies Before House Judiciary Committee

Law professor James F. Ponsoldt has told a congressional committee that laws governing price fixing between manufacturers and retailers and laws prohibiting major mergers between competitors should be more strictly enforced. Ponsoldt presented expert testimony in February before the House Judiciary Committee in Washington, D.C. He testified during the committee's hearings to conduct oversight concerning the U.S. Department of Justice and to consider new antitrust legislation.

Ponsoldt condemned the failure of the current administration to enforce existing laws that police price fixing agreements between manufacturers and retailers and laws that forbid competitors to merge. "Inaction by the executive branch has rendered the democratic process almost irrelevant in the context of antitrust," said Ponsoldt, who was a senior trial attorney with the justice department before joining the Georgia faculty in 1978.

In response to questions from committee members, Ponsoldt said permissive policies toward mergers "undercut the long-term international competitive position of [America's] basic industries. America does not become more competitive interna-

tionally by undermining domestic competition."

Ponsoldt was invited to testify by committee chairman Rep. Peter Rodino. This was the third time in four years that Ponsoldt has been invited to appear before the committee as an expert witness on business regulation matters.

"Judge" Eaton Finds in Favor of Biological Father in Surrogate Mother Case

While Superior Court Judge Harvey R. Sorkow in Hackensack, New Jersey pondered his decision in the controversial Baby M case, the *New Jersey Law Journal* asked ten law school professors, including University of Georgia Law Professor Thomas Eaton, to decide the contract issue in the first trial in the nation in which a judge was asked to determine whether a surrogate mother contract can be enforced. The purpose of the articles was to present a cross section of expert views on this novel legal issue.

In the non-jury trial, William Stern, biological father of a then-11-month-old baby girl, and his wife Elizabeth sought to enforce a contract in which Mary Beth Whitehead agreed to act as a surrogate mother and bear a child for them. Most of the professors said the contract should not be specifically enforced. Eaton concluded, however, that the contract is enforceable to the extent it is consistent with the best interests of the child.

Eaton found, "This contract is clearly in the best interest of the child. Without this agreement, Baby M would never have been conceived. In a very real sense, the contract gave her life ... Life, even if accompanied by the risk of some emotional distress, is surely preferable to the alternative of nonexistence."

In addressing the emotional issue of whether contracts dealing with creation of life violate public policy, he wrote, "Orthodox artificial insemination allows a married couple with the assistance of a third party to create

and raise a child who is genetically related to her mother. Surrogate parenting agreements allow a married couple with the assistance of a third party to create and raise a child who is genetically related to her father. The court finds no reason why public policy can tolerate one of these reproductive techniques but not the other. The primary objective of any surrogate parenting agreement is to create a child to be raised by a couple who are unable to procreate themselves. These agreements affirm rather than diminish society's respect for life."

Eaton rendered his decision February 26, 1987. On March 31 Judge Sorkow made legal history by ruling in favor of the plaintiff that the surrogate parenting agreement was enforceable.

While the precedent set by this ruling applies only in New Jersey, the implications for other courts and for future legislation are widespread. Since the first surrogate birth in 1976, more than 500 babies have been borne by surrogate mothers. Twenty-five states are considering legislation to limit contracts such as the one that Baby M produced.

In his opinion Sorkow wrote, "Unfortunately, the law is slow to react to the rapid advance of science and changing human behavior ... As of this date not one state ... has adopted a law that specifically addresses ... the concept of surrogate parenting ..." He continued, "The issues and dimensions of surrogacy are still evolving but it is necessary that laws be adopted to give our society a sense of direction if the concept is to be allowed to further develop ... If there is no law, then society will suffer the negative aspects of this alternative reproduction vehicle that appears to hold out so much hope to the childless who make up a substantial segment of our society."

In response to the judge's ruling Eaton wrote as guest columnist April 2 for *USA Today*, "The sweep of his 121-page opinion invites a complete airing of the constitutional, contractual, equitable, and moral issues pos-

ed by surrogate parenting. The judge is undoubtedly correct in finding that statutes regulating adoptions were not enacted with an eye toward surrogate motherhood. His conclusion that surrogate parenting does not amount to baby-buying is also sound: a father can no more buy his own daughter than can the child's mother. In finding that surrogacy contracts are consistent with public policy, the judge recognized that such agreements help create life and traditional family structures in circumstances where they would not otherwise occur."

The decision has been appealed to the New Jersey Supreme Court and is set for oral argument in September.

Speaking Out on Immunity

Throughout the recent controversy on the merits of diplomatic immunity for selected key witnesses in congressional investigations into the Iran/Contra affair, Professor Ron Carlson has found an extended audience/classroom for his views on the subject through print and broadcast media nationwide. His editorial, "Immunity Would End Speculations, Speed Congressional Investigation," appeared in the *Atlanta Constitution* January 6. On January 21 his position paper, "Compelling Colonel North's Testimony Will Bring Us The Truth," was entered into the *Congressional Record* by William S. Broomfield, U.S. congressman from Michigan and ranking minority member of the House Committee on Foreign Affairs. And both the *Wall Street Journal* and *USA Today* cited Carlson's views on the topic.

In a December 17, 1986 article entitled, "Limited Immunity May Make It Tougher to Build Case Against Reagan Aides," the *Wall Street Journal* quoted Carlson on the difficulties prosecutors face when presenting evidence against former national security aides in trials subsequent to the committee hearings. Carlson explained that before 1970 Congress sometimes granted "transactional immunity" or immunity from prosecution for

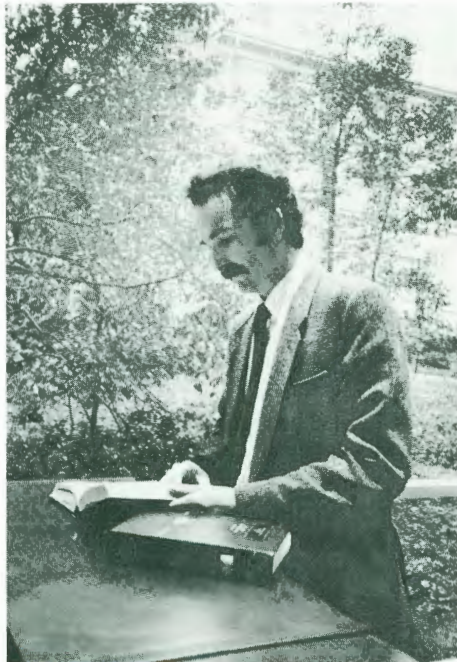
anything connected with an entire event. But the Organized Crime Control Act of 1970 authorized congressional committees to grant by a two-thirds vote a more limited form of immunity. "The law," he explained, "is for the testimony and for any information directly or indirectly derived from such testimony."

When a committee votes to grant immunity, congressional lawyers must notify the attorney general and file a request with a Federal district judge. The attorney general may then ask for a 20-day delay to give prosecutors an opportunity to organize their case. "In recent years," said Carlson, "prosecutors have used this period to put their evidence in a sealed envelop and present it to the judge to help prove later that they didn't rely on the immunized testimony."

Carlson was a guest-expert on "super radio" stations from four cities educating call-in audiences on the intricacies of the law on immunity: WNJO in West Palm Beach, Florida; ABC Talk Radio in Los Angeles; WBAL in Baltimore and CBS Talk Radio in Seattle.

ICJE Director Keynote Speaker for National Conference

Richard D. Reaves delivered two papers and a major address for the National Conference on Judicial Education at the Marshall-Wythe Law School at the College of William and Mary in January. The conference was designed and co-sponsored by the National Center for State Courts, the National Judicial College, the National College of Juvenile Justice, the Committee on Courts of the American Association of Law Schools, and the National Association of State Judicial Educators, of which Reaves is president. More than one hundred people attended from throughout the U.S. and Canada. Reaves' papers focused on the functional relationship between state-based and nationally based judicial education and on the operational relationship of law schools to continuing legal education.



Waite

The Southampton Exchange

Andrew J. Waite, a lecturer in law at the University of Southampton in England, was a visiting professor in the School of Law spring semester, continuing an ongoing exchange between Georgia and the British university. Waite, whose special interests are property, housing and environmental law, is a co-founder and current secretary of the United Kingdom Environmental Law Association. He taught environmental law and coastal and marine resources law at Georgia.

Before joining the Southampton faculty, he was solicitor at Lambeth Community Law Center in London. He was educated at Lincoln College, Oxford University and the College of Law at Guildford, England.

As the current acting director of the Centre for Energy and Natural Resources Law at Southampton, he has worked with the IUCN Environmental Law Centre in Bonn, West Germany to create ecologically sound management of wetlands. He is also involved in a study of the environmental law of the Maghred (Morocco, Algeria and Tunisia), a region with

comparatively little education in law and ecology.

"In the last decade," said Waite, "ecological and aesthetic awareness of the importance of wetlands has accelerated dramatically. It is becoming increasingly vital to undertake comparative studies among nations as well as to draw up guidelines to advise Third World countries to put environmental legislation into place."

Visiting Professors

Paul M. Kurtz and Michael L. Wells spent spring semester as visiting professors at Vanderbilt Law School and the Marshall-Wythe School of Law at William and Mary, respectively. James C. Smith spent spring semester in Great Britain conducting research on a Sarah Moss Fellowship given by the University of Georgia to facilitate studies by younger faculty members.



Milner S. Ball, Harmon W. Caldwell Professor of Law, was faculty co-chair of the University of Georgia Alumni Seminar for 1987. The seminar produced a constitutional symposium published in the current issue of the *Georgia Law Review* and introduced by Ball. His monograph "Constitution, Court and Indian Tribes" has been accepted as a Samuel Pool Weaver Essay on Constitutional Law and will be published in *American Bar Foundation Journal's* special issue for the Bicentennial of the Constitution.

In December Ball gave a paper at the Indian Law Symposium in Tempe, Arizona and led a faculty seminar at Mercer University School of Law. This spring, he delivered the Justice Jackson Lecture at Albany Law School in New York; a lecture at Russell Sage College; a panel presentation at the annual meeting of the Organization of American Historians in Philadelphia; and a presentation at a Boston University Law School Colloquium. At the University of Georgia he addressed the annual meeting of the Honor Society and delivered the Phi Beta Kappa annual lecture. He led a seminar for the Savannah River Ecology Lab. In June he will be one of 50 participants in this year's Earl Warren Conference sponsored by the Roscoe Pound Foundation in Philadelphia.

J. Ralph Beard, dean and University Professor of Law, addressed the Professionalism Committee of the State Bar of Georgia in January. In February he co-chaired the Alumni Seminar on the Bicentennial of the U.S. Constitution at the University of Georgia and addressed guests at the Board of Visitors Meeting and annual Legislative Luncheon in Atlanta. He attended a legal seminar in Atlanta for Regents employees. In March he attended the Regional Conference on Lawyer Competency in Atlanta and the ICLE and ICJE board meetings at St. Simon's Island. In April he judged Emory University's Law Day moot court competition. He chaired the ABA/ALSA Reinspection Team for Tulane University School of Law. He also addressed alumni meetings in Columbus and a civic club in Cumming, Georgia on the U.S. Constitution and the Bicentennial. He attended the Eleventh Circuit Judicial Conference in Birmingham and the ALI meeting in Washington, D.C. in May. He was elected to membership in the American Law Institute in December.

Larry E. Blount, associate professor of law, continues his research for a book for Clark Boardman Company, Ltd. to be titled *Closely Held Businesses—Organization and Operation*. He was appointed in Fall, 1986 as *pro hac vice* for the Clarke County Magistrates Court, which is a continuing appointment. He was the keynote speaker for the Black Economic Development Workshop held at Albany State College in March. He delivered the graduation address at Stillman College in Tuscaloosa, Alabama in May. He currently serves as director of the Georgia Development Authority for the Georgia Association of Minority Entrepreneurs.

Robert D. Brussack, associate professor of law, was named this year as editor of the new quarterly publication of the School and College Law Section of the State Bar of Georgia. He participated in the University of Georgia Alumni Seminar on the Bicentennial of the U.S. Constitution, delivering a presentation on *Chisholm v. Georgia*, an important early Supreme Court case on sovereign immunity and federalism. He has served on the Statutes and By-Laws Revision Committee of the University Council. He is the current chairman of the Student Affairs Committee of the Council, and he serves as a member of the Faculty Affairs Committee. Brussack recently contributed an essay on governance of the university in a forum series for *Columns*, a faculty/staff on-campus publication. As veteran advisor for the Moot Court Program, he coached the teams with Jere Morehead, who assumes full responsibility for the program next fall. Brussack continues as advisor and coordinator for the Gray's Inn moots held in London and Oxford, England this May and scheduled for Athens and Savannah in the fall. He has been named chair of the University System committee to study the relation between System institutions and assorted corporate entities; and he currently serves on a university-wide committee to study the feasibility of a faculty center.

Ronald L. Carlson, John Byrd Martin Professor of Law, served as moderator May 1 for the Federal Bar Association's National Council Meeting in celebration of the Bicentennial of the U.S. Constitution at Congress Hall in Philadelphia. U.S. Attorney General Edwin Meese, Congressman Peter W. Rodino of New Jersey, and Secretary of the Army John O. Marsh, Jr. were among the featured speakers for the

forum: "The Constitution: Past, Present and Future." Associate Justice of the Supreme Court Antonio Scalia was the honored guest at a reception for participants at the U.S. Courthouse in Philadelphia.

Carlson presented the Adler-Rosecan Distinguished Lecture in Trial Advocacy at St. Louis University in February. His lecture "Passion and Persuasion in Jury Advocacy: From the Masters to Modern Times" dealt with the history of oral argument. He was a lecturer for the spring program of the Georgia Institute of Trial Advocacy held at the university. He was selected Distinguished Visiting Professor for the University of Tennessee's College of Trial Advocacy and lectured at their program in May. This summer he will serve as visiting criminal professor at the University of Iowa College of Law. His recent publications include supplements to *Criminal Law and Procedure*; *Criminal Law Advocacy*; and *Successful Techniques for Civil Trials*.

Verner F. Chaffin, Callaway Foundation Professor of Law, has prepared a monograph for the Georgia Bankers Association detailing and analyzing recent developments in trust and probate law for distribution to member bankers and their attorneys. He is revising his book, *Studies in the Georgia Law of Descendants' Estates and Future Interests*, published by the Michie Company in 1978. The revised volume will be available this fall.

Chaffin has been made a Life Member of the American Law Institute in honor of 25 years membership in the elected national organization. He was an honored guest at a luncheon for Life Members at the annual meeting of the Institute in Washington, D.C. in May.

Samuel M. Davis, associate dean and J. Alton Hosch Professor of Law, is the co-author of a new book published in April by D.C. Heath, *Children's Rights and the Law*. He prepared the 1987 looseleaf supplement to his book *Rights of Juveniles: The Juvenile Justice System*, and he authored an op-ed article for the *Atlanta Constitution* entitled "The Process Works: Let Judges Decide to Treat Juvenile Offenders as Adults" published March 10. He was a faculty participant in the University of Georgia Alumni Seminar on the Bicentennial of the U.S. Constitution. He presented a program on "Legal Liability of Volunteers" to Hospice of Athens.



Thomas A. Eaton, associate professor of law, was a speaker at the annual conference of the Association of Law Teachers held in Exeter, England in April. He spoke on tort reform in the U.S. He also addressed the annual meeting of the Georgia Neurological Association on the topic of tort reform. His article, "Simple Analysis of Tort Crisis Suspect," appeared in the February 9th issue of *Atlanta Business Chronicle* (p. 28A). In January he addressed the League of Women Voters' Forum on Liability Insurance and Tort Reform. He is author of "Legality of Surrogacy Agreements" as guest columnist for *USA Today* (Section A, p.10, January 23, 1987); "Contract is Consistent with Public Policy" in the *New Jersey Law Journal* (p.25, February 26, 1987) which was reprinted in the *Fulton County Daily Report* on March 11, 1987; and "Comparative Responses to Surrogate Motherhood," 65 *Nebraska Law Review* 686 (1986). He has completed a chapter entitled "Biomedical Technology and the Law" for a book to be published by the Georgia Press.

C. Ronald Ellington, Thomas R.R. Cobb Professor of Law, has been appointed to serve as judge *pro hac vice* of the Municipal Court of Athens. He also serves as an expert witness for the State of Georgia in litigation involving state prisoner access to courts.

Eric M. Holmes, professor of law, completed an article entitled "A New and Old Theory for Adjudicating Standardized Contracts" which passed the first reading at the *Harvard Law Review*. He is completing an initial draft for a book to be titled *Georgia Insurance Law and Practice* for publication by Michie Company in early 1988. He drafted a substantial teacher's

manual for his casebook *Cases and Materials on the Law of Insurance* (with William F. Young of Columbia University), which continues to be the leading insurance casebook in the United States.

Frederick W. Huszagh, professor of law, continues as a member of the Economic Policy Council (NYC) and a panel member for a two-year study on "Vision for the 1990's: Managing Adjustment in the International Information Age." He co-authored with Sandra Huszagh two articles for *International Marketing Review*: "Understanding Agricultural Exports" (Vol. 4, Spring 1987-London) and "Barter and Countertrade: Management and Determinants of Growth" (Volume 3, Summer 1986-London). The latter was the subject of a three-page abstract in the Fall 1986 volume of *The International Executive*, published by the American Graduate School of International Business (Glendale, Arizona). He continues to author numerous articles for two bi-weekly newsletters for the banking industry, *Banker's Watch* and *Cannon Trust Watch*, dealing with fiscal and monetary issues as well as corporate trust activities.

Ellen R. Jordan, professor of law, presented a paper at the Association of Law Teachers 22nd Annual Course and Conference held at Exeter University in April. The association represents over 700 people teaching in public sector education within the United Kingdom and overseas. With Dr. James E. Kundell of the Carl Vinson Institute of Government at the University of Georgia, she discussed alternative dispute resolution techniques in the siting of hazardous waste disposal facilities, using Georgia as a case study. The work will appear in a paper entitled "Hazardous Waste

Management Facility Siting in Georgia" to be published by the Carl Vinson Institute of Government. Jordan continues to serve as acting associate vice-president for academic affairs for the university.

Sarajane Love, associate professor of law, is researching a supplement for her book *Louisiana Probate and Succession Procedures* and beginning work on a new edition of *Redfean's Wills and Administration in Georgia* to be published by Harrison Company in 1988.

John C. O'Byrne, Francis Shackelford Professor of Law, is the author of the eighth edition of *The Farm Income Tax Manual* published in January. The Commercial Clearing House casebook for basic income tax classes which he co-authored and edits has gone to press for July publication. He has completed editorial work on an Internal Revenue Code and Regulations volume for income tax classes. The volume will be published this summer.

He taught a week-long course in February in the University of Miami Law School Graduate Program in Estate Planning on "Corporate Reorganizations." He attended the meeting of the Board of Editors of the tax casebook series in December in Palm Beach, Florida. He will teach Trusts and Estates at Northeastern University Law School during the summer quarter.

L. Ray Patterson, Pope F. Brock Professor of Law, is the author of three recent articles: "Free Speech, Copyright and Fair Use," 40 *Vanderbilt Law Review* 1 (1987); "An Inquiry into the Nature of Legal Ethics: The Relevance and Role of the Client," 1 *Georgetown Journal of Legal Ethics*, Spring, 1987; and "Legal Ethics," Survey, 38 *Mercer Law Review* 269 (1986). He is a member of the Formal Advisory Opinion Panel and the Code of Professional Responsibility Committee of the State Bar of Georgia. He was a participant in the ALI-ABA program, Copyright, Trademark and Unfair Competition, in Washington D.C. in the fall and the University of Michigan program on International Trade and Intellectual Property in the spring. He served as a member of the ABA-AALS reinspection team for Loyola of Los Angeles Law School in the fall and Wake Forest University School of Law in the spring of this academic year.

Walter Ray Phillips, Joseph Henry Lumpkin Professor of Law, has been named

Editor-in-Chief of a new series to be published in nine volumes by Callaghan & Company. The series deals with the tension between bankruptcy and a variety of other legal areas, including commercial law, securities, corporations, commercial real estate, taxation, labor law, franchises and international law.

Phillips has recently completed the third edition of *Corporate Reorganization*. The Harrison Publishing Company published his treatise on *The Family Farmer and Individual Adjustments of Debts* in February. He addressed the winter meeting of the Western Circuit Bar Association on the new Code of Professional Conduct. He has been reappointed chair of the Consumer Bankruptcy Committee of the ABA meeting in San Francisco this summer. In May he delivered the commencement address for Tulsa Law School.

James F. Ponsoldt, associate professor of law, presented a paper on the "Legality of Vertical Restraints" at a national conference sponsored by the Antitrust Institute at the Airlie House near Washington, D.C. in March. He was featured in a special debate at the School of Law with the Deputy General Counsel of the U.S. Department of Commerce on efforts to amend American antimerger law. He contributed two editorials to the *New York Times*: "Democracy and Capitalism Collide" (January 9) and "Cowboys and Capital" (March 13), as well as an editorial November 10 in the *National Law Journal* on "Judges' Ideology Must Be Checked, Balanced."

His articles, "The Unreasonableness of Coerced Cooperation: A Comment on the NCAA Decision" and "Clarifying the Attempt-to-Monopolize Offense as an Alternative to Protectionist Legislation," appear in the Winter, 1986 edition of *The Antitrust Bulletin* published this spring and the fall, 1987 edition of *Notre Dame Law Review*, respectively. In April he published a satirical essay, "Reward the Pushers, Execute the Users: An Immodest, Market-Based Proposal to Eliminate the Drug Problem," in *The National Law Journal*.

Thomas J. Schoenbaum, executive director of the Rusk Center and Rusk Professor of Law, continues as a member of the UGA Committee on Asian Studies and as director of the Latin American Studies Center. He was appointed counsel to the Law Enforcement Council of the South Atlantic Fisheries Commission. He con-

tinues to participate as co-chair of the U.S.-Japan Trade Study Group with Professor Mitsuo Matsushita of Tokyo University and to serve on the permanent advisory board of the Tulane Admiralty Law Institute. In February he was a guest lecturer in the interdisciplinary course, "War and Peace in the Nuclear Age." He was general editor of the Rusk Center publications *International Protection of Intellectual Property Rights* (1986) and *How to Achieve Free and Fair Trade with Canada* (1986). He is the author of an article entitled, "A Brief History of Arms Control Negotiations" in *Arms Control*, edited by Paul Diehl and Loch Johnson and published by the University of Georgia Press (1987). His article "The Antidumping and Countervailing Duty Laws: An Evaluation and a Proposal for a Unified Remedy for Unfair International Trade" will be published as a Rusk Center monograph, as well as in the *German Yearbook of International Law*. He continues work on the Dean Rusk Research Collection.

In January he traveled to Japan to give three invited lectures: "Prospects for Trade Legislation in the United States" at the Japan External Trade Organization in Tokyo; "The Antidumping and Countervailing Duty Laws and the GATT" at the Fair Trade Center in Tokyo; and "Intellectual Law Protection on Intellectual Property Rights" at the Japan Business Training Law Institute in Tokyo. In February he lectured in Atlanta at a seminar sponsored by the International Law Section of the State Bar of Georgia and the Japan-America Society. He helped organize the "Japan in the '80's" conference held in Athens in March.

His 800-page book, *A Hornbook on Admiralty and Maritime Law*, was published by West Publishing Company. His works in progress include: a second edition of his book *Islands, Capes, and Sounds: The North Carolina Coast* scheduled for publication in a trade paperback edition by Blair Publishing Company; the second edition of his casebook *Admiralty and Maritime Law* published by Michie Company; a political biography of Dean Rusk to be published by Simon and Schuster Company; and a book entitled *International Commercial Law* for Butterworths. He is also at work on a Rusk Center publication, *Comparative Regulation of Nuclear Power*; the third edition of *Environmental Policy Law*, a casebook to be published by Foundation Press; and *Japanese Regulation of International Trade*, to be published by Tokyo University Press.

R. Perry Sentell, Talmadge Professor of Law, is the author of a new monograph, "The Writ of Quo Warranto in Georgia Local Government Law," published by the Carl Vinson Institute of Government. The monograph addresses questions that arise in local government on the legitimacy of a person's claim of title to a public office. The study explores the origins, historical developments, and current status of the writ of "quo warranto."

Sentell is also the author of several recent articles: "Lawyers Who Represent Local Governments," 23 *Georgia State Bar Journal* 58 (1986); and "Local Government Liability Limitations: 'Causation' is to Tort as 'Police Power' is to Eminent Domain," *Urban Georgia Magazine*, p.20 (January-February, 1987). He made a presentation on "Recent Local Government Law Developments of Interest to Trial Judges" to the Institute of Continuing Judicial Education for Superior Court Judges. He continues to write a monthly feature page "Towns and the Law in Georgia" for *Urban Georgia Magazine*, the official publication of the Georgia Municipal Association.

James C. Smith, assistant professor of law, held a Sarah Moss Fellowship during Spring Semester. He was based at the University of Southampton in England studying English land use planning, landlord-tenant regulation, and housing policy. His recent publications include: "Developments in the Law: Coal and Minerals" in *Proceedings of the Eastern Mineral Law Foundation*, Chapter 10 (1986); "Tenant Remedies for Breach of Habitability: Tort Dimensions of a Contract Concept," 35 *Kansas Law Review* (1987); and the Supplement to *Federal Taxation of Real Estate* (Release No. 2, Dec. 1986) for the Law Journal Seminars Press. The latter includes an overview of the real estate impact of the Tax Reform Act of 1986.

Louis B. Sohn, Woodruff Professor of International Law, attended meetings of the Commission on World Security Alternatives in New Paltz, New York, and of the Harvard Negotiating Project in Cambridge, MA during November of 1986. In December, he presented a paper on "The Role of International Law in the Maintenance of Peace" to the Board of the United States Institute of Peace in Washington. He also participated in the Winter Meeting of the Council of the Section of International Law and Practice of

the American Bar Association at St. Thomas, Virgin Islands during December. During January, 1987, he presented a paper on the "Law of the Sea Negotiations" at the Harvard Alumni Association's Centennial in Atlanta as well as a paper on "Customary International Law and the 1977 Geneva Protocols" at a meeting of the American Red Cross at the American University in Washington. While attending this meeting, he served as moderator for two panels. He also presented a report in January at a joint meeting of the Working Group of the American Bar Association and the Canadian Bar Association on Dispute Settlement. During February he served as moderator at the University of Georgia Alumni Seminar on the Bicentennial of the U.S. Constitution and continued to attend meetings of the Editors of the University of Virginia Project on the Law of the Sea. In March he attended a meeting in New York on Global Conference on Disarmament and Security and a meeting in Toronto on the settlement of trade disputes between Canada and the United States. In April he spoke on "Dispute Resolution Under a North American Free Trade Agreement" at a meeting of the Canada/United States Law Institute in Cleveland, Ohio, and he chaired a workshop on the "Role of Equity in International Law" at the American Society of International Law Annual Meeting in Boston. He participated in a meeting of the Commission on World Security Alternatives in New Paltz, New York and a meeting of the Council of the Section of International Law and Practice of the American Bar Association in Washington. During May he spoke on "Maritime Boundary Disputes" at a Symposium on Rights to Oceanic Resources at the Rusk Center; he spoke on "Transfrontier and Maritime Pollution" at a meeting of the University of Georgia Environmental Ethics Program; attended a conference on "Beyond Nuclear Deterrence" at the Harvard Center for Science and International Affairs; and attended a meeting of the American Law Institute in Washington.

His recent publications include "Unratified Treaties as a Source of Customary International Law," in T.M. Asser Institute, *Realism in Law-Making: Essays on International Law in Honor of William Riphagen* 231-46 (A. Bos and H. Siblesz, eds., Martinus Nijhoff, Dordrecht, The Netherlands, 1986); "'Generally Accepted' International Rules," 61 *Washington Law Reviews* 1073-80 (1986); and "Dispute Settlement Mechanisms," in Dean Rusk Center, University of Georgia, *How to Achieve Free and Fair Trade Between the*

United States and Canada (T.J. Schoenbaum and D.G. Dallmeyer, eds., 1986).

Erwin C. Surrency, law librarian and professor of law, is the author of *History of the Federal Courts* published by Oceana. He currently serves as director of the Georgia Legal History Foundation, Inc. He is a consultant to Judge Homer M. Stark in the establishment of the Gwinnett County Law Library in Lawrenceville, Georgia. He will serve a two-year post as an at-large member of the board of the Consortium of Southeastern Law Libraries (COSELL).

Maxine S. Thomas, associate professor of law, continues an anthropological survey of south Georgia farming pursuant to a W.K. Kellogg Foundation grant. She has completed an article on "The Plight of Black Farmers" to be published as a part of the proceedings of the International Conference on Hypertension. She served on the faculty for the University of Georgia Alumni Seminar on the Bicentennial of the U.S. Constitution.

Richard V. Wellman, Robert C. Alston Professor of Law, continues to represent the Governor of Georgia as one of the state's three Uniform State Law Commissioners. Within the National Conference of Commissioners on Uniform State Laws, Wellman presently serves as Educational Director of the Joint Editorial Board for the Uniform Probate Code. The Board consists of three delegates each from the ABA Section on Real Property, Probate and Trust Law, the American College of Probate Counsel and NCCUSL. In addition to other activities, the Board is presently engaged in intensive re-examination of the Uniform Probate Code that will lead to approval and publication of a revised edition of the Code in the next year or two.

Wellman is also seated as a member of two special NCCUSL drafting committees. The Uniform Custodial Trust Act project, designed to describe a statutory trust comparable to those signalled by gifts under transfers to minors legislation, is scheduled for final reading this August. By use of a custodial trust, a competent adult may confer statutory stand-by authority on another of his or her choice to manage an asset for the owner's benefit in the event of the owner's later disability.

A second project focuses on non-probate transfers at death, a subject explored by Wellman in a forthcoming *Georgia Law Review* article. The article analyzes a system of stock registration recently made available by Southwestern Bell Corporation

to its shareholders. Using this system, a Southwestern Bell shareholder may have shares registered in the form of "[Owner's name] T.O.D. Mary Smith." Under this registration form the shares so registered remain within the owner's sole control until death when, unless previously sold or re-registered, the shares will be transferred outside probate directly to Mary Smith on proof of her survival of the owner. The registration form is thought to be preferable to joint tenancy registrations, which are commonly used merely to achieve non-probate transfer of property on an owner's death. An object of the uniform state law project on non-probate transfers at death is to facilitate and popularize T.O.D. beneficiary registration forms for use by various issuers of investment paper, including mutual funds and corporations.

Donald E. Wilkes Jr., professor of law, contributed two series of weekly articles for the *Athens Observer*. In three separate articles he examined the possible connection between the assassination of John F. Kennedy and a now-deceased South Georgia political extremist, Joseph A. Milteer. In two other articles he dealt with questions surrounding the death of Martin Luther King.

Gabriel M. Wilner, Thomas M. Kirbo Professor of Law and director of the Graduate Legal Studies Program, participated in the preparation of the draft Georgia Code on Arbitration and testified at the Legislature on the draft. He addressed the International Section of the State Bar of Georgia on the desirability of provisions on international commercial arbitration in a new Georgia arbitration code.

He served as consultant to the United Nations Center on Transnational Corporations on a project in the Ivory Coast for a system to evaluate, encourage and regulate the transfer of technology and on a project on the elaboration of a harmonized system for foreign investment in the Preferential Area of Southern and Eastern Africa. He spoke on "The Lomé Convention and Its Members" at the Symposium on European Communities/United States Trade, sponsored by the American Society of International Law and Oceana Press. He lectured at the Vrije Universiteit Brussel on comparative private international law and international law and at the Université Libre de Bruxelles on state contracts. He prepared the 1987 supplement for *Wilner, Domke on Commercial Arbitration* (Revised Edition). He will again direct the Brussels Seminar on the Law and Institutions of the European Communities in Belgium in July.



Elizabeth Dole on Law Day

GEORGIA ADVOCATE
The University of Georgia
School of Law
Athens, Georgia 30602

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