

J Wake Forest JURIST

the magazine of Wake Forest University School of Law

Reflections on Land

Private rights, public interest, and the spread of sprawl

December 1999

Wake Forest JURIST

CONTENTS

volume 30 number 1 December 1999

FEATURES

- page 6 **Land at the Crossroads** *by Amy Andrews*
As urban areas spread ever outward, policy makers, property owners, and the public confront increasingly urgent land-use policy imperatives.
- page 12 **Office on the Run** *by James T. Williams Jr. ('62, JD '66)*
How the portable computer has organized, extended, and otherwise transformed a litigation lawyer's practice.
-

DEPARTMENTS

- page 2 Briefs
- page 16 Alumni Notes
- page 22 Alumni Profile
- page 24 Dean's Column

page 6



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Speaking of free speech

ACLU president defends anti-Internet censorship effort.

The first message that pops up on the American Civil Liberties Union (ACLU) web site is the following: "Warning! You Are Entering a Free Speech Zone."

On September 22, ACLU President Nadine Strossen invited a Wake Forest University School of Law audience to log on for information about the fight against censorship, the topic of her lecture. "Cyberliberties, Free Speech and Civil Liberties on the Internet."

Strossen, a professor at New York Law School, is the first woman to head the nation's largest and oldest civil liberties organization. The National Law Journal has twice named her one of "The 100 Most Influential Lawyers in America." Her book *Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights* was named by the New York Times a "notable book" of 1995.

Strossen spoke primarily about the freedom of speech won by the ACLU in its defeat of the Child Online Protection Act (COPA).

"Although nobody in Congress dared to vote against it, the ACLU went to court, not because they didn't care about protecting children, but to make the argument that, in addition to violating adults' free speech rights, it violates minors' free speech rights," Strossen said.

As a monthly columnist for the Webzine Intellectual Capital, Strossen is one of the complainants in ACLU's challenge to COPA because, in some circles, her writings are considered harmful to minors.

"It's not because I'm writing the online version of *Screw* magazine," she said. "It is because the concept is so elastic and so malleable that literally anytime you write about anything of any sexual content, it can be considered harmful to minors. Topics of serious value like abortion, contraception, and AIDS are all subjects targeted for censorship."



Strossen, with professor Michael Curtis (center), a First Amendment specialist, and Dean Robert K. Walsh.

...every time a new communication medium hits the scene, those who celebrate individual freedom and democracy are excited, but those who have a more authoritarian point of view get nervous...

Strossen said the litigation is a "brave new world" but involves age-old questions. "Throughout history, every time a new communication medium hits the scene, those who celebrate individual freedom and democracy are excited, but those who have a more authoritarian point of view get nervous because it is an easier and faster way to reach a larger audience comprised of younger people," she said.

Strossen noted the rare unanimity of the U.S. Supreme Court's decision in *Reno v. ACLU* which ruled that the Internet should receive the highest degree of First Amendment protection and not the second-class status that broadcast expression has received. "When all nine agree something is unconstitutional, it is really unconstitutional," she said.

Mentioning Andrea Dworkin and other influential feminists, Strossen criticized the notion that we must choose between freedom of sexual expression and freedom for women. She argued against their stance that one can't be a feminist at the same time that one defends freedom of speech for sexually oriented expression.

"The bottom line is no two individuals can possibly agree as to exactly what expression is harmful and dangerous," she said. "I no more want Andrea Dworkin making decisions for me than [conservative] Phyllis Schlafly."

As an example, she cited a lesbian erotic magazine, *On Our Backs*, which pictured an Asian American woman dressed in a flame-colored leopard and surrounded by fire. The editors thought it was "hot" and felt that it countered the stereotype of the passive Oriental female. A lesbian feminist group, Dykes Against Porn, argued that, rather than being empowering, the picture showed that white dykes get excited by setting fire to Asian dykes.

"I totally defend their right to look at it that way or not look at it that way," Strossen said. "The point is the inevitable subjectivity in making these determinations. No one can make these decisions for someone else."

She emphasized that young people also have their own free speech rights and reminded the group that there is no magic cut-off in the Constitution that says one has to be a certain age to exercise one's First Amendment rights.

"In the tragic wake of the recent school shootings, the tragedy is being compounded by an absolute onslaught of attacks against the rights of our young citizens in this country," she said. "Everyone is being presumed to be a mass murderer."

In her closing remarks, Strossen briefly mentioned the censorship of mandatory filtering software in the public libraries and schools. The ACLU's biggest ally in this battle, the American Library Association, opposes this kind of block and suggests affirmatively recommending certain sites rather than banning others. ☪

—Severn Leigh Somerville

Faculty Notes

Legal education leader

Dean is chairing key ABA section this year.

Dean Robert K. Walsh of the Wake Forest University School of Law has been elected 1999-2000 chair of the American Bar Association (ABA) Section of Legal Education and Admissions to the Bar. Walsh succeeds Randall Shepard, Chief Justice of the Indiana Supreme Court.

The section, the ABA's oldest, is the official accrediting agency for law schools recognized by the U.S. Department of Education and the fifty state bar admission authorities. The ABA considers the accreditation of law schools and the making of recommendations concerning federal judicial appointments as its two most important functions.

The section also is one of the two leading national organizations engaged in extensive programs for improvement of American legal education. Its more than thirty committees touch every aspect of legal education and sponsor programs on such issues as financing legal education, globalization, technology, teaching professionalism, and skills training.

Walsh has chaired the section's two major committees—Accreditation, and Standards Review. As chair of the Standards Review Committee from 1991-96, he instigated a multi-year project to review and redraft, for the first time since 1973, the Standards and Interpretations for approval of law schools. Each June for the past seven years, he has co-sponsored, with the ABA, a seminar at Wake Forest for new law school deans.

Among the new programs Walsh has organized as chair is a joint meeting of the deans of ABA schools and lawyers in the National Council of Bar Presidents and the National Council of Bar Associations. The goal is to



Dean Robert K. Walsh, left, introduces Thomas Steele, outgoing professional center library director, at a reception in Steele's honor in October. Steele has returned to full-time teaching in the Law School.

foster greater cooperation between law schools and practicing lawyers in improving the education of new lawyers.

Walsh, who has been dean of Wake Forest School of Law since 1989, is a graduate of Providence College and Harvard Law School. Prior to coming to Wake Forest, he practiced law in Los Angeles, taught law at Villanova University, was dean of the University of Arkansas School of Law, and was a litigation partner with a law firm in Little Rock. In North Carolina, he has been vice president of the North Carolina Bar Association and a member of its Board of Governors, and was recently appointed to the new North Carolina Commission on Professionalism.

CAROL ANDERSON has published a supplement to her book, *North Carolina Trial Practice*. She is presently serving as the President-elect of the Forsyth County Bar Association.

I.B. (BUTCH) COVINGTON has been elected a vice president of the North Carolina Bar Association.

MICHAEL CURTIS has published two essays, "Incorporation of the Bill of Rights in the Fourteenth Amendment and the Religion Clauses," and "Barron vs. Baltimore" in *Encyclopedia of Law and Religion*. Professor Curtis also gave a talk on nineteenth-century free speech struggles at the Federalist Society national lawyers convention.

TIM DAVIS has published *Sports and the Law: A Modern Anthology*.

MARK HALL gave presentations this past fall on topics including doctor/patient trust, genetic discrimination and insurance regulation to the American Society of Bioethics, the American Society of Human Genetics, the National Association of Insurance Commissioners, and the University of Chicago School of Medicine.

BUDDY HERRING'S article "Liability of Board Certified Specialists in a Legal Malpractice Action: Is There a Higher Standard?" recently appeared in the *Georgetown Journal of Legal Ethics*.

DAVID LOGAN has been reappointed as Advisor to the Ethics Committee of the North Carolina Bar. Professor Logan also appeared live on the CBS Morning News twice in July, discussing the Florida class action against the tobacco companies.

KATE MEWHINNEY has joined the Board of Directors of the National Elder Law Foundation, a nonprofit organization dedicated to the development and improvement of the professional competence of lawyers in the area of elder law.

JOEL NEWMAN spoke in November at the Wachovia Bank Tax and Estate Planning Seminar in Greensboro on the Ethics of Tax and Estate Planning. Professor Newman also participated in a panel discussion as part of the North Carolina Bar Foundation's CLE program entitled "Clarence Darrow: Crimes, Causes, and the Courtroom."

STEVE NICKLES prepared, along with Professor David Epstein of the University of Alabama Law School, a paper entitled "Another Way of Thinking About Section 105(a) and Other Sources of Supplemental Law Under the Bankruptcy Code." Their paper was presented at the annual National Conference of Bankruptcy Judges, held in San Francisco in October.

ALAN PALMITER spoke on "Web-Based Corporations Materials and the Classroom" at the Teaching Corporate Law Conference held at the University of Georgia School of Law in October. His comments on the SEC's "Aircraft Carrier" proposal to reform the rules governing securities offerings has been published on the SEC web page (www.sec.gov/rules/proposed/573098/palmitel.htm).

MICHAEL PERRY'S new book, *We the People: The Fourteenth Amendment and the Supreme Court*, was published by Oxford University Press in August. A previous book, *The Idea of Human Rights: Four Inquiries*, has been issued in a paperback edition by Oxford University Press. Professor Perry's essay, "The Law Professor as Moral Philosopher?" has been published in the *Yale Journal*

of Law and Humanities. Professor Perry also presented a paper to a symposium on religious liberty at Indiana University (Bloomington) School of Law; delivered a lecture in the 1999 Faith and Justice Lecture Series at the Georgetown University Law Center; delivered the commencement address at, and received an honorary degree from, St. John's University in Minnesota; presented a paper at a conference on "Political Thought After Liberalism" at Calvin College; delivered the Grannella Memorial Lecture at the Villanova University School of Law; and spent a week in November at the University of San Francisco School of Law as a visiting scholar.

SUZANNE REYNOLDS has completed the second volume of her projected three-volume treatise on North Carolina Family Law. Professor Reynolds has also been elected to the Meredith College Board of Trustees.

PATRICIA ROBERTS drafted a new anti-lapse statute that the General Assembly adopted in the 1999 session.

TOM ROBERTS has finished the third edition of his Land Use casebook. Publication is expected shortly.

DAVID SHORES' article, "Rethinking Deferential Review of Tax Court Decisions" has been accepted for publication in Volume 53 of the *Tax Lawyer*.

JAMES TAYLOR was recognized this fall by the North Carolina State Bar for fifty years as a lawyer.

MARGARET TAYLOR delivered remarks on the Immigration and Naturalization Service as the "Accidental Jailer" at Harvard Law School, at a conference entitled "US Immigration Policy at the Millennium."

GEORGE WALKER'S article, "State Rules for Arbitrator Ethics" has been published in *Arbitration Now: Opportunities for Fairness, Process Renewal and Immigration* (ABA Section of Dispute Resolution) and in volume 23 of the *Journal of the Legal Profession*. Professor Walker also served as a co-drafter of "Final Report: Helsinki Principles on Maritime Neutrality" in *International Law Association*, report of Sixty-Eighth Conference held at Taipei, Republic of China.

RON WRIGHT'S article, "Your Cheatin, Heart(land): The Long Search for Administrative Sentencing Justice," which he wrote with Professor Marc Miller of Emory University Law School, was published in the *Buffalo Criminal Law Review*. Professor Wright also wrote "The Future of Responsive Sentencing in North Carolina" which appeared in Volume 11 of the *Federal Sentencing Reporter*. His book review of *Fear of Judging: Sentencing Guidelines in the Federal Courts*, by Kate Stith and Jose Cabranes appeared in Volume 108 of the *Yale Law Journal*. Professor Wright also published a 1999 Supplement to his casebook on Criminal Procedures, along with a new Teacher's Manual, with his co-author Professor Miller.

ROBERT K. WALSH is currently serving as the Chair of the Section on Legal Education and Admission to the Bar of the American Bar Association. In September, he spoke to a Section conference on law school accreditation and in November to a conference on Distance Learning.



Howard Twiggs, second from left, shares experiences and observations from his more than forty years of practice at the inaugural "Conversation with..." session.

- The law school this fall began a new series titled "A Conversation with..." in which prominent members of the profession share their professional experiences with students. The first guest in the series was Howard Twiggs ('54, JD '57) of Raleigh. Twiggs has been a recipient of the Association of Trial Lawyers of America 1999 Trial Lawyer of the Year Award and has served as president of the Association of Trial Lawyers of America, the North Carolina Academy of Lawyers, and the Roscoe Pound Foundation.

- The Wake Forest Law Review on November 6 co-sponsored, with the University's School of Medicine, College, and Graduate School, a symposium on "Genetic Enhancement : Social Values and Personal Autonomy in the Twenty-First Century."

- The annual Family Day event was held on Saturday, Oct. 2. Parents, spouses, and families of law students were introduced to life at the law school through simulated classes, a panel discussion and a moot court demonstration. The afternoon concluded with a barbecue.



Professor David Logan, left, conducts a simulated class at Family Day.



Presiding Stanley Moot Court judges Robert H. Edmunds, Jr., Clyde H. Hamilton, and Henry E. Frye, back row left to right, with finalists Jeff Braintwain and Rebecca Blount.

- Presiding judges for the Edwin M. Stanley Moot Court Competition held Nov. 12 were Chief Justice Henry E. Frye of the Supreme Court of North Carolina, Judge Clyde H. Hamilton of the U.S. Court of Appeals for the Fourth Circuit, and Judge Robert H. Edmunds Jr., of the North Carolina Court of Appeals.

Balancing growth and open space, and private rights



lic interest, is complicated, difficult — and increasingly urgent.

LAND AT THE CROSSROADS

by Amy Andrews

ONCE

rolling farmland and forest, the area along Meadowlark Drive in western Winston-Salem in just the past couple of years has become home to an elementary and middle school, a large apartment complex, and several new subdivisions. Traffic has increased, and a grocery store and a shopping center are planned for the future. Less than a mile away, a beltway is scheduled to pass through, and logic would suggest that more houses, stores, and traffic will follow.

Elsewhere in Winston-Salem, “big-box” retail stores and asphalt parking lots have replaced acre upon acre of farmland. Rush-hour traffic reports have become commonplace on radio and television. And though some attempts to revitalize downtown are underway, it still is practically empty after 6 p.m.



Winston-Salem is not unique. This scene, of population and growth shifting further and further away from the urban core, is repeating itself in growing communities across the country, and often to an even greater, more rapid extent.



Steven C. Garland: 'It's more of an idea of losing a sense of place.'

Sprawl, both urban and suburban, long has been discussed in law and planning journals and by conservationists. But more and more the subject is getting the attention of the general public, even in the once-rural and seemingly immune Southeast. The increase of traffic and congestion, the loss of farmland and open space, the strains on clean water and air, and the rise of disconnected neighborhoods and communities have become problems in places like Charlotte, Richmond, Columbia, Raleigh-Durham, and even in the Piedmont Triad of Greensboro, Winston-Salem, and High Point.

Answers are not easy to come by, and the questions that are raised by increased population and development are numerous, says Tom Roberts, professor of law at Wake Forest. If current trends continue, with farmlands and wetlands being developed at what some say are alarming rates, will sufficient open space, agricultural land, drinking water, and roads still exist? Who will pay the cost of infrastructure to support new development?

Will devastating flooding, like that seen in eastern North Carolina in September, become more common if development is allowed to encroach even more on rivers and wetlands, giving water fewer places to runoff? What restrictions, if any, should there be? What about for the third-generation farmer or landowner who has tended his land for years, but now wants to subdivide and develop part of it so that he can retire, live comfortably, and pass something on to his children?

The questions, like the issue itself, are complex. But involved in and helping to direct the debate are several people with ties to the Wake Forest School of Law.

Before the start of the twentieth century, property owners' decisions about land use largely were just that—property owners' decisions. Regulation, too, has a lengthy history. Colonial land-use planning, Roberts notes, dates back at least to a 1632 Cambridge, Massachusetts, ordinance barring buildings on the town's fringe until vacant land in the town's center was used. After that, other movements contributed to increased planning efforts, but land-use planning really came of age in the 1900s, and particularly since World War II, says Roberts.

The American dream included owning a house with a backyard large enough for children to play and the family to barbecue. Americans, always in love with the automobile, found freedom through interstate highways that gave them the means to settle away from—but still get to—the cities. Americans also have always valued the right of individuals to own property and do with it as they please. But now that their quality of life is being threatened, some people have called that ideal into question.

Roberts says he has been teaching the legal issues surrounding sprawl for the past twenty years in his land-use course, but "now, for the first time this year, it's front-page news every other day. It's hard to say what's brought it to national prominence."

Vice President Al Gore made it an early issue this year in his campaign for the Democratic nomination for president. Everyday citizens are noticing the increase in the number of smog-alert days. They see more and more subdivisions being developed where trees and farmland once existed, and they're coping with longer, and often more stressful, commutes.

"I think it's more of an idea of losing a sense of place," said Steven C. Garland (JD '80), an attorney with Blanco Tackabery Combs & Matamoros in Winston-Salem and town attorney for Lewisville and Tobaccoville, near Winston-Salem. "It's almost a recognition of what we've lost." People don't know their neighbors, he said. Their children cannot ride their bicycles or walk to the store for candy because



Eric Braun: 'It's a much deeper issue than people want to address.'

it's too far and too dangerous. They can't do their Christmas shopping downtown like they recall doing as children because the stores have moved out or closed.

Some people are responding to these changes by saying they want to take action and reverse the tide of development before their communities become major, sprawling cities with poor air quality and a spaghetti-like expanse of roadways. Homebuilders say that the development has been market-driven and that they are building single-family homes in suburban communities because it is what people want and because the increasing population has required it.

North Carolina's population increased an estimated 13.8 percent between April 1990 and July 1998, from 6.6 million to more than 7.5 million, according to the U.S. Census Bureau. The Raleigh-Durham-Chapel Hill area saw its population increase by 19.4 percent. The Charlotte-Rock Hill-Gastonia metropolitan area grew by 13.7 percent. The Greensboro-Winston-Salem-High Point area grew by 8.7 percent.

The National Association of Home Builders says that the vast majority of American consumers overwhelmingly want a single-family home in a suburban neighborhood, and that between 1.3 and 1.5 million new housing units need to be constructed annually in the next decade to accommodate those desires and an estimated population increase of 30 million.

North Carolina is one of the fastest growing states in the nation, but the state significantly lags behind other states in efforts to control sprawl, says the Sierra Club.

"I really think it is the most serious environmental issue we're facing," says Kem Schroeder (JD '81), who has been a member of the Winston-Salem/Forsyth County planning board since 1993. "Sprawl is, long-term, not good for any of us. You really have to get to the issue of sustainable growth."

What's needed, both developers and conservationists say, are so-called "smart growth" principles. The Sierra Club chapters in Winston-Salem and Greensboro and the Environmental Law Society at Wake Forest School of Law in November co-sponsored a "Smart Growth" conference at the law school (see accompanying sidebar), and state officials have appointed a study commission on smart growth that should help focus the debate statewide.

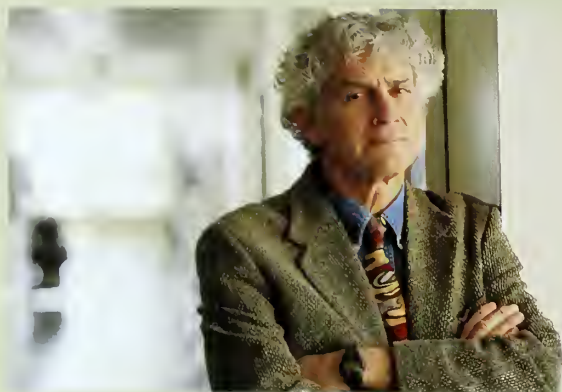
But there is even debate about what "smart growth" is.

Eric Braun (JD '93), an attorney with Schell Bray Aycock Abel & Livingston in Greensboro, represents developers before zoning boards and is a member of the Greensboro Board of Adjustment. Through the year-old Triad Real Estate and Building Industry Coalition, of which he is a member, he and developers have been involved in discussions with the Sierra Club, homeowners' associations, and others about what "smart growth" is and ought to be in Greensboro. Politicians and planners, however, have purposely been excluded so that discussions can take place more freely.

Braun says that the environmentalists involved in the discussions seem to recognize that growth must still occur if taxes are to remain low, and that developers recognize that environmental and neighborhood groups have political clout and can get projects stopped. He says he thinks the discussions in Greensboro have been motivated by the growing pains that Raleigh and Charlotte have felt during the past decade and a realization that it could happen in Greensboro too.

The "smart growth" phenomenon is in a way a repackaging of growth-management tools that have been in existence since the seventies, says Braun, who also holds a master's degree in public administration from the University of Georgia. But what is still lacking, he says, is education of the public about what growth is and why it occurs. People dislike the traffic that comes with new development, yet they also do not want to live in a townhouse, support high-density development, or use mass





Tom Roberts: the questions raised by increased population and development are numerous.

transportation. And without higher density development and increases in mass transit use, communities will continue to sprawl.

"It's a much deeper issue or problem than people want to address," Braun says.

He says that there should be more long-range planning for growth, so that cities know where they want development to occur and then can place fewer restrictions on developers who work within those boundaries.

D. R. Bryan (JD '85), a real estate developer in the Raleigh area, said that much of the sprawl can be blamed on ordinances and regulations in effect today. "Everything is developing the way it is because ordinances

are set up to accommodate the car, not the person," he says. Streets are straight and wide because traffic engineers want them to be safe, but that only promotes automobile traffic—not pedestrian traffic.

Bryan, who started developing real estate before finishing law school, had been hearing since the late eighties about new urbanism or neo-traditional neighborhoods, which attempt to recreate villages and communities more reminiscent of pre-World War II America. Neighborhoods before World War II, and particularly those developed in the 1920s, were more densely populated, with sidewalks and narrower streets, many natural areas, and easy access to public transportation. "Since then, we have gone to a pattern of development that is not sustainable," he says.

About 1992, Bryan learned that Chapel Hill had designated land in the south of town for just such a neo-traditional project, and he bought the land. He has been developing it into Southern Village, a neighborhood with a mix of apartments, townhouses, and single-family homes. An elementary school, mini-parks, a church, a cleaners, and a café all are within a five-minute walk from the 1,150 residential units, and other amenities include a recreation center with pool, soccer fields, tennis courts, and a four-screen movie theater. The 300-acre development also includes about 200,000 square feet of office and retail space, and condominiums start at \$95,000. Single-family homes range from \$225,000 to \$700,000.

Bryan also is developing a similar neighborhood in Holly Springs, east of Raleigh, and is considering an infill project to revitalize a neighborhood in the city of Norfolk, Virginia.

Fred Smith (JD '66), who practiced law full-time in Raleigh from 1970 to 1990 and has been in real estate development in earnest since then, has one neo-traditional development underway. The Riverwood Athletic Club in Johnston County, southeast of Raleigh, will include an elementary school, a village center with athletic club and shops, a church, and homes. "To me, smart growth is creating sustainable communities," he says. "I think it's clearly become the talk because of our growth. We are clearly placing demands upon our infrastructure." People sit in traffic or see schools with classrooms in trailers and say that there must be a better way, he adds.

Time will tell if neo-traditional neighborhoods are the answer, Smith says. High-density neighborhoods may work in urban areas but are less likely to work in rural areas, he adds. Perhaps neo-traditional developments are one of many answers.

In the Winston-Salem area, multiple options are what have been needed to bring people together to create a vision for the area's future. Steven Garland, whose law practice is in commercial real estate, represents the Greater Winston-Salem Chamber of Commerce on the Legacy Comprehensive Steering Committee. The committee has met for several years to envision the future of Forsyth County and develop a comprehensive plan for carrying out that vision. That legacy plan presents a smorgasbord of options for what



GROWING... BUT SMARTLY

Conference focused attention on need for coordinated land-use policies.

good growth is, so that everyone can sign off on it, he said. The plan takes a middle-of-the-road approach and has included input from citizens across the county.

Schroeder, who says she once was a lone voice on the planning board against unfettered development, says she thinks that everyday citizens are becoming more informed but need help articulating their concerns. "I've seen an incredible shift in the six years I've been on the board," she says, adding that the arrival of "big box" retail stores may have helped galvanize people to speak out. In recent years, the local chapter of the Sierra Club often has sent representatives to planning board meetings, and neighborhood associations from across the city often show up and make their feelings known about new projects and developments.

Schroeder, who as an attorney worked in corporate and real estate law and used to close loans on shopping centers in the Winston-Salem area, had a change of heart and during her time on the planning board has been a very vocal opponent of "big-box" retailers and of building new retail establishments while older ones remain empty.

Overall, the Winston-Salem area offers a fabulous quality of life, she says, but if restrictions aren't placed on rampant growth, that will change. "We spend millions on community development, and our retailing is a pattern of anonymity," Schroeder says. We go into a store, pick up something, take it to the checkout line, pay and leave, sometimes only barely talking to another human. "I make every effort to buy locally and to support our local merchants because they are the ones who support our community," she says. "I do not bat an eyelash to pay a few cents more [for something]. You really vote with your dollar, and you really vote for the type of life you want."

Statistics on transportation, land use, and population growth across the country point to a desperate need for comprehensive planning. The average U.S. suburban household generates fourteen car trips per day, and commute times are growing longer. Nationwide, we are losing two acres of farmland every minute of every day. In North Carolina, two million acres of cropland, farmland, and forest were converted to urban uses between 1982 and 1992, according to the U.S. Department of Agriculture. In a 1999 report, the Sierra Club rated North Carolina forty-seventh in land-use planning nationwide.

In the Triad, population grew by 178 percent between 1950 and 1990, according to the U.S. Census. At the same time, the persons per square mile decreased by 56 percent. Translation: we are consuming land at a rate three times greater than our population growth.

These issues were discussed in early November at a day-long "smart growth" conference at the Warrell Professional Center on the Wake Forest campus. The conference, co-sponsored by the School of Law's student-run Environmental Law Society and two Sierra Club chapters, drew about 130 participants, including municipal planners and environmental affairs officers of area governments, elected and appointed officials, students, and citizen activists.

"Smart growth" is a concept that's growing quickly as more citizens feel the pressures of helter-skelter growth: longer commute times, unwalkable neighborhoods, loss of arable land, and wildlife habitat.

Thomas Roberts, a School of Law professor who covers issues of growth management in his course on land-use law, served as a moderator for the program. "Above all else," he said, "smart growth emphasizes coordination and cooperation among the agencies within each local governmental unit and with other local governmental entities in the

region." Roberts suggested that agencies providing roads, water and sewer, schools, libraries, parks, and police and fire protection work together to develop an integrated plan to manage growth.

Local land-use figures lend evidence to the need for more coordinated and efficient development patterns. The disconnected subdivision, typically low density, eats up about \$1.30 in public services for every dollar it contributes to the tax base. Proponents of smart growth encourage local governments to charge new development for the governmental costs they create.

Dana Beach, a South Carolina conservationist, was the keynote presenter of the forum. "We've got to look at old parts of every city to incorporate desirable, higher density," Beach said. "We've got to stop putting urban development on farms and forests, far from existing development."

Developer Keith Rogers ('79) stood at the podium and raised the Unified Development Ordinance, a four-inch, three-ring binder, and said, "The reason you get the kind of buildings and neighborhoods you've got is that it's mandated right here. In order to build the standard single-family subdivision, a developer must run through a gauntlet. To try to implement smart growth principles under our current codes, developers must fight every step of the way."

Rogers, a former president of the Home Builders Association of Winston-Salem, called for performance codes that would allow developers the flexibility to use smart growth principles. He also reminded the audience that developers build what the market demands. If it is true that the disconnected subdivision is at the root of sprawl, then it follows that homeowners must accept a portion of responsibility. Smart growth proponents replied that if homes and apartments designed around smart growth principles were available, a sizable portion of the residential market would respond.

—Sheridan Hill



Office on the Run



by James T. Williams Jr.

('62, JD '66)

Help

How the computer can expand, organize, and enhance your litigation practice... ☞?

My litigation practice is business-centered and covers a large geographical area. The computer leverages my time and improves the quality of my life. It also improves my practice organization and administration, the quality and timeliness of my work, and the frequency and quality of my communications with my clients and my staff.

Sixteen years ago, terms like RAM, clock speed, font, macro, and modem were Greek to me. Today they are a part of my everyday vocabulary. Even so, it is not necessary to be a technical whiz to use computers effectively in your practice. Software is more "user friendly" and the litigation world is becoming more "computer friendly." If you decide to invest in technology, however, it is essential to learn what is possible and how to use the technology effectively. It is equally important to integrate technology into your work style—in other words, use it, do not let it use you.

I can practice effectively from any location at any time of day or night. I do not require the presence of an assistant, paralegal, or reams of paper to administer my practice and get my work done. Nor do I require a moving van to carry my equipment. For the most part, I carry everything I need in a large canvas brief case. Whether I am at my desk, at home, in a client's office, in a hotel room, in a deposition, or in a trial, I have the same tools and information at my disposal.

The computer and organization and administration of a litigation practice

Use of an office intranet, Internet, e-mail, high speed modems and computers that can send and



receive faxes as well as voice messages, literally mean that it is no longer necessary to be in the office to have access to the critical information needed to organize and administer your practice. Calendars, to-do lists, address files, legal source material, and critical client communication information are always available and up-to-date.

When a new case comes in, I establish a case file in the computer that includes key information about the client, the case, and any known deadlines. What you want in the case file depends on the nature of your practice and the way it is set up. I include all key client information, key information about the opposition, key information about court personnel, critical dates, and work assignments in the office. The case file is accessed by a key stroke. I review and update the case file regularly. It provides an important planning tool and a cross check for deadlines.

It is also worth considering use of data files that are accessible to everyone working on a particular matter. Rather than sending memos, e-mails, or making calls, information relevant to the case that everyone working on the case should be aware of can be placed in the case database. In many instances it can be set so that it will notify you when someone else has made an entry.

Even the unpleasant burden of timekeeping can be done on the computer as you do your work.

Drafting, editing and filing

Use of the computer for research, drafting, and editing can give you an advantage in completing all manner of litigation-related documents whether you are in the office or not. You can do online legal research, finish a project at remote locations, and get it to the right people electronically. In the North Carolina Business Court you can file briefs electronically from anywhere. Electronic filing will be the rule and not the exception in the future.

The portable computer and discovery

The computer is useful in all phases of discovery. In large cases it is essential. I use the computer in preparing for and taking depositions, searching deposition transcripts, summarizing and cataloging documents, and initiating and responding to written discovery. When discovery is over, I have the complete body of evidence taken in the case in the computer where it can be searched by topic, date, or in any other way that may be useful in the summary judgment and trial phases of the case.

Metabolizing documents

The large paper case is virtually impossible to handle without using the computer. When documents number in the multiple thousands, as is more often than not the case in complex economic litigation, the computer is the only accurate and efficient way to manage your case. Database programs allow you to access, analyze, and arrange data from documents in the most useful manner at different points in the case. In preparing for a deposition or trial you may want to find every document that refers to or was authored or received by a witness. You may also want to access every document that bears on certain issues. You may want to see selected categories of documents arranged in chronological order. The computer makes all of this possible and instantly available to you without assistance and without regard to your location.

Large numbers of documents can be scanned onto discs (approximately 15,000 pages per disc). The scanning can be done in-house or outsourced. The disc with scanned documents can easily and economically include objective coding of such information as the document number, its date, its author and person or entities mentioned in the document. That information together with additional document summaries can then be included in a searchable database to which the related documents are hyperlinked. That means that without the intervention of staff, and regardless of location, you can search for all the documents in a database relating to a particular subject, read the descriptions, and with the click of a key see the documents that may hold promise instantly on your screen. Rather than devote expensive space to storing documents, you can print ones you need for exhibits and keep the rest on electronic media.

Metabolizing deposition transcripts

You no longer have to use depositions in paper form. You can read the text live as it is being created. You can annotate a deposition in a variety of ways while it is taking place. Similarly, you can load depositions you don't attend and annotate as you read.

Searches for specific references in one or scores of depositions are very easy. Every part of the depositions being searched which matches the search inquiry can be viewed on the screen. In one recent case where there were over hundred depositions, we could search every deposition for issues we had identified as the case proceeded in a matter of minutes.

A comparable manual search of depositions or deposition summaries by a lawyer or legal assistant would have taken hours, if not days, and would not have been as accurate. In many instances, deposition summaries are not at all necessary where you have whole text of transcripts on the computer. I can perform such a search unobtrusively in the middle of a deposition or a trial at the very moment the information is needed.

Metabolizing pleadings and written discovery

Copies of all key pleadings, orders, and responses to written discovery can easily be stored electronically, either as a digital or graphics file. That makes such information available when needed without having the burden of carrying the paper.

Rules of the game

Where I go, the rules of civil procedure and evidence, as well as cases interpreting such rules, go with me. And I have online ability to research case law. In the past I have been caught needing the rules, a statute, or a case on more occasions than I care to admit. Now, that is almost never the case.

Trial

I am cautious about taking the computer before a jury. I am not reluctant to use the computer before a judge. Whether it is in the courtroom, the back room, or the hotel room, the computer's advantages multiply at trial. Everything that is useful at other stages of the case is even more useful during trial. The ability to search for evidence on a moment's notice, to communicate with remote databases, and to do legal research makes the computer an indispensable ally at trial. Where immediate transcript is necessary, it can be instantly available when it is routed directly to the computer as it is being transcribed. The computer is also available for presentations of evidence and arguments in ways not possible before. In fact, the future may already be here. If you have the opportunity to see a presentation in the Business Court, you will see an electronic courtroom where paper is not necessary and is definitely not preferred. A description of that facility and its innovations would be an article in itself.

Communications

Using the computer while out of the office as a basic communications tool leverages my time and makes communications with staff, clients, and colleagues far more effective. Instantly available e-mail and document transfer makes everything possible out of the office that is possible in the office. Recently, as I sat in New York defending a deposition, my partner, who was in a related deposition two thousand miles away, forwarded me updated transcript frequently via e-mail. I had the advantage of knowing the remote witness' testimony almost as it was being given. The ability to effectively communicate or receive critical time-sensitive information and documents when you are "away" correctly gives clients the comfort of knowing that you are not dropping the ball on his or her important matter while you are out of the office.

The communications advantages are also available and perhaps just as important when you are out of the office for non-business reasons. You control when and how you communicate with clients and staff. That means you can take care of critical matters effectively without unnecessary disruption to your personal schedule.

Quality of life

The flexibility the computer affords me in my practice has a positive impact on the quality of my life. I maximize my available time for law practice and my family. I am more responsive to my clients, which makes them happy and reduces pressure on me. All of that should mean that I am better prepared in every way every time I handle a case.

Caveat

The computer does not take the work out of law practice. It does not take analysis out of law practice. It does not mean that good judgment is not needed. The qualities that mark good trial lawyers are still required whether or not you use a computer. The computer can, however, make the tasks associated with trial practice less burdensome, less costly, more timely, more effective and more personally convenient.

James T. Williams Jr. ('62, JD '66) is a partner in the Greensboro, North Carolina law firm of Brooks Pierce McLendon et, al.

ALUMNI NOTES

1949

ROBERT F. BABB has been recognized as a life member of the Virginia Bar Association. Life members are those who have been members for at least 40 consecutive years. Babb is a retired juvenile and domestic court judge who resides in Portsmouth, VA.

1963

FRED G. MORRISON JR., senior administrative law judge, has been reappointed to serve as a member of the N.C. Sentencing and Policy Advisory Commission.

1970

MIKE LEWIS will serve as partner and chairman of the board of the newly merged law firm of Lewis, Crumley & Daggett, P.A. The merger creates the largest injury law firm in the Piedmont Triad, with offices in Greensboro, Winston-Salem, Burlington, Asheboro, High Point and Charlotte, NC. Lewis & Daggett Attorneys at Law, P.A., merged with Crumley & Associates, L.L.P., in October. Lewis is in partnership with David Daggett (JD '85) and Bob Crumley (JD '80).

1972

EDMUND T. URBAN has joined The Title Company of North Carolina, Inc. as senior vice president and state counsel in Charlotte.

1973

JOHN L. PINNIX has been elected second vice president of the American Immigration Lawyers Association. The AILA is the national bar association of nearly 6,000 attorneys who practice immigration law. Pinnix is a senior partner in the Raleigh, NC, law firm of Allen & Pinnix, P.A. He limits his practice to immigration and naturalization matters. He is a former chair of the N.C. Bar Association's Immigration and Nationality Law Committee and is a N.C. Bar Board Certified Specialist in immigration law.

1974

W. EDWARD POE JR. has joined the firm of Parker, Poe, Adams & Bernstein, L.L.P., as partner. Deputy general counsel for Duke Energy Corp., he has been a member of the company's legal department for 25 years. He will bring his experience to Parker

Poe's litigation and regulatory practice groups and will contribute expertise to the firm's substantial utilities practice. He will also focus his practice on commercial disputes. His responsibilities at Duke Energy include management of all litigation matters for Duke Energy's worldwide enterprises and supervision of all Duke Energy's outside litigation counsel.

1978

JOHN H. HORNICKEL has been appointed chief intellectual property counsel for Bridgestone/Firestone, Inc. He is employed at the company's technical center in Akron, OH.

1979

BRUCE DICICCO is in private practice in New York City, where he specializes in trusts and estates. He recently received a citation for service in upholding the integrity of the legal profession and the protection of clients' rights from the First Judicial Department of the Supreme Court of the State of New York.

WILLIAM J. KUBIDA has joined the firm of Hogan & Hartson, L.L.P., as a partner in their Colorado Springs, CO, offices, where he will head the firm's nationwide patent practice segment of its intellectual property law group.

EDWARD V. ZOTIAN is a new member of the Greensboro, NC, law firm of Adams, Kleemeier, Hagan, Hannah & Fouts, PLLC. He will concentrate his practice in the areas of commercial real estate, financial institutions, construction and surety law.

1980

BOB CRUMLEY, will serve as partner, president and chief executive officer of the newly merged law firm of Lewis, Crumley & Daggett, P.A. The merger creates the largest injury law firm in the Piedmont Triad, with offices in Greensboro, Winston-Salem, Burlington, Asheboro, High Point and Charlotte, NC. Crumley & Associates, L.L.P. merged with Lewis & Daggett Attorneys at Law P.A. in October. Crumley is in partnership with Mike Lewis ('67, JD '70) and David Daggett (JD '85).

1982

STEVEN D. HEDGES has been admitted as a member of the Greensboro, NC, law firm of Adams, Kleemeier, Hagan, Hannah & Fouts, P.L.L.C. He will concentrate his practice in the areas of construction law, civil and commercial litigation. Hedges served on the editorial staff of the Wake Forest Law Review.

JOSEPH T. LAMB III has joined Vandeventer Black L.L.P. as an associate in the firm's Kitty Hawk, NC, office. He will concentrate his practice in commercial real estate, real estate development and commercial law and litigation.

1983

DAVID SIGSBEE MILLER has left his position as assistant attorney general with the N.C. Department of Justice and returned to private practice. At Willardson and Lipscomb, L.L.P., he will place an emphasis on civil litigation. Miller lives in Wilkesboro, NC, with his wife, Jhonda, and son, Zachary, who started kindergarten this year.

1985

DAVID DAGGETT will serve as partner, senior vice president, chief legal officer and member of the board of directors of the board of the newly merged law firm of Lewis, Crumley & Daggett, P.A. The merger creates the largest injury law firm in the Piedmont

Triad, with offices in Greensboro, Winston-Salem, Burlington, Asheboro, High Point and Charlotte, NC. Lewis & Daggett Attorneys at Law, P.A., merged with Crumley & Associates, L.L.P., in October. Daggett is in partnership with Mike Lewis ('67, JD '70) and Bob Crumley (JD '80).

NANCY BORDERS PASCHALL was chosen by the Gaston Chamber of Commerce as its 1999 Business Person of the Year for the Emerald Award (21-60 employees). She is an attorney and principal of the Alala Mullen Holland & Cooper law firm, with whom she has practiced for 14 years. She has served on the Board of Directors for the United Way, the American Red Cross and Covenant Village. She is past president of the Gastonia Civitan Club, member of the Ethics Committee for Gaston Memorial Hospital and Gaston County Volunteer Lawyers Program. Paschall has received the Encore Award from the United Arts Council and the Clara Barton Award from the American Red Cross for Meritorious Volunteer Leadership.

1988

KARL F. FRANTZ was promoted to lieutenant colonel in the U.S. Army in August 1998.

1990

DANIEL O. KENNEDY was made partner on the corporate and securities team of Hunton & Williams in the firm's Atlanta office.

LAW FUND UPDATE

By November 30, \$98,358 had been raised for the Law Fund, according to the chair of the campaign, Vickie Dorsey (JD '78) of Atlanta. Alumni are working hard to meet the goal of \$500,000 by June 30, 2000, and your support is greatly appreciated.

DAVID C. WAGONER is a deputy director of publishing with LEXIS Publishing and works with state government agencies and private associations to develop topical law publications. He and his wife, Jennifer Martin Wagoner (JD '90), reside in Charlottesville, VA, with their three children, Morgan (6), Caroline (4) and Katherine Leigh (1).

1991

CAROLINE KELLY received the Harold J. Riddle Memorial Book Award during commencement exercises at Columbia Theological Seminary. She is a candidate from Presbytery of the James. The Riddle Award is given to a master of divinity degree student who has shown the highest distinction in the field of pastoral care, especially in the area of terminally ill patients.



One of the highlights of the 27th Annual Partner' Banquet was the announcement of the establishment of the Charles P. Rose Endowed Scholarship. Members of the committee who attended the Partners' Banquet included, from left to right: David Sousa (JD '81), Linda Stanley (JD '76), Professor Charley Rose, Martin Garcia (JD '81), Kay Donahue (JD '79), and Raag Singhal (JD '89).

The CHARLES P. ROSE ENDOWED SCHOLARSHIP was formed in the Spring of 1999 by a small committee of alumni who wanted to honor one of their favorite professors. Since that time, over 100 former students and friends of Professor Rose have committed \$406,000 in near-term commitments toward a goal of \$500,000. In addition, two planned gifts are expected to eventually bring the total pledges to over \$700,000.

"Professor Rose has had a profound impact on the lives of so many alumni, both personally and professionally. I am thrilled that his friends have honored him by assisting deserving students."

— Martin Garcia (JD '81), Chair of Scholarship Committee

The scholarship will provide assistance to students from financially disadvantaged families who, through dedication and hard work, have achieved success against difficult odds. Among other academic requirements, the student must also exemplify professionalism and a commitment to community service. If you would like to participate, please contact James Bullock at (336) 758-6083, e-mail: jrb@wfu.edu.

CYNTHIA D. KENNEDY was made partner in the trusts and estates group of Powell, Goldstein, Frazier & Murphy in the firm's Atlanta office.

1992

JON MYERS (JD/MBA '92) has practiced law in his hometown of Lexington, NC, since 1992. He is active in local politics and has been elected to serve as the 1999 Bar Association president. A life-long member of First Baptist Church in Lexington, Myers has been a leader for the church's youth group for almost seven years and serves as secretary on the Board of Deacons. He was district chairman of the Boy Scouts from 1995-1998, and continues to be involved in coordinating adult volunteers and fund raising.

1994

WILLIAM R. DERASMO is engaged to be married in September 2000. After graduating from Wake Forest, he worked for more than a year for the New York Attorney General's Office before moving to the New York Public Service Commission counsel's office, where he worked for more than two years representing New York state before the federal government on various energy-related matters. In September he relocated to the Washington, D.C., area, where he is an associate at Troutman Sanders, L.L.P., working in the Federal Energy Regulatory Practice Group.

ERIC W. ISKRA spoke at the American Bar Association's 1999 Annual Meeting in Atlanta. The topic, "Recent Developments in the Americans With Disabilities Act," was sponsored by the Labor and Employment Law Committee of the ABA Young Lawyers Division and co-sponsored by the ABA sections of Labor and Employment Law and Health Law. He addressed new case law involving the Americans With Disabilities Act, including an analysis of recent landmark U.S. Supreme Court cases. He is an attorney in the Charleston, SC, office of the law firm of Spilman, Thomas & Battle, P.L.L.C.

JILL M. MISAGE has joined the Richmond office of Mays & Valentine, L.L.P., as a member of the firm's corporate, tax and securities practice group. Prior to joining Mays & Valentine, she served as assistant general counsel for Capital One Financial Corp., where she counseled management regarding securities and banking regulations, as well as general corporate governance. She was previously associated with McGuire, Woods, Battle & Boothe, L.L.P. At Wake Forest, she served as an editor for the Law Review.

KIRSTEN L. RADLER has joined the downtown Chicago law firm of Christensen & Ehret after serving two two-year clerkships, first with Judge John W. Reece of the 9th District Court of Appeals of Ohio and then with Justice Deborah L. Cook of the Supreme Court of Ohio.

1996

DAVID INABINETT is president of the Lexington Habitat for Humanity and will serve as president of Uptown Lexington, Inc. next year. His interest in community revitalization in his hometown of Lexington, NC, began while he was in law school at Wake Forest. Inabinett credits the desire to volunteer his time and energy to the encouragement he received from teachers, mentors and family members. He joined the law firm of Brinkley, Walser, McGirt, Miller, Smith and Coles in 1996 and his interest is in the field of "elder law," a segment of civil law focusing on issues related to older people's needs. He is married to Elizabeth Hawkins Inabinett ('94).

1997

R. STEVEN CALHOUN (JD/MBA) has joined the law firm of Gold, Weems, Bruser, Sues & Rundell in Alexandria, LA, as an associate.

JAMES E. CREAMER has joined Blanco, Tackabery, Combs & Matamoros, P.A., as an associate attorney in the estate planning practice group. He will concentrate his practice in estate planning and administration. Creamer was formerly a law clerk to the Hon. Ben F. Tennille, special superior court judge for complex business cases.

J. ANDREW LEMONS has joined Kilpatrick Stockton, LLP, a full-service law firm with more than 420 attorneys in offices in Georgia, North Carolina, London, Brussels and Stockholm. Lemons resides in Suwanee, GA.

KATHRYN SKEEN LINDLEY has been chosen as one of the Top 10 Business Women of the American Business Women's Association, the fourth largest women's organization in the United States. She was selected from a field of 70,000 working women based on her career accomplishments, community involvement and her role as an inspiration for all working women. Lindley is a general practitioner with her own law office in Greensboro, NC.

1998

STEVEN K. MCCALLISTER has been admitted as a new associate at the Greensboro, NC, law firm of Adams, Kleemeier, Hagan, Hannah & Fouts, PLLC. He will concentrate his practice in the areas of construction law, civil and commercial litigation. McCallister served on the Wake Forest Law Review and was a member of the Moot Court Board.

1999

KRISTEN L. HATHCOAT has been named an associate at the more than 90-lawyer Atlanta office of Hunton & Williams. She has joined the firm's labor and employment practice team, and plans to focus on employment litigation and preventative labor relations.

CHRISTOPHER J. LEONARD was awarded the James A. Webster Jr. Faculty Award upon graduation from the University's law school. He has been admitted to the N.C. Bar and has joined the corporate, tax and estate planning law group with Murchison, Taylor & Gibson, L.L.P. in Wilmington, NC.

BRETT G. WEBER passed the N.C. Bar Exam in August and began a one-year clerkship with the Hon. Ralph A. Walker on the N.C. Court of Appeals in Raleigh.

BIRTHS AND ADOPTIONS

1980S

JOHN BRYSON ('80, JD '85) and CLAIRE MUSYNSKI BRYSON, High Point, NC: daughter, Miranda Pentangelis. 7/2/98

ROBERT LUCAS (JD '86) and PERRY LILES LUCAS, Charlotte, NC: daughter, Jane Perry. 7/5/99

KARL F. FRANTZ (JD '88) and ELIZABETH SOLON FRANTZ, Camp Hill, PA: son, John Steven. 6/11/99

LUANNE L. RUNGE ('89, JD '92) and CHARLES E. RUNGE ('88), Greenville, SC: daughter, Caroline Reynolds. 8/3/99

FRANKLIN SCOTT TEMPLETON (JD '89) and CAROL BARNHILL TEMPLETON, Raleigh, NC: daughter, Sarah McDaniel. 6/28/99

1990S

CAROLYN WILSON (JD '90) and TODD POSTON, Raleigh, NC: daughter, Elizabeth Burke. 5/16/99

CYNTHIA D. KENNEDY (JD '91) and DANIEL O. KENNEDY (JD '90), Atlanta: daughter, Camille Frances. 5/28/99

PETER NEIL CARLINO ('92, JD '95) and CATHY MYERS CARLINO ('92), Charlotte, NC: Olivia Marin. 9/15/99

BARBARA SMITH BYRUM (JD '93) and ROB BYRUM, Durham, NC: daughter, Margaret Anne. 6/11/99

DAVID C. WAGONER ('86, JD '90) and JENNIFER MARTIN WAGONER (JD '90), Charlottesville, VA: daughter, Katherine Leigh. 7/4/98

MARRIAGES

1990S

NINA GUNTHER (JD '97) and TERRY KILBRIDE (JD '90). 8/28/99

GIVING BRIEFS

THE ANNUAL 3-L CLASS CAMPAIGN FOR 1999-2000 is preparing for its kick-off this spring. The first 3-L campaign was held last year and raised over \$9,000 in pledges for the Law Fund and Loan Forgiveness Fund. This year the goal will be \$12,500 with class participation of over 50 percent.

IN PREPARATION FOR A UNIVERSITY-WIDE CAPITAL CAMPAIGN, the Law School has established a National Campaign Committee to oversee its efforts. The committee met for the first time on Friday, October 29, to discuss the law school's overall needs and make initial plans for securing financial support. The Committee has two co-chairs, Martin Garcia (JD '81) and Murray Greason ('59, JD '62), and two honorary co-chairs, Porter Byrum (JD '42) and Fred Williams (JD '40). The campaign will commence this spring and continue through June 2005.

THE 27TH ANNUAL PARTNERS' BANQUET, held Friday evening of the Law Homecoming Weekend, recognized the efforts of the law school's dedicated alumni and friends. In addition to hundreds of individual donors, sixteen law firms were honored for their 100 percent participation in gifts to the Law Fund.



Irving and Justice Rosalie Abella, left, join Dean Bob Walsh and his wife Kathy at the 27th Annual Partners' Banquet, held on October 29 at Forsyth Country Club. Justice Abella, who serves on the Ontario (Canada) Court of Appeals, gave the keynote address, titled "A Human Rights Journey in America."



A trio of "Double Deacons" gather and share their experiences at the 27th Annual Partners' Banquet. From left to right: Justice Major Harding ('57, JD '59), Chief Justice of the Florida Supreme Court; Judge Ralph Walker ('58, JD '63), North Carolina Court of Appeals; and Charlie Barham ('52, JD '54).



Current Law Board of Visitors member and Life Trustee James Mason (JD '38), third from left, and his wife Dorothy attend the 27th Annual Partners' Banquet with Julius Corpening ('49) and his wife Toni. Corpening is the Associate Vice President of University Advancement and a long-time friend of the Masons.



Woody Teague (JD '34), right, with Dunlop White, Jr., at the Partners' Banquet reception. Dunlop is President of Real Estate Titles Inc., one of the co-sponsors of the reception.

Professor Miles Foy and his wife, Jane, right, chat with Steve Gardner (JD '94) and his wife Tracey at the Partners' Banquet reception. The reception was co-sponsored by Real Estate Titles Inc., and the Charles P. Rose Endowed Scholarship Committee.



DEATHS

J. ROBERT WILLS (JD '58), Aug. 26, 1999, Southern Shores, NC. Although he never graduated from high school, Wills was able to gain admission to Guilford College, where he studied for three years. He then convinced the dean of Wake Forest to admit him to the law school. Three years later he graduated second in his class. In 1958, without a high school or undergraduate diploma and with only 37 cents to his name, Wills passed the state bar exam and began a clerkship with a federal judge in the Middle District of North Carolina. He went on to serve as an Assistant U.S. Attorney for the Middle District. In 1960, he joined the Central Intelligence Agency and began a successful career traveling throughout the world and gathering intelligence on the communist party throughout southeast Asia. In 1985 he retired from the CIA and moved with his wife, Betty, to Southern Shores, where he re-activated his law license and began practicing out of his home, specializing in the field of estate planning. In 1997 he and his sons, Jim and Greg, formed a law firm in Kitty Hawk. After retirement, Wills remained active in his community.

SPRING REUNION

April 14 – 15, 2000



*Join classmates and faculty at the
Wake Forest University School of Law
Class Reunion this spring!*

Please call your class contact listed below, or the Office of Law Development and Alumni Relations at (336) 758-5884. Information about planned events can be found on-line at www.wfu.edu/alumni/law as early as January. A full schedule of events will be mailed to each class member six weeks prior to the reunion.

CLASS CONTACTS:

1970

Terry Bennett
(270) 351-4404

1980

Karen Britt Peeler
(919) 821-8010

1975

Jack Cozort
(919) 890-4153

1990

Granice Geyer-Smith
(704) 331-1000

FRED TURNAGE

Both sides of the law

As a farmer's son in the Pitt County community of Ayden, Fred Turnage (LLB '48) first made his way to Wake Forest College at age fifteen and, after the Second World War intervened, returned to complete his law degree.

After graduating and desiring to obtain trial experience rather quickly, on the advice of a friend he filed a job application with the U.S. Department of Justice.

Several interviews and an FBI background check later, Turnage was offered a position as a trial attorney in the Department of Justice's antitrust division. He was assigned to the field office in Kansas City for about two-and-a-half years, before being transferred to Washington in 1951.

There, he worked his way up through the ranks, and when he left in 1965 to enter private practice, he was an assistant to the U.S. Attorney General and had tried more cases in the division than anyone previously.

"I was very comfortable in the Department of Justice, because I had a unique position there in a sense," said Turnage, who today is retired and lives with his wife in Southern Shores, just north of Kitty Hawk. "I would handle cases pretty much on my own, with little supervision." Such freedom was rare, but Turnage's success was great. As a result, he received some very interesting cases and some latitude.

One case he prosecuted for the Department of Justice was in Chattanooga, Tennessee, where the members of the National Electrical Contractors Association were alleged to have used the union, the International Brotherhood of Electrical Workers, to prevent any outside contractors from coming into the area to do work. The contractors entered pleas and were fined, and the government went to trial against the union. The union was found guilty, and when the verdict was appealed, Turnage also handled the appeal.

In a completely separate case handled in Philadelphia, electric companies were alleged to have engaged in price fixing, and about nineteen criminal cases came out of the allegations. Turnage helped file twelve civil suits against the electric companies to recover damages for overcharges to the government and buyers that were underwritten by the government. Those suits eventually were settled, and they became a stimulus for the multidistrict legislation that led to the creation of today's class-action lawsuits. Through the years, Turnage also handled coal litigation in Kansas City, charges of conspiracy to fix prices on ice in Louisiana, and other cases all over the country.

His work with the Department of Justice pitted him against several larger corporations, which often were represented by large, prestigious law firms. Soon enough, several of those firms began courting

Turnage, hoping to get his antitrust expertise on their side. Cleary, Gottlieb, Steen, and Hamilton—a New York partnership with offices in the District of Columbia and overseas—lured him away from the Department of Justice in 1965.

"I went from [wearing] a white hat to a black hat, so to speak," Turnage said with a chuckle. Instead of prosecuting, he went to defending corporations in antitrust cases and advising them on federal antitrust law. His cases while with Cleary Gottlieb included representing Pet Milk when school boards in Atlanta and North Carolina in two separate cases alleged that milk companies were fixing the price of milk being sold to the school districts. In Atlanta, the case was settled for a small payment, and in North Carolina, the case was dismissed.

The final case Turnage handled was representing Pan American when Sir Freddie Laker alleged that the major airlines conspired to fix prices and run him out of business. That case was settled in 1988, and Turnage—who "retired" in 1986 but stayed on to see the Laker case through—was able to officially retire.

Turnage, who is a member of the Wake Forest School of Law's Board of Visitors and a past president of the Law Alumni Council, said he didn't know when he began his studies at Wake Forest in 1937 that he one day would become a lawyer.

"I suppose it was the fact that I had a little bit of a Puritan streak, in that I thought I could help somebody down the road," Turnage said of his decision to enter the legal profession. "And I always liked to run my mouth."

He mainly knew he didn't want to be a farmer and small merchant like his father. The rest just happened after the war intervened. Turnage began his service in the U.S. Army Air Corps (the predecessor of the Air Force) in 1941 and went to the Naval School of Military Affairs at Princeton in 1944 before serving in Korea. In Korea, he was a public safety officer in control over about 2,000 civilian Korean policemen. In April 1946, he reentered Wake Forest and completed his law degree.

"The training I got, even though I was at the old school and we didn't have the modern conveniences (such as computers), we had a wonderful category of professors," Turnage said. "They had a lot of experiences, they had a lot of gray matter, and they had a lot of good, sound advice."

It was Turnage's pride in his alma mater that impressed Alan Palmiter when he was an associate at Cleary Gottlieb and looking for a job teaching law. "I had heard of Wake Forest, and my impressions of the law school were fuzzy," recalls Palmiter, who worked at Cleary Gottlieb from 1980 to 1986 and now is a professor of law at Wake Forest. "[Turnage] thought he owed his career to Wake Forest, and that made a big impression on me."

Palmiter said that Turnage, who at the time was senior partner of the Cleary Gottlieb offices in Washington, had impressive credentials and an impressive



career path. It was unusual for Turnage to be brought in as a partner at Cleary Gottlieb because he had not come up through the ranks and had not come from one of the Ivy League law schools, Palmiter said.

“Fred had a kind of boutique practice . . . advising a handful of antitrust clients on serious matters,” Palmiter recalled. He had developed a sensitivity and feel during his years with the Department of Justice for how antitrust issues were interpreted and responded to by judges and juries, and that feel was tinged with an economic analysis.

“He had the reputation for being the antitrust lawyer you called when you wanted somebody who could approach a case with a common man’s understanding of the world,” Palmiter noted. Particularly when the division had to go after an antitrust defendant in the South, Turnage was the one to be sent. “He knew how to out-old-boy the defendant’s lawyers,” Palmiter said, adding that he was the wise man clients consulted for off-the-cuff impressions.

Julius H. Corpening, assistant vice president for university relations and a close friend to Turnage, said that his friend and sometimes golfing partner also could be as sophisticated as he wanted to be. He came from a crossroads, without the important connections that others might have, yet became a very influential lawyer in Washington and respected person both there and beyond, Corpening said.

“One of the real tributes is that there is a group of people who he has known through the years—lawyers, business people, and so forth—who he has traveled with and still keeps up with,” he added.

“These folks are just liable to show up at any time.” When the Turnages moved from their longtime home in Arlington, Virginia, to coastal North Carolina earlier this year, people came from up and down the East Coast to attend their housewarming, Corpening said. “He makes friends like that. He has the capacity of wherever he is, to make good friends.”

Palmiter added that Turnage, even though he primarily worked alone, has helped cultivate several young lawyers. “He wasn’t just a mentor for those other junior partners,” Palmiter said. “He was more a professional father.” Turnage said he feels it is imperative for seniors to take such an interest in junior lawyers. It benefits the young lawyers, the clients, and the firm, he said.

Turnage also has been counsel to the Cleary, Gottlieb, Steen and Hamilton firm since he retired, but mostly has found plenty of time to travel, play golf, read, and fish. In October, he and his wife Betty took a twenty-four-day trip around the world on the French Concorde, making stops in Tahiti, Australia, Thailand, Bombay, Istanbul and Paris, among others. They took a different around-the-world trip in 1996 on the British Concorde.

Turnage said his biggest career surprises came in the success he was able to enjoy—the cases he won both for the government and for corporations, the debate he was able to shape, and the advice he was able to give. “We never talked (in school) about getting out and making money,” he said. “We talked about getting out and doing good.” ⚖️

—Amy Andrews

I am sometimes asked by alumni, particularly more recent ones, to comment on *U.S. News & World Report's* annual ranking of law schools. I reply that it is a case study in the age-old question of appearance versus reality.

Each year, the three major national organizations of American legal education, the American Bar Association, the Association of American Law Schools, and the Law School Admission Council, issue a warning to law school applicants that *U.S. News's* ranking has absolutely nothing to do with the relative quality of America's 183 ABA-accredited law schools. If you study the weighted factors in *U.S. News's* ranking formula, I believe you will readily see that almost none of them have much to do with educating students to practice law, hopefully the prime goal of a law school. The closest factor that I can find having anything to do with teaching and learning is the student to teacher ratio, which in effect has a weight of three percent in the ranking.

The two heaviest factors in the *U.S. News* ranking are reputation (40 percent) and admissions selectivity (25 percent). Within reputation, 25 percent is reputation with other academics and 15 percent with lawyers and judges. If these reputational surveys were sought to be introduced as expert opinion in a trial, the opinions would be excluded as not sufficiently based upon knowledge of proper factual predicates. I have been involved in the ABA accreditation process at a high level for a great number of years. I have had access to at least two long inspection team reports on all of the law schools. I probably have more access to relevant information than virtually anyone else who would be asked to fill out these surveys. I could not even come close to ranking even a handful of the 183 law schools as to quality of their educational programs. We must remember that several years ago lawyers were asked to rank law schools in such a national survey. The list included Princeton University, which the lawyers rated in the very top tier, notwithstanding that Princeton does not have a law school.



“We must remember that we should never focus on the rankings as a substitute for the true goal of bettering our educational program.”

Of course, there are other rankings of law schools using other factors. Probably the next best known is that of the *National Jurist-Princeton Review*, supposedly based on factors of student satisfaction with various parts of law school programs. By and large, this ranking list of law schools is the reverse of *U.S. News*. For the most part, the higher a school is in the *U.S. News* survey, the lower it is in the student-satisfaction survey. For the past several years, Wake Forest has been well within the top quarter in both these surveys. Very few other law schools can make that claim.

Two years ago, there was even an attempt in the *National Jurist* to combine the two surveys using a survey of law students as to what factors students really thought important (quality of teaching, faculty-student relations, employment rate, bar passage rate, and reputation among attorneys). In this survey, Wake Forest tied for 27th with Harvard.

The point is that *U.S. News's* and the other rankings should not be used to measure the success of any law school's fulfillment of its mission to educate new lawyers. The *U.S. News* ranking is not like the Bowl Championship Series ranking. The 183 law schools do not play each other except in moot court and trial competitions, which if used in rankings would probably yield a far higher result for Wake Forest.

Last spring in my *Jurist* column, I indicated that I had received from a dean of a state law school a listing of the *U.S. News & World Report* Top Fifty schools reordered to go from the lowest to highest tuition. This list showed that Wake Forest had the second lowest private law school tuition of the top fifty ranked schools. Some of these other private law schools use the higher tuition to devote to scholarships that have a positive effect on the admissions selectivity factor for *U.S. News*. We have chosen to try to raise our level of scholarship aid through private fund-raising, increasing our scholarships from 9 percent (the average for private law schools) to 16 percent of total tuition and fee income this year. We are starting a major campaign to raise donations for student financial aid to a significantly higher level with a greater percentage of our students receiving the aid.

We may find other ways to improve our program that might also improve our ranking. However, we must remember that we should never focus on the rankings as a substitute for the true goal of bettering our educational program. ☪

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