

FOREWORD

A GOLDEN ANNIVERSARY

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This year, the *University of Richmond Law Review* observes its Golden Anniversary with the publication of its fiftieth volume. We take this opportunity to look back over our journal's history, to celebrate its many successes, and to honor and thank all those who have contributed to both the evolution and the survival of this *Law Review* over the last several decades.

The *University of Richmond Law Review* began as a faculty publication known as the *University of Richmond Law Notes*. The inaugural issue was published in the spring of 1958. William T. Muse, Dean of the University of Richmond School of Law, set the tone and purpose for that volume and for all subsequent publications in his foreword. He described his vision for the *Law Notes* and his hope that it would be a "service . . . of some value to lawyers of Virginia . . . contain[ing] discussions of practical problems which are thought to be of current interest to the profession."¹

The *Law Notes* experienced its first substantial evolution with the publication of volume two in 1963, which announced the involvement of the first student editorial board. The journal remained a faculty-controlled publication, however, for a little while longer. In May of 1968, after a multiple-year campaign for student control, a fully student editorial board published volume

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1. William T. Muse, *Foreword*, 1 U. RICH. L. NOTES 2 (1958).

three—and the *University of Richmond Law Review* was officially born. With this change in control also came a change in the publication's focus, away from Dean Muse's emphasis on faculty scholarship and local interests and towards more national and broadly appealing subject matter.²

This did not mean complete abandonment of Dean Muse's vision for the law school's flagship journal, however. The *University of Richmond Law Review* continued to publish articles relevant to Virginia law and Virginia legal practice, and it enshrined this focus in 1985 with the first publication of *The Annual Survey of Virginia Law*. The *Annual Survey* serves as the only academic publication dedicated solely to innovations and updates in Virginia law and practice. This November, the *Law Review* published its thirtieth *Annual Survey* book, and the journal remains proud of its continued role as a comprehensive guide to Virginia law for judges, practitioners, scholars, and students alike.

Publication has not been the only field in which the *Law Review* experienced success and evolution. J. Carol Williams became the first female Editor-in-Chief of the journal in 1981. A few years later, in 1986, Editor-in-Chief Marguerite R. Ruby secured the bid to host the thirty-fourth National Conference of Law Reviews, moving the *University of Richmond Law Review* even more prominently into the national spotlight when the Conference was successfully held in 1988. And, in 1991, this journal celebrated its Silver Anniversary with a commemorative introduction by Virginia Supreme Court Justice Elizabeth B. Lacy, who recognized and credited the publication's survival and success to the "inherent value and quality of this *Law Review*."³ Justice Lacy also acknowledged the challenges a journal such as ours faces from year to year "to sustain publication": competition for readership from other topic-specific or faculty publications; competition for authors and subscriptions from other journals across the country and even across the world. These challenges are as real today as

2. *History—The University of Richmond Law Review: The First Twenty-Five Volumes*, 25 U. RICH. L. REV. xiii, xv (1991).

3. Hon. Elizabeth B. Lacy, *A Silver Anniversary*, 25 U. RICH. L. REV. ix (1991). Justice Lacy, it turns out, has a special tie to the *University of Richmond Law Review*: her husband, Dennis P. Lacy, Jr., was a member of the editorial board of volume three, the first year the publication was fully student-run. See *History—The University of Richmond Law Review: The First Twenty-Five Volumes*, 25 U. RICH. L. REV. xiii, xv (1991) (listing all the members of the volume three editorial board).

they were twenty-five years ago when Justice Lacy identified them, making this fiftieth celebration even more of a testament to the hard work and dedication that has been given to the *University of Richmond Law Review* by its staff over the past fifty volumes.

The *Law Review* continued to grow in national prominence over the second twenty-five years of its existence. Notably, in 1994, with the generous support of the Allen family, the journal hosted its first *Allen Chair Symposium*. This annual event continues to serve as a vehicle for assembling some of the nation's leading scholars and practitioners to discuss critical issues facing our country. Over the years, this symposium has grown both in size and in prominence, not only because of the import of the topics discussed, but also due to the distinction of its contributors. And the associated Allen Chair issue that serves as the culmination of each year's symposium continues to be well received. Several of the *Law Review's* successful symposia are highlighted below, along with other landmarks in the *Law Review's* history.

In 1998, the editorial board of volume thirty-two hosted a special symposium dedicated to "The Federal Courts" and published a related issue featuring articles that highlighted gender bias in each of the twelve federal circuits. This issue included contributions from: Judge Bruce M. Selya, United States Court of Appeals for the First Circuit;⁴ Judge Dolores K. Sloviter, United States Court of Appeals for the Third Circuit;⁵ Judge Lyle E. Strom, United States District Court for the District of Nebraska;⁶ Chief Judge Procter Hug, Jr., United States Court of Appeals for the Ninth Circuit;⁷ Judge Marilyn L. Huff, United States District Court for the Southern District of California;⁸ Judge John C. Coughenour, United States District Court for the Western District of Washington;⁹ Judge David M. Ebel, United States Court of

4. Hon. Bruce M. Selya, *First Circuit: A Study of Gender Bias in and Around the Courts*, 32 U. RICH. L. REV. 647 (1998).

5. Hon. Dolores K. Sloviter, *Third Circuit: Gender, Race, and Ethnicity—Task Force on Equal Treatment in the Courts*, 32 U. RICH. L. REV. 707 (1998).

6. Hon. Lyle E. Strom, *Eighth Circuit: Gender Fairness Task Force*, 32 U. RICH. L. REV. 731 (1998).

7. Hon. Procter Hug, Jr., Hon. Marilyn L. Huff & Hon. John C. Coughenour, *Ninth Circuit: The Gender Bias Task Force*, 32 U. RICH. L. REV. 735 (1998).

8. *Id.*

9. *Id.*

Appeals for the Tenth Circuit;¹⁰ and Judge John Garrett Penn, United States District Court for the District of Columbia.¹¹

In 2004, the *University of Richmond Law Review* broke from the tradition of past Allen Chair issues by publishing remarks made by participants in the symposium, articles written by symposium participants, and articles written by scholars who did not participate in the symposium but who wrote articles focusing on the symposium's topic: "The Independence of the Judiciary." Dedicated to the Honorable Harry L. Carrico, the former Chief Justice of the Supreme Court of Virginia who retired in 2003, contributors to the issue included Justice Carrico himself,¹² Kenneth W. Starr,¹³ and Chief Justice William H. Rehnquist of the United States Supreme Court.¹⁴

In 2015, the *Law Review* hosted its Allen Chair Symposium on the topic of "Lethal Injection, Politics, and the Future of the Death Penalty." It featured contributions from Richard C. Dieter¹⁵ and the Honorable Mark L. Earley, Sr., former Attorney General of Virginia.¹⁶ Justice Stephen Breyer cited Attorney General Earley's article in his dissent to the United States Supreme Court's opinion in *Glossip v. Gross*,¹⁷ providing a capstone example of the national standing and recognition that the *University of Richmond Law Review* has attained.

Over the years, and especially as its prominence has grown, the *Law Review* has had the opportunity to work with and publish articles by a number of eminent members of the legal community. In keeping with the goal of expanding its reputation and reader-

10. Hon. David M. Ebel, *Tenth Circuit: Gender Bias Study—Continuing Education and Training*, 32 U. RICH. L. REV. 745 (1998).

11. Hon. John Garrett Penn, *D.C. Circuit: Study of Gender, Race, and Ethnic Bias*, 32 U. RICH. L. REV. 765 (1998).

12. Hon. Harry L. Carrico, *Foreword: A Call to Arms: The Need to Protect the Independence of the Judiciary*, 38 U. RICH. L. REV. 575 (2004).

13. Hon. Kenneth W. Starr, *Legislative Restraint in the Confirmation Process*, 38 U. RICH. L. REV. 597 (2004).

14. Hon. William H. Rehnquist, *Judicial Independence*, 38 U. RICH. L. REV. 579 (2004).

15. Richard C. Dieter, *The Future of the Death Penalty in the United States*, 49 U. RICH. L. REV. 921 (2015).

16. Mark L. Earley, Sr., *A Pink Cadillac, an IQ of 63, and a Fourteen-Year-Old from South Carolina: Why I Can No Longer Support the Death Penalty*, 49 U. RICH. L. REV. 811 (2015).

17. 135 S. Ct. 2726, 2759 (2015) (Breyer, J., dissenting).

ship beyond Virginia, the *Law Review* published articles by United States Senators William B. Spong, Jr.,¹⁸ Carl T. Curtis,¹⁹ and Edward J. Gurney²⁰ in volume six, printed in 1971. In 1974, the *University of Richmond Law Review* published an article by Associate Justice Lewis F. Powell, Jr., of the United States Supreme Court.²¹ In the following volume, the *Law Review* published an article on revisions to the Constitution of Virginia by University of Virginia Professor A.E. Dick Howard, the principal contributor to the re-drafting of the Virginia Constitution in 1971.²² After serving as the U.S. Attorney for the Western District of Virginia, John S. Edwards authored an article for the journal in 1983 entitled *Professional Responsibilities of the Federal Prosecutor*.²³ Volume twenty-six published a series of articles written by United States Senators Strom Thurmond,²⁴ Patrick J. Leahy,²⁵ and Charles E. Grassley.²⁶ Noted constitutional law scholar Erwin Chemerinsky published an article with this journal in 2000.²⁷ That same year, legal historian and constitutional scholar Mark Tushnet also published a piece in the *Law Review*.²⁸ Further, current United States Senator Tim Kaine has published several articles in this journal, including one in 1990²⁹ and another in 2011.³⁰ Over the

18. Hon. William B. Spong, Jr., *Can Balance Be . . .*, 6 U. RICH. L. REV. 1 (1971) (Spong served as U.S. Senator from Virginia between 1966 and 1973).

19. Hon. Carl T. Curtis, *The Space Age: Legal and Policy Problems*, 6 U. RICH. L. REV. 49 (1971) (Curtis served as U.S. Senator from Nebraska from 1955 through 1979, and, at the time his article was published in the *Law Review*, he served as the ranking minority member of the Senate Committee on Aeronautical and Space Sciences).

20. Hon. Edward J. Gurney, *Toward Judicial Reform*, 6 U. RICH. L. REV. 83 (1971) (Gurney served as U.S. Senator from Florida from 1969 through 1974).

21. Hon. Lewis F. Powell, Jr., *Legal Education in Perspective*, 8 U. RICH. L. REV. 381 (1974).

22. A.E. Dick Howard, *Constitutional Revisions: Virginia and the Nation*, 9 U. RICH. L. REV. 1 (1974).

23. John S. Edwards, *Professional Responsibilities of the Federal Prosecutor*, 17 U. RICH. L. REV. 511 (1983).

24. Hon. Strom Thurmond, *The Supreme Court: Final Arbiter of Our Nation's Legal Disputes*, 26 U. RICH. L. REV. 443 (1992).

25. Hon. Patrick J. Leahy, *Advice and Consent: Ensuring Judicial Freedom*, 26 U. RICH. L. REV. 447 (1992).

26. Hon. Charles E. Grassley, *The Role of the Supreme Court*, 26 U. RICH. L. REV. 449 (1992).

27. Erwin Chemerinsky, *Protect the Press: A First Amendment Standard for Safeguarding Aggressive Newsgathering*, 33 U. RICH. L. REV. 1143 (2000).

28. Mark Tushnet, *Politics, National Identity, and the Thin Constitution*, 34 U. RICH. L. REV. 545 (2000).

29. Timothy M. Kaine, *Professional Responsibility*, 24 U. RICH. L. REV. 715 (1990).

30. Timothy M. Kaine, *Economic Policy After a Lost Decade—From Over-Spending to*

years the *Law Review* also has published more articles than we can count by University of Richmond Law School administrators and faculty. And, thus, the list of notable contributors could go on and on.

Parallel to its national success in forwarding scholarship on a broad range of important issues facing our country, the *Law Review* has continued to strive to be of service to Virginia's lawyers and practitioners. As part of its constant efforts to keep pace with the evolving legal landscape, the *University of Richmond Law Review* recently announced the launch of its *Online Edition*. With the introduction of this new platform, the *Law Review* will join in the growing trend of publishing online legal scholarship. The Editorial Board hopes that this will open a new avenue for student, faculty, and practitioner scholarship and help to further fulfill Dean Muse's wish for the *Law Review* to "be of some value to lawyers in Virginia."

This brings us to today and to this particular issue of the *University of Richmond Law Review*. In recognition of our Golden Anniversary, we have filled this book with articles dealing with legal issues that are turning or have recently turned fifty during this publication year. To begin, we present an article entitled *The Restorative Workplace*, which examines the possibility of employing restorative practices—instead of litigation—to better effectuate the goals of Title VII of the Civil Rights Act fifty years after its passage. In honor of the fiftieth anniversaries of Medicare and Medicaid, we include *Reforming Healthcare Reform*, an article that proffers a fresh take on how to fix the American healthcare system. *A New Proposal to Address Local Voting Discrimination*, as the title suggests, addresses the realities surrounding voting discrimination today and proposes a new method to deal with the persistence of such discrimination fifty years after the enactment of the Voting Rights Act. The article *Binding the Enforcers* treats with both U.S. immigration reform and President Obama's bold exercise of executive power, hearkening back to the immigration reform of 1965 when President Johnson signed the Immigration and Nationality Act; President Johnson was also subject to frequent critique for his tendency to take action independent of Congress throughout his term. And looking back at fifty years of

tension between the ideal of freedom of speech and the criminal justice system's treatment of protestors, the article *Protest is Different* gives a nod to the Free Speech movement of the mid-1960s and the heyday of civil disobedience.

Also included in this issue is a tribute to J. Rodney Johnson, a former professor at the University of Richmond School of Law who passed away in 2015. Professor Johnson wholly deserves such recognition on the basis of his contributions to the law school, the *Law Review*, and legal scholarship generally. However, it is especially fitting to honor him in this particular book, because he served as faculty advisor for the *University of Richmond Law Review* when it celebrated its last milestone with the publication of the Silver Anniversary issue in 1991.

In closing, we express, once again, our sincere appreciation for everyone—readers and authors, faculty advisors, former and current staff—who have contributed to the success and growth of the *Law Review* over the course of its publication these last fifty volumes. We would also like to give special thanks to our Publication Coordinator, Glenice B. Coombs, who has somehow weathered the madness of this journal for thirty-five years and who lends us the benefit of her experience and the support of her cheerful spirits every single day. As we sifted through the *Law Review* archives to write this brief history, it became apparent how hard-pressed we would be to find any one person who has had as great an impact on the life of this journal and the lives of its staff as Glenice. We could not do this without her.