



## **McCANDLISH LILLARD: THE FIRM'S HISTORY**

### **A Century of Looking Forward**

McCandlish & Lillard traces its origins to 1908.

Over the years, its lawyers have been involved in the growth of the town of Fairfax and in Northern Virginia generally, not only from a legal perspective, but in a wide variety of legal, civic and professional endeavors. Throughout the firm's history, McCandlish lawyers have dedicated themselves to anticipating tomorrow's legal challenges.

Today, we view ourselves as part of a complex and ever-changing world economy. What began in 1908 as one man's practice in a very small town called Fairfax, has become a firm of twenty-five lawyers. From the three-line telephone that some never mastered, we have progressed to the use of voice mail, e-mail, smartphones, tablet computers, and social media to conduct business. Despite these changes, and many of them have revolutionized the practice of law, the firm holds true to the spirit of its founders by adapting to the changing needs of clients and expanding its expertise in all areas where legal needs can be filled.

Our history tells the story of a century of looking forward.

### **1908-1930**

#### **F. D. RICHARDSON, ATTORNEY AT LAW**

##### **102 South Payne Street, Fairfax**

The firm McCandlish & Lillard, a professional corporation, actually began with the practice of a single lawyer, Frederick Dawson Richardson ("Fred" or "F. D.") whose professional career commenced in the small town of Fairfax in 1908. F. D. Richardson was born in a farmhouse in Fairfax, located across from the Courthouse, and like his father before him, Fred was a lifelong Fairfax resident. His mother, Amelia Lee Buck ("Millie"), came from Warren County, Virginia. He had a brother Marcus, who died in a streetcar accident in Washington, D.C. in 1916, and a sister, Virginia ("Virgie"), who died in 1988. His father, F. W. Richardson, was the Clerk of Court of Fairfax County, as was his grandfather, Captain F. W. Richardson, a Confederate veteran.

Between the two of them, F. D. Richardson's grandfather and father occupied the office of Clerk of Court of Fairfax County for 104 consecutive years. It's true, you can look it up.<sup>1</sup>

F. D. Richardson attended the old brick school, which is now the Fairfax Town Museum on Route 236, and Potomac Academy in Alexandria. He then attended the University of Virginia for two years and, for a time, lived in No. 13, West Range, the same room that Edgar Allen Poe had occupied more than 80 years before. He attended Georgetown University to study law, receiving his law degree in 1908. Before being admitted to the bar in June 1908, he was an educator. The population of Fairfax was reported as being a total of 413 in a 1910 census. What today is known as Fairfax City was then Fairfax C.H. (C.H. for Court House) or Providence Town. Either way, Fairfax consisted of a dirt crossroads surrounded by farmland.

Richardson's first advertisement for legal services appeared in the December 25, 1908 *Fairfax Herald*. The ad said simply, "F. D. Richardson, Attorney at Law". Some of the oldest books in the library of the Firm still bear his signature or stamp on the front page. From 1908 to 1912, F. D. Richardson practiced law on his own, conveying property, arguing cases in chancery and defending prisoners at the direction of the Court. In December 1912, F. D. Richardson was joined by J. W. Ballard, and in addition to advertising their legal services, Ballard and Richardson began to advertise money to lend.<sup>2</sup>

Richardson first owned the Chapman House, a frame house on the right side of what is now Chain Bridge Road as you travel into the Old Town of Fairfax from Route 50. In 1925, he purchased a large white house which still stands on Chain Bridge Road at the top of the hill before Cedar Avenue on the right side of the road when traveling south into Fairfax from Route 50. Richardson's neighbors were his brother-in-law, former Fairfax mayor, Robert D. Graham, and then Fairfax County School Superintendent, Wilbert T. Woodson.<sup>3</sup> Upon F. D. Richardson's death in 1954, the house was sold to Fairfax automobile dealer, "Texas Ted" Britt, owner of Ted Britt Ford.

F. D. Richardson was an active member of the Fairfax County Democratic Party at a time when the South was solidly Democratic. His initials, F.D.R., were often joked about. It seems that there was "the Little White House" of F.D.R. in Fairfax and the "Big White House" of F.D.R. in Washington, D.C. Like many jokes, this one had an element of truth. Fred Richardson was a frequent invitee to political parties in Washington, and to the White House of Franklin Delano Roosevelt.

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<sup>1</sup> Captain F. D. Richardson (Fred Richardson's grandfather) became Clerk of Court in 1834. He served in that capacity continuously for fifty (50) years until his death in 1884. He was succeeded by his son, F. W. Richardson (Fred Richardson's father), who served continuously in that capacity for fifty-four (54) years until his death in 1938.

<sup>2</sup> The practice of lending clients' money at the clients' direction secured by deeds of trust on real estate continued among the older Fairfax lawyers well into the modern era. Although no guarantees were given, the lawyer always felt duty bound to stand behind the loans and see that they were paid. In a few cases lawyers, or their surviving partners, experienced some heartburn from this practice.

<sup>3</sup> W. T. Woodson was highly respected, and the high school on Route 236 bears his name.

On April 7, 1916, F. D. Richardson was appointed Commissioner of Accounts for Fairfax County, Virginia by Judge J. B. T. Thornton. The next day Richardson appeared before his father, the Clerk of Court, to take the oath of office prescribed by law. Richardson succeeded E. R. Holbrook who resigned.<sup>4</sup>

F. D. Richardson's involvement in the early improvement of the County infrastructure was covered in the local press of the day. On the criminal side was a report, circa 1914, that Richardson was paid \$20 out of the County levy for, "Defending prisoners per order of the court." By 1917 he had become an officer of the small local bar association, and in 1918, Ballard and Richardson moved into "new" offices on Payne Street. The move was from the upstairs to the downstairs of the Ballard Building following improvements. The Fairfax Red Cross moved into the former offices of Ballard and Richardson. In August 1919, Ballard and Richardson dissolved their relationship, and that same month F. D. Richardson purchased the Ballard Building on Payne Street from Captain J. W. Ballard.

In addition to being a prominent local attorney, F. D. Richardson was a bank officer, a director of an electric company, an appointee to the Town Council, and remained continuously an officer in various capacities of the local Fairfax bar association.<sup>5</sup> In 1928 when a judgeship was made vacant, the local Bar urged F. D. Richardson's appointment. The newspapers of the day reported that he was a highly regarded attorney and a clear choice to be endorsed for the local judgeship. Richardson never opted for the judgeship, preferring instead to build his law practice.<sup>6</sup>

## 1930-1954

### ROBERT J. McCANDLISH, JR. AND F. D. RICHARDSON

In 1930, Fred Richardson was joined in Fairfax by his young nephew, Robert John McCandlish, Jr. of Hancock, Maryland. After receiving his undergraduate degree from the University of Maryland in 1930, Bob McCandlish began working as a clerk for his uncle. When McCandlish

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<sup>4</sup> A partner in the Firm served as Commissioner of Accounts of Fairfax County from the appointment of F. D. Richardson in 1916 until 2006. Richardson served thirty-eight (38) years until his death in 1954, when he was succeeded by Robert J. McCandlish, Jr. McCandlish served for thirty-three (33) years, when he was succeeded in 1989 by Jesse B. Wilson, III. McCandlish continued to serve as Deputy Commissioner of Accounts until his retirement from the practice of law in 1991. Wilson continued to serve as Commissioner of Accounts until his retirement in 2006. Wilson was succeeded by John H. ("Jack") Rust, Jr., a former principal in the Firm.

<sup>5</sup> Among the many areas in which he served, **F. D. Richardson** was a corporal in the Virginia National Guard at the Alexandria Armory during World War I, was active in the community, a member of Henry Masonic Lodge in Fairfax, the Fairfax Rotary Club, the Country Club of Fairfax, and a member of the vestry at Truro Episcopal Church in Fairfax. He was also on the Board of Directors of Arlington Fairfax Savings & Loan.

<sup>6</sup> **F. D. Richardson's reported cases:** *Times-Dispatch Pub. Co. v. Zoll*, 148 Va. 850, 139 S.E. 505, (1927); *Wilson v. Brown*, 136 Va. 634, 118 S.E. 88, (1923).

decided to become a lawyer, he began attending law school at night at George Washington University. During his law school days, Bob McCandlish lived, at least part of the time, with his aunt and uncle in Fairfax while commuting to school. Bob McCandlish and James Keith, who years later with strong backing from McCandlish became a circuit court judge, kept "bachelor quarters" together during those early days.

While attending law school McCandlish traveled out to Fairfax Court House on the old D.C.-to-Fairfax trolley to continue his work as a law clerk. Upon McCandlish's admission to the Bar, he set up practice with Richardson, although not in a formal partnership. The offices, located at 102 South Payne Street, were immediately next door to the office of State Senator John W. Rust and his son, John H. ("Johnny") Rust. Both buildings stand today directly across the street from the Old Courthouse.

The Payne Street law offices of Fred Richardson and Bob McCandlish were simple. Upon entering the front door, you were in Mr. Richardson's office and had to pass through it to access Mr. McCandlish's office. In the early years, there was no indoor toilet. At some later date, McCandlish prevailed upon his uncle and law partner to have the office expanded at the back of the building, and to install an indoor bathroom. Senator Rust never bothered to install a toilet, but made free use of his good friend Richardson's facilities. After his father passed away, Johnny Rust eventually had their building upgraded, including an indoor toilet and electric heating.

In the 1930 census, the population in Fairfax County was only 25,464. Arlington County, at 26,000, was still slightly more populous. But Roosevelt's New Deal was bringing people by the thousands to the Washington suburbs, and the combination of McCandlish's considerable talents with the time and place provided the foundation for what would become known in later years as "the McCandlish Firm." Fairfax County was a typical rural Virginia County in the 1930's, with a small cadre of lawyers clustered around the court house doing real estate and criminal work, writing wills and settling estates, trying criminal and small civil cases. During the 1930's Fairfax County grew by 61% to 40,929 on the eve of World War II. Meanwhile, Arlington County, being closer in to Washington, doubled in size. In the 1930's the citizens of the Town of Fairfax were concerned about the preservation of the history of their town. Measures were taken to save old residences, and tree planting for the streets was made a budget item. Little did they know what was to come.

In 1930, F. D. Richardson was made a Law Admissions Board member. In 1936 Bob McCandlish was named an Associate Trial Justice in the local court. From 1937 through 1942, Richardson and McCandlish combined their talents to become a political force in Fairfax County. Both men gained stature through their reputations, and appointments to various offices. In May 1941, Bob McCandlish married Josephine Sutton, the daughter of Judge Frank Taylor Sutton, Jr. of Richmond, Virginia.<sup>7</sup> McCandlish met his bride-to-be at a Virginia Bar Association meeting at The Greenbrier where she was visiting with her parents. The next year, the McCandlishes would return as husband and wife.

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<sup>7</sup> From 1926 until his death, Judge Sutton was judge of the old Law and Equity Court of the City of Richmond, Part Two, a court of record, now the Circuit Court.

McCandlish was a natural politician.<sup>8</sup> He remembered everyone's name, and he was outgoing and friendly. He was an entertaining companion at lunch, dinner, at a meeting or a convention, and he had a wide range of interests. He was particularly quick with the put-down quip, e.g., to an associate full of himself for a good piece of work: "Even a blind hog finds an acorn every now and then." Some of his quips were laced with good advice. When Henry M. deButts sought to answer a research question by quoting from a lecture by the famous University of Virginia Law Professor Hardy Dillard, McCandlish said, "Don't tell me what Dillard says. We can't quote him in a brief. First, go to the black books (the Virginia Code). If the answer isn't there, go to the red books (Michie's Jurisprudence). Then look in the brown books (the Virginia Supreme Court Reports). And don't give me any out-state cases unless there is nothing else, and don't give me any Georgia cases at all. The court is not going to pay any attention to them."

In January 1942, F. D. Richardson and Robert J. McCandlish, Jr. became partners and announced the new firm, **Richardson and McCandlish**. Once established in their practices, many of the lawyers in Fairfax sought elective office. State Senator John W. Rust practiced with his son in a small office next door to Richardson and McCandlish, and State Senator John S. Barbour held forth in the next block. In February 1942, McCandlish threw his hat in the ring and successfully sought election as Delegate to the Virginia General Assembly. In his second session, McCandlish had the good fortune to become the seatmate of John Warren Cooke. Even though Cooke and McCandlish were about the same age, Cooke was the son of a Confederate soldier who had served on the staff of Robert E. Lee. Cooke and McCandlish became close friends, one reason that McCandlish became a sought-after lobbyist when Cooke was elected Speaker many years later. McCandlish's lobbying clients included Washington Gas and AT&T. McCandlish was re-elected to the House in 1943, and immediately after the session ended in 1944, he joined the Navy. While serving in the Navy, McCandlish was defeated in an absentee bid for re-election, but upon returning from the war, won a closely contested third election for the House of Delegates. The third election was so close that a three-judge panel, led by Judge Paul E. Brown, ordered a recount of the vote, which ultimately resulted in McCandlish's election by the unlikely and incredible margin of *one vote*. At the conclusion of what would be McCandlish's last term in the General Assembly, he began to devote his full attention to building a firm which would be responsive to the growing needs of the Town and County.

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<sup>8</sup> **Robert J. McCandlish, Jr.** was a President of the Virginia Bar Association from 1960-61 and practiced law in Fairfax for more than 50 years. He was elected to three terms as a Delegate in the General Assembly in 1942, 1944 and 1948. He was a Commander of a naval gun crew embarked aboard a Liberty ship, he served in both the Atlantic and Pacific theaters, attaining the rank of lieutenant. He served as Commissioner of Accounts for Fairfax County from 1954 until 1987, and as Deputy Commissioner until shortly before his retirement in 1991; was a member of the Judicial Conference for the Fourth United States Circuit Court of Appeals, a Fellow of the American Bar Foundation and a member of the Boyd-Graves Conference. He was also a member of the Virginia Museum of Fine Arts, the Virginia Historical Society, the National Trust for Historic Preservation, the Robert E. Lee Memorial Association and the Winchester-Frederick County Historical Society.

In 1948 Richardson and McCandlish were joined by Rothwell J. ("Jack") Lillard as an associate. McCandlish had traveled to Charlottesville with his wife to interview prospective new associates at the Law School, and Jack Lillard was his first choice. Lillard was a tall and imposing man, who, by the age of 50, looked like a combination of George Washington and Michelangelo's Moses. He did not so much argue the law to a judge as simply proclaim it, and through the years compiled an impressive record in the Virginia Supreme Court.<sup>9</sup> On one occasion, he was a leading prospect for appointment to that Court. After receiving his undergraduate degree from the University of Virginia in 1934, Lillard returned home to Madison County, Virginia to become a teacher and principal of Madison County High School (1935-1939). People from Madison County claimed that he intimidated even the biggest farm boy, and he admitted that he used the paddle, when appropriate, in the principal's office. He said that he gave the students the choice of paddling or writing an essay, and they were all too proud to choose the essay.

Like McCandlish, Lillard joined the Navy in World War II. In an interview in March, 2000, Jesse B. Wilson, III would recall that because of Lillard's "flight experience" (Lillard participated in fly-overs for crop inspections as a part of a New Deal program) and his background as an educator (high school teacher), he received the rank of Lieutenant Commander and put in command of the Pre-Flight Training Center in Pensacola, Florida.

Following the war, Lillard attended the University of Virginia Law School with a host of other returning veterans on the G.I. "Bill of Rights." The lawyers who came back from the war and entered practice in the late 1940's were one of the most talented and motivated groups ever to come to the bar in Virginia, and Jack Lillard led the pack as the president of the University of Virginia law class of 1948. After entering law practice, he became involved in civic, charitable, and professional activities.<sup>10</sup> Lillard soon rose to the very top of the local profession. By 1950, he was on the Executive Committee of the Fairfax Bar Association, and was its President in 1952.

By the end of the 1940's Fairfax County was emerging as one of Virginia's and the nation's hottest spots. Its population, although still trailing Arlington by about 35,000, had reached nearly 100,000 people. The size and sophistication of local government and local business had gone through the first of several quantum leaps that were to recur in the 1970's, 80's and 90's.

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<sup>9</sup> **Rothwell J. Lillard's Reported Cases:** *Shirley-Duke Apartments, Section One, Inc. v. Board of County Sup'rs of Fairfax County*, 199 Va. 49, 97 S.E.2d 657 (1957); *Hiss v. Friedberg*, 201 Va. 572, 112 S.E.2d 871 (1960); *Rolfs v. Mason*, 202 Va. 690, 119 S.E.2d 238 (1961); *Olson v. Brickles*, 203 Va. 447, 124 S.E.2d 895 (1962); *Barnes v. Graham Virginia Quarries, Inc.*, 204 Va. 414, 132 S.E.2d 395 (1963); *Wright & Hunt, Inc. v. Wright*, 2, 205 Va. 454, 137 S.E.2d 90 (1964); *Kessler v. Commonwealth Doctors Hospital, Inc.*, 212 Va. 497, 185 S.E.2d 43 (1971); *Beard v. Poe*, 211 Va. 626, 179 S.E.2d 473 (1971); *Waterval v. William Doolan Elevator Service, Inc.*, 212 Va. 114, 181 S.E.2d 637 (1971)

<sup>10</sup> **Rothwell J. Lillard** was a Fairfax Hospital Association Trustee; Chairman of the American Cancer Society's local fund drive; Vestryman and Senior Warden of Truro Episcopal Church; member of the Fairfax Chamber of Commerce; Fellow American College of Trial Lawyers; Fellow Virginia Law Foundation (1985); Member of the Rules Committee, Virginia Bar Council.

In addition to Lillard, the firm of Richardson & McCandlish was joined by Ernest Ballou, another 1948 graduate of the Virginia Law School. Ballou, whose origins were in Roanoke, was only in Fairfax for a short time before he was called off to the Korean War. When he came back from the war, he returned to Roanoke, where he later became a highly respected circuit court judge.

Ballou's place in the small office building on South Payne Street was taken by E. Calvin Van Dyck, a native of Portsmouth, Virginia and another member of the 1948 class at the University of Virginia Law School. Van Dyck was even more of a lawyer's lawyer than Lillard. Quiet, thorough and very cautious, he was very scholarly, almost professorial.<sup>11</sup> His published article on "last clear chance" was quoted by the Virginia Supreme Court. He lived within a stone's throw of his close personal friend McCandlish and was the accommodating butt of many of McCandlish's jokes. Although Van Dyck's undergraduate degree was in electrical engineering, McCandlish persisted in claiming that Van Dyck could not change a light bulb (a base canard).

McCandlish became very well known as an annexation specialist, probably as the result of his natural political skills. With population growth, residential development tended to take place in and around the settled communities. The newcomers wanted services such as public sewer and water, fire protection, snow and trash removal, and well-maintained streets. As the Cities of Falls Church and Alexandria and the Town of Fairfax began to fill up and spill over, they looked to take a bite out of neighboring Fairfax County to provide room for growth.

In 1951 Fairfax County sought out Hugh B. Marsh, its recently re-elected Commonwealth's Attorney, and Bob McCandlish to fight off attacks from the Cities of Alexandria and Falls Church. Alexandria succeeded moderately, but Falls Church was turned away completely. McCandlish became a recognized expert as a regional annexor's attorney, representing Falls Church, the Town of Fairfax (with Town Attorney Van Dyck), the Town of Warrenton, the Town of Manassas and others. In 1954 McCandlish and Marsh were successful in upholding the constitutionality of the Virginia Water and Sewer Authorities Act in the case of *Farquhar v. Board of Supervisors of Fairfax County*, 196 Va. 54 (1954).<sup>12</sup> This important case paved the way for the creation of authorities in Fairfax, Loudoun and Prince William Counties.<sup>13</sup>

Jack Lillard became partner in 1952, and later that same year, **Richardson, McCandlish and Lillard** took in E. Calvin VanDyke as a partner.<sup>14</sup> The Firm was then called **Richardson, McCandlish, Lillard & Van Dyck**.

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<sup>11</sup> **E. Calvin Van Dyck** was also a Director of the Fairfax Library Association.

<sup>12</sup> **Hugh B. Marsh's Reported Cases:** *Farquhar v. Board of Sup'rs of Fairfax County*, 196 Va. 54, 82 S.E.2d 577 (1954).

<sup>13</sup> **Robert J. McCandlish, Jr.'s Reported Cases:** *County of Fairfax v. City of Alexandria*, 193 Va. 82, 68 S.E.2d 101 (1951); *City of Falls Church v. County of Fairfax*, 193 Va. 113, 68 S.E.2d 96 (1951); *Archer v. National Bank of Fairfax*, 194 Va. 641, 74 S.E.2d 153 (1953); *Board of Sup'rs of Fairfax County v. Broyhill*, 195 Va. 603, 79 S.E.2d 666 (1954); *Farquhar v. Board of Sup'rs of Fairfax County*, 196 Va. 54, 82 S.E.2d 577 (1954); *Flakne v. Chesapeake & Potomac Tel. Co. of Va.*, 199 Va. 31, 97 S.E.2d 650 (1957).

<sup>14</sup> **E. Calvin Van Dyck's Reported Cases:** *Bibber v. McCreary*, 194 Va. 394, 73 S.E.2d, 382 (1952); *Archer v. National Bank of Fairfax*, 194 Va. 641, 74 S.E.2d 153 (1953); *Fairfax County v. Town of Fairfax*,

Toward the end of his career, Fred Richardson found more time for pleasures away from the office. In an interview in February 2000, John H. Rust, Sr. ("Johnny") recalled that his father and Fred Richardson were close friends and golf buddies. It was his recollection that Fred and Senator Rust's trips to the golf course became more frequent as the workload on their young protégés, Bob McCandlish and himself, increased. It was a common practice for these longtime friends to simply walk next door and prevail on the other to leave the office early to play golf. Senator Rust, Richardson, McCandlish and others started the Court House Country Club, now the Country Club of Fairfax. For many years it was a favorite luncheon spot for Firm members.

In his later years, Fred Richardson played most of his golf at Washington Golf and Country Club in Arlington, and in the year of his death, an annual tournament and memorial cup was established in his honor. Fifty-four (54) years later, the Richardson Cup continues to be one of the most significant events of the golf season at Washington Golf and Country Club.

F. D. Richardson died on January 20, 1954 at the age of 79. He is laid to rest in the Old Fairfax City Cemetery. Judge Paul E. Brown entered an Order on January 25 appointing Robert J. McCandlish, Jr. as Commissioner of Accounts for the Circuit Court of Fairfax County, and McCandlish appeared before the Clerk and took the oath prescribed by law that day. The next day, McCandlish was appointed Administrator c.t.a. of the Estate of F. D. Richardson.

## 1954–1967

### ROBERT J. McCANDLISH, JR. AND ROTHWELL J. LILLARD

In 1954 the popular Hugh B. Marsh resigned as Commonwealth's Attorney and joined the McCandlish Firm, which then became known as **Richardson, McCandlish, Lillard, Marsh & Van Dyck**.<sup>15</sup> Marsh was a true character, and the prototype country lawyer. He has been described as a conservative's conservative, and a charter member of Harry Byrd's "court house gang," who attended the Senator's famous picnic whenever he could. Marsh had been accused of causing a fire in an office where he once practiced, and for this reason he emptied his ashtray every evening at 5 o'clock in the gutter at the edge of Payne Street. And he always went outside to empty the ash from his pipe. His favorite expression was, "either it 'tis pepper or it t'ain't pepper."

McCandlish claimed that Marsh never really learned to use the three lines on the office telephone. During his years as Commonwealth's Attorney, his responsibilities included giving

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201 Va. 362, 111 S.E.2d 428 (1959); *Board of Sup'rs of Loudoun County v. Town of Fairfax*, 199 Va. 612, 101 S.E.2d 519 (1958); *Board of Sup'rs of Fairfax County v. Broyhill*, 105 Va. 603, 79 S.E.2d 666 (1954).

<sup>15</sup> A native of Charlottesville, Virginia, **Hugh B. Marsh** began practice in Fairfax around 1923 and was associated, for a time, with then Commonwealth's Attorney Wilson M. Farr. In 1944, Marsh was appointed Commonwealth's Attorney, succeeding Paul E. Brown when Brown was elevated to the Fairfax Circuit Court bench. Marsh was President of the Fairfax County Bar Association from 1943-1945.



civil advice to the rapidly-growing county (a role filled by the County Attorney today), and he was allowed to have a private practice on the side. Marsh lived one block from the office and Court House, while McCandlish and Van Dyck lived about two blocks away.

The Firm had a number of associates, including J. Mason Grove, who later became legendary as a very stern County Court Judge. In the annual bar libel, local attorney Joe Bennett, who played Judge Grove, was always heard to intone to a driving offender, "Death by hanging." James B. Lockwood, Jr. and Henry M. deButts, who eventually became Vice President of Western Airlines, were also among the Firm's associates. The office building could accommodate only six small offices. Even at six lawyers, the firm was the largest and most dominant firm in Fairfax County, representing the power company, the gas company, the telephone company and anyone of national scope who took an interest in Fairfax County.

In the summer of 1960, McCandlish was elected President of the Virginia Bar Association. Fairfax was granted independent city status in 1961 with an estimated population of 11,000, and would soon overtake the once-larger towns of Clifton and Herndon in population.

In 1961 McCandlish served on the bar committee that recommended Fairfax Circuit Court Judge Harry Carrico to fill a vacancy on the Virginia Supreme Court. The selection of Carrico by Governor J. Lindsay Almond, Jr. set off a major controversy about succession to the empty 16th circuit judgeship in the small local bar, which at that time consisted of about 50 lawyers. McCandlish and the "establishment" lawyers supported Jim Keith, a partner in Pickett, Keith and Mackall, another long-established local firm. Keith was opposed for the bar's endorsement, which was considered tantamount to selection, by Robert C. Fitzgerald, who had followed Marsh as the Commonwealth's Attorney. Fitzgerald had a number of assistants and former assistants working for him who were members of the local bar. They canvassed the bar aggressively, seeking support for Fitzgerald.

The bar was nearly evenly divided. Governor Almond, whose decision would fill the vacancy, saw that he could not win by picking either candidate, and, looking around for an alternative, focused on the studious and well-liked Van Dyck. McCandlish might never have supported his good friends Carrico and Keith for elevation had he known that his even closer friend and law partner, Van Dyck, would end up out of the Firm and on the bench.<sup>16</sup>

Van Dyck was necessarily cut out of the daily luncheon sessions at the Court House Country Club where McCandlish and such cronies as Jack Wood, long-time Mayor of Fairfax City, discussed and plotted local strategy. However, Judge Van Dyck and his wife, Anne, maintained close and friendly relationships with many members of the bar and frequently entertained at

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<sup>16</sup> Some years later James Keith did become a circuit court judge. Fitzgerald and McCandlish remained opponents through additional annexation cases. Fitzgerald won a re-run of the Falls Church case in 1961, but McCandlish scored a huge and satisfying win in 1976 when representing Manassas against Prince William County, represented by Fitzgerald. McCandlish convinced the three-judge court to give the Town even more land than it had asked for, and he and Randolph Church convinced the Supreme Court not to grant the County's Petition for Appeal.

their house close to the Court House. Much to the chagrin of lawyers in the Firm, Van Dyck declined to recuse himself in cases involving his old firm. Knowing his scrupulous integrity and intellectual independence, opposing lawyers always consented to Van Dyck's hearing cases involving the Firm while Firm lawyers always suggested that he disqualify himself. This did not please Judge Van Dyck, who was correctly proud of his ability on the bench to ignore that he had recently been a member of the McCandlish firm. Van Dyck was widely known to be smart, studious and hardworking, and no one ever suggested that *Judge* Van Dyck incorrectly handled or decided any case that he tried involving members of the Firm. The bar was shocked and saddened at his sudden and wholly unexpected death from a heart attack in 1967.<sup>17</sup>

**McCandlish, Lillard, Marsh & Van Dyck** had maintained its six-lawyer size with the addition of Randolph W. Church, Jr. as an associate in 1960 upon the departure of deButts, who was itching for a full-time trial practice. When Van Dyck went on the bench in 1961, the Firm acquired another associate, Stephen L. Best. Best was as spontaneous, gregarious and outgoing as Church was meticulous, quiet and reserved. Both, however, were extremely bright and capable lawyers who naturally became close friends. In 1963, **McCandlish, Lillard & Marsh** took Randolph W. Church, Jr. and Stephen L. Best as partners.

Randolph W. Church, Jr., originally from Richmond, attended undergraduate and law school at the University of Virginia. Church joined the Firm on June 27, 1960, and quickly developed a reputation for meticulous preparation of all matters that he handled. He practiced in every Court early in his career, and was capable of handling almost any legal matter for both businesses and individuals. Church's long hours were legendary and he reputedly made use of a shower facility in the Firm, and maintained a cot in the office. Reliable and attentive to detail, Church was a master at serving and retaining clients brought into the Firm by McCandlish and others. During his tenure with the Firm, Church would become general counsel to such entities as the Fairfax County Water Authority and American Medical Laboratories, Inc. He argued a number of cases before the full Virginia Supreme Court on a variety of legal subjects.<sup>18</sup> Church continued and enhanced the Firm's reputation for participation in bar and civic activities.<sup>19</sup>

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<sup>17</sup> In March 1967, just weeks after E. Calvin Van Dyck's death, a grateful Fairfax City Council honored him by naming the not yet completed new city park in his memory the "E. Calvin Van Dyck Park" on Old Lee Highway.

<sup>18</sup> **Randolph W. Church, Jr.'s Reported Cases:** *Gordon v. Board of Sup'rs of Fairfax County*, 207 Va. 827, 153 S.E.2d 270 (1967); *Lillard v. Fairfax County Airport Authority*, 208 Va. 8, 155 S.E.2d 338 (1967); *McNair v. Clatterbuck*, 212 Va. 532, 186 S.E.2d 45 (1972); *Moosavi v. Fairfax County Bd. of Ed.*, 666 F.2d 58 (4th Cir. 1981); *Thomas P. Harkins, Inc. v. Reynolds Associates*, 221 Va. 1128, 277 S.E.2d 222 (1981); *Link Associates v. Jefferson Standard Life Ins. Co.*, 223 Va. 479, 291 S.E.2d 212 (1982); *United Virginia Bank/National v. Best*, 223 Va. 112, 286 S.E.2d 221 (1982); *Virginia Electric and Power Company v. Buchwalter*, 228 Va. 684, 325 S.E.2d 95 (1985); *Potomac Hospital Corporation v. Dillon*, 229 Va. 355, 329 S.E.2d 41 (1985); *Bennet, Executor v. First & Merchants Bank*, 233 Va. 355, 355 S.E. 888 (1987); There were four unreported cases later. The first was *Potomac Hospital, Bennet, Buckwalter and Clifton Homeowners v. Vepco* (unreported *per curiam* opinion). Three others were argued to the full court. The first was won in an unreported decision. The second, a very important Fairfax County Water Authority rate case in 1979 was won when the Court was convinced on oral argument to dismiss the appeal as "improvidently awarded." The third case involved succession to the Lansburg lease at Tysons Corner.

Best attended Kenyon College in Ohio before traveling East to pursue law school at George Washington University. He developed a general business practice and represented Virginia National Bank (later Sovran, NationsBank, and Bank of America) as well as other local lenders. He also practiced in the area of trusts and estates and became very knowledgeable in fiduciary matters. Best was very popular, active in civic affairs,<sup>20</sup> and well-liked by lawyers inside and outside of the Firm. He was elected President of the Fairfax Bar Association in 1979. McCandlish particularly liked Best, who served as his Deputy Commissioner of Accounts for many years.

When Lockwood decided to move into solo practice in March, 1963, Jesse B. Wilson, III joined the Firm as an associate. Some 37 years later, Wilson would recall that at the time, Southern Railway had local counsel in every jurisdiction that had a stop. There was a stop in Fairfax Station, Virginia and Hugh Marsh was their local counsel for the princely sum of \$5.00 per month, plus a pass to travel on the railroad. Upon Marsh's retirement in 1968, Wilson succeeded to that exalted position, although it is his recollection that the "perks" were soon changed. By this time Fairfax County had grown to over 260,000 people.

Population growth was grist for the Firm's practice. In May, 1963 McCandlish succeeded his friend, John H. Rust, as Attorney for the City of Fairfax. Rust had succeeded Van Dyck as Town Attorney. In the early 1960's, McCandlish represented a widely dispersed African-American family that owned land at the strategic intersection in eastern Fairfax County of U.S. Route 50 and State Route 7 (Leesburg Pike). McCandlish worked with them for months to find as many members of the family as possible and structure a sale to Washington commercial developers to construct the first modern mall in Virginia on the site. Called the "Seven Corners Shopping Center", the mall was anchored by two major D.C. department stores. This development was the forerunner of the decline of the central Fairfax City shopping district and the independent base of the suburbs. McCandlish became general counsel to the shopping center.

McCandlish and Marsh were also heavily involved in the local financial community. McCandlish was a director and general counsel to the Fairfax County National Bank (now a part of

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The case was settled after marathon negotiations following oral argument. Settlement was reached just before the decision was announced. McCandlish, Lillard, Church & Best represented the shopping center owners, who wanted Bloomingdale's as a tenant. Hunton & Williams represented the departing tenant which wished to assign its lease to Corvette's. Bloomingdales in fact became the tenant, and this case assured that Tysons would be an upscale center.

<sup>19</sup> **Randolph W. Church, Jr.** was Vice President of the Virginia Bar Association in 1972, Past President of the Northern Virginia Young Lawyers Association (1965) and a Fellow of the Virginia Law Foundation and American Bar Association Foundation. In 1983, he authored "Appellate Litigation", published by Michie/Bobbs-Merrill; Church also served on the Board of Visitors of George Mason University for 8 years, and was its Rector from 1983-1986. He and his wife Lucy remain long-time season ticket holders and enjoy traveling, and more than a few Goerge Mason University basketball games.

<sup>20</sup> **Stephen L. Best** was President of the Fairfax Jaycees in 1965, and an officer of the Cancer Crusade Committee in 1966, among other civic activities, President of the Country Club of Fairfax, and President of the Fairfax Bar Association in 1979.

Wachovia) and Arlington-Fairfax Savings and Loan Association (now a part of SunTrust), while Marsh served on the board of the National Bank of Fairfax (now part of the Bank of America).<sup>21</sup>

McCandlish represented Melpar (a division of Westinghouse), the first national firm to establish a major presence in Fairfax County. The Firm represented the major local utilities as they underwent explosive growth to develop county-wide infrastructure. This representation included many battles as Virginia Electric and Power Company expanded its grid of transmission lines and large substations, Washington Gas Light Company expanded its transmission system, and the Chesapeake and Potomac Telephone Company built new dial centers and repeater stations in residential neighborhoods. McCandlish represented the Gas Company (and served as its lobbyist in the General Assembly) and the Telephone Company.

Marsh, through connections he had established with the State's largest law firm, Hunton & Williams, from his days as commonwealth's attorney, was local counsel for Virginia Power. He worked with other large clients of Hunton & Williams who came through the County, including Transcontinental Gas Pipeline Company, Colonial Pipeline Company and Plantation Pipeline Company. Church worked closely with Marsh, and when Marsh retired in 1968, Church was chosen to be counsel for Virginia Power in Fairfax and was called on to do transmission line siting work for the company throughout the region. Church also became Fairfax City Attorney in 1968, a position he held until 1972.

## **1967 - 1985**

### **McCANDLISH & LILLARD: THE BARBOUR HOUSE YEARS**

#### **4069 Chain Bridge Road, Fairfax**

By 1965 it was evident that the Firm would have to expand to reach its full potential in the boom of Northern Virginia. The younger partners urged that the Firm move to a building where it could add associates, and the older partners agreed. The estate of John S. Barbour's widow was in administration at the time. The old home, occupied by the Barbour family since the early 1900's and once at the center of Fairfax social life, was unoccupied and had become the target of vandals. The building was scheduled to be demolished so that the property could be developed. Jack Lillard had the idea of buying just the old house and moving it to a parcel of the estate fronting on Payne Street (which had been renamed Chain Bridge Road).<sup>22</sup> The six partners bought the parcel and the building.

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<sup>21</sup> **Hugh B. Marsh** was a Director of The National Bank of Fairfax from 1939-1959. He was also a member of the Mount Vernon Board of Visitors, and the Board of Trustees, Willard Hall, Town of Fairfax.

<sup>22</sup> In February, 2000, Josephine McCandlish recalled that at some point she and others petitioned successfully to change the name of Payne Street to Chain Bridge Road, and as a consequence, in the later years the office at 102 Payne Street became Chain Bridge Road and ultimately the location of the Barbour House would be 4069 Chain Bridge Road rather than Payne Street.

Amid great local fanfare and curiosity William Patram, a well-known building mover, transported the building a hundred yards to its new site. On the day of the Barbour House move, Mr. McCandlish, who was recovering from a recent heart attack, was determined to stay and observe every inch of the movement of the building to its new location on Chain Bridge Road. In a February, 2000 interview, Mrs. McCandlish would recall that the day was particularly hot, and that she went home to prepare a tailgate, complete with ice and "whiskey." She returned in their station wagon so that Mr. McCandlish could sit and enjoy himself while completing his vigil. He did not leave his observation point until the grand old house was placed on the new foundation, virtually damage free.

By Proclamation, Fairfax City praised the Firm and its lawyers for moving and preserving the historic property known as The Barbour House. The original Proclamation, signed by Mayor Ed Prichard in 1967, is displayed today in the Firm's offices along with photographs taken at the time of the move. The partners coordinated the rehabilitation of the former residence. The adaptive reuse preserved the valuable historical integrity of the exterior while creating an ideal new home for the Firm. Fortunately, the partners had the foresight to take an option on an adjoining piece of land. "Garden Plot Associates" was formed and the "garden plot" was held by them in partnership so that the Barbour House could be expanded. The anticipated expansion occurred in 1978. Two additions were added to the Barbour House, making room for 30-35 lawyers. The growth of the 60's continued in the 70's as the power company, the gas company, the telephone company, the Fairfax County Water Authority and related large regional and national clients began their foray into Northern Virginia. The Firm extended its representation of those clients, and would grow in both size and reputation, adding lawyers at partner and associate levels.

In the summer of 1968 Robert C. Whitestone, another graduate of the University of Virginia, returned from a year in California to become an associate with the then five-man Firm. Whitestone stayed for only a year, departing in the fall of 1969 to join the Fairfax County Commonwealth's Attorney's Office.<sup>23</sup>

Thomas J. Cawley joined the Firm as an associate in 1969 and the Firm expanded its expertise and client base. Like associates before and after him, Cawley developed the rudiments of his trial skills by examining and cross-examining witnesses in the City Court. Ultimately, Cawley was responsible for retaining the Fairfax County School Board as a client of the Firm and developed a statewide reputation in the area of school board law and labor and employment relations.<sup>24</sup> James V. Setta began as a clerk with the Firm primarily responsible for title

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<sup>23</sup> After his tenure with the Commonwealth's Attorney's Office, **Robert C. Whitestone** successfully pursued a career primarily as a criminal defense attorney in Northern Virginia. Today he is a principal in the Fairfax firm of Whitestone, Brent, Young & Merrill, P.C.

<sup>24</sup> **Thomas J. Cawley's Reported Cases:** *Paxman v. Campbell*, 612 F.2d 848 (4th Cir. 1980); *Modaber v. Culpeper Memorial Hospital, Inc.*, 674 F.2d 1023 (4th Cir. 1982); *Gambino v. Fairfax County School Bd.*, 564 F.2d 157 (4th Cir 1977); *County School Bd. of Fairfax County v. A. A. Beiro Const. Co., Inc.*, 223 Va. 161, 286 S.E.2d 232 (1982); *County School Bd. of Fairfax County v. M. L. Whitlow, Inc.*, 223 Va. 157, 286 S.E. 2d 230 (1982).

examination. As an associate and later a partner, Setta continued to practice primarily in the real estate area.<sup>25</sup>

In 1971 the Firm hired an associate, Luther G. Jones, who graduated from the Hastings School of Law in California. Jones reputedly rode his bicycle across country to Fairfax. He sought employment as a law clerk, not as an associate because at the time there was a six month residency requirement to take the Virginia Bar Examination. This was later held to be unconstitutional. Jack Lillard once asked Jones to take a regular turn at watering the newly transplanted dogwood trees at the Barbour House – to which Jones unwisely took some umbrage. The rebuff undoubtedly caused some rancor with Lillard and the other partners who were taking their turns. Jones did take and pass the bar examination next following the waiting period, but did not remain with the Firm for any length of time. He left the firm upon passing the Virginia Bar Examination in order to open his own practice. The coincidence of his initials, "L. G.," and abbreviated stay with the Firm prompted McCandlish to bestow upon him, after his departure, the sobriquet "Long Gone Jones". Jones then joined the staff of D.C. Transit, owned by O. Roy Chalk, and defended the bus company for a few years until he joined up with a major labor law firm in the District of Columbia and began his career in labor law and employment law. After thirty one years of litigation representing clients, plaintiffs as well as defendants, in state and Federal courts, on labor and employment matters, he finally decided enough was enough, and is now retired. In 2004, Jones stated that he took no offense at Lillard's chiding, and felt it was good humor. He further noted that he greatly admired Lillard, who "was a deservedly respected attorney and a true southern gentleman."

In 1971, Jesse B. Wilson, III was made a partner, and Gerald R. Walsh joined the Firm as a partner. Wilson had been with the Firm long enough to experience the transition from 102 Payne Street to the Barbour House and he continued the Firm's tradition of Bar service.<sup>26</sup> In 1979 Wilson, like McCandlish before him, would become President of the Virginia Bar Association.

Walsh, a litigator, developed a hard-nosed reputation for medical malpractice defense work, and during his years with the Firm, defended Fairfax Hospital, its affiliates, and later the Inova Health System in malpractice cases.<sup>27</sup> Walsh left the Firm in 1986 to join Crews and Hancock, a Richmond-based firm.

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<sup>25</sup> **James V. Setta** practiced with the Firm from 1969 to 1976. Upon leaving Setta worked for Commonwealth Title Insurance Company for ten years, and then started his own company, Heritage Title & Escrow Corporation, in the District of Columbia. In 1996 he retired and today lives part time in both California and Hawaii.

<sup>26</sup> **Jesse B. Wilson, III**, in addition to being President of the Virginia Bar Association in 1979, is also a past president of the Fairfax Bar Association (1976-1977), has served as a member of the Board of Visitors of the University of Virginia (1984-1992), and is a permanent member of the 4th Circuit Judicial Conference. Mr. Wilson was elected a Fellow of the American Bar Foundation and a Fellow of the Virginia Law Foundation. He is also a trustee for the Claude Moore Charitable Foundation, Inc., a substantial client which he helped bring to the Firm.

<sup>27</sup> **Gerald R. Walsh's Reported Cases:** *Modaber v. Culpeper Memorial Hospital, Inc.*, 674 F.2d 1023 (4th Cir. 1982).

Randolph W. Church, Jr. became the Firm's Managing Partner in 1972 (a position he would hold until 1983). That same year, Randolph A. Sutliff began clerking with the Firm while attending law school, and became an associate with the Firm in the Fall of 1973. Sutliff gained experience in many areas and developed a practice which could fairly be described as a true general law practice.

On January 1, 1974 the Firm began practicing under the name of **McCandlish, Lillard, Church & Best**. The City of Fairfax and the City of Falls Church were among the Firm's clients. Randolph A. Sutliff was Assistant City Attorney for Falls Church and counted among his duties handling traffic cases and misdemeanors, including cleaning up the massage parlors which had become a hot local industry. In fact, this phenomenon had received some mention in Life magazine. The parlors closed, fine revenue for traffic matters increased, and Sutliff kept doing his job. This litigation experience would be the beginning and essentially the end of Mr. Sutliff's active litigation practice in the lower criminal and traffic courts. He did handle major Circuit Court and Federal District Court Civil cases through the first decade of his practice.<sup>28</sup> However, it has to be noted that eventually recognition would catch up with Sutliff, and some years later he would hold the prestigious position of President of the Firm.

Stephen C. Price came into the Firm as an associate in 1974. This would be his first time around with the Firm. He left two years later to pursue an LL.M. at Queens' College in Cambridge, England. He would return nearly 20 years later.

In 1975 the Firm attracted Peter A. Arntson, a respected tax and trusts and estate planning attorney from the Philips, Kendrick, Gearhardt & Aylor firm in Arlington where he had been a partner since 1970. Arntson was brought in to develop and enhance the Firm's estate, tax, and business work and has remained with the Firm since 1975. In 1976, the Wall Street Journal and at least one Tidewater newspaper credited Arntson with correcting pension inequities for certain military personnel. Arntson's lobbying efforts resulted in a provision in the Tax Reform Act of that year which made National Guardsmen and military reservists eligible for individual retirement accounts. Today, Arntson is Senior Counsel in the Firm's Individual Services Group, and over the years has done his part to continue the Firm's commitment to civic and professional endeavors.<sup>29</sup> Robert H. J. Loftus also came to the Firm in 1975 from the Charlottesville firm of Michael & Dent. Beginning as a litigation associate, Loftus parlayed his

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<sup>28</sup> **Randolph A. Sutliff's Reported Cases:** *Matter of National Homeowners Sales Service Corp.*, 554 F.2d 636 (4th Cir. 1977); *In Re: Action Industries Tender Offer*, 572 F.Supp. 846 (E.D.Va. 1983); *Crown Central Petroleum Corp. v. Brice*, 427 F.Supp. 638 (E.D. Va. 1977).

<sup>29</sup> **Peter A. Arntson** is a past Chairman of the Board of Governors of the Tax Section of the Virginia State Bar, publishing Law Review articles on Virginia land trusts and IRAs. He has written manuals and outlines and participated in more than a dozen Continuing Legal Education seminars on a variety of tax issues. He also served on the Boards of numerous charitable and non-profit organizations such as the Northern Virginia Chapter of the American Heart Association (Past-Chairman), the Arlington Community Foundation, and the National Capital Area Boy Scouts of America. Arntson is a retired Colonel in the U. S. Army Reserves and a graduate of the U. S. Army War College. He is also a trustee for the Claude Moore Charitable Foundation, Inc., a substantial client which he helped bring to the Firm.

early prosecution of traffic and criminal matters for Fairfax City and the City of Falls Church into bigger and better things in the world of commercial litigation.

William E. Donnelly, III was hired in 1976 from the Fairfax County Attorney's Office to add to the Firm's growing capability in the municipal, governmental and land use areas. Donnelly practiced with the Firm until 1984. In the summer of 1976, the Firm hired Grady K. Carlson, a first-year law student from the University of Virginia, as a clerk. Carlson returned to the Firm as a second-year Summer Clerk in 1977.

Also in 1976 William C. Bauknight, Jr., a prominent local attorney, joined McCandlish, Lillard, Church & Best to form **McCandlish, Lillard, Bauknight, Church & Best**. Bauknight had first come to Fairfax in 1953 and joined practice with John Webb and Jack Wood. He had opened his own office in 1956 and in 1960 formed a law firm with Edgar A. Prichard and F. Sheild McCandlish, Bob McCandlish's third cousin, once removed. In 1973 Bauknight again opened his own office, this time in Annandale, Virginia. The office was located in the Suburban Savings & Loan Building. Arntson approached him about joining the Firm, and reported Bauknight's interest back to the partners. Bauknight was the classic "rainmaker", and in order to accommodate his established practice, the McCandlish Firm maintained an Annandale office which was primarily manned by Mr. Bauknight, with Jesse B. Wilson, III and third-year associate, Randy Sutliff. Jim Setta also spent time in that office handling real estate closings and related matters for Suburban. The primary reason that Wilson and Sutliff were in Annandale was the lack of adequate space in the Fairfax office due to the construction of the additions and other renovations to the Barbour House during that period.

Bauknight had lived on the Eastern Shore since 1976. In 1979 he moved his office to the Eastern Shore and joined the Baltimore-based law firm of Miles & Stockbridge, helping to establish that firm's Easton, Maryland office.<sup>30</sup> The Firm then returned to the name **McCandlish, Lillard, Church & Best**. In an interview in February, 2000, Mr. Bauknight recalled that he was trying to get over to the Eastern Shore to indulge his love of sailing but still be able to serve a primary client, Suburban Savings & Loan, in Virginia. He had turned over the Fairfax County Water Authority work to Randolph Church. Bauknight also did a lot of work for Fairfax Hospital out of the Annandale office, and later from Maryland. He maintained a number of contacts with Virginia clients which, over the years, he arranged to turn over to various attorneys. Some of that work remains ongoing within the Firm. Bill Bauknight retired from Miles & Stockbridge on December 31, 1990 and lived for many years in Ivy, Virginia near Charlottesville, with his wife, Margaret. Today they reside in blowing Rock, North Carolina.

From the first partnership between F. D. Richardson and J. W. Ballard until 1977, the Firm had always been a partnership. After two years of trying, Arntson was finally able to convince Church and Lillard that it would be to the Firm's benefit to incorporate. "Partners" became "Principals". Arntson wrote the Firm's first four corporate retirement plans, perhaps the most tangible benefit of the Firm's change in status from a partnership to a professional corporation.

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<sup>30</sup> **William C. Bauknight, Jr.** would work with his old McCandlish colleagues once more from 1984-1990, part of the period that encompassed the merger of the McCandlish Firm and Miles & Stockbridge. See Section 1985-1985, "Merger and Move to Fair Oaks Plaza."



By 1977, ten years had passed since the move of and to the Barbour House. The Firm had grown more than three-fold in size, and Northern Virginia was about to experience tremendous growth. Three students, John M. Gray, R. Peyton Mahaffey and Paul B. Terpak, would begin their first year of law school at the University of Virginia in that year, just as the scope of the Firm's representation of Fairfax Hospital, the Fairfax County Water Authority, the Fairfax County School Board, and the utilities began to increase. The Firm's younger partners lobbied heavily for the addition of new associates to meet the burgeoning workload.

Steven David Stone joined the Firm as an associate in 1977, Grady K. Carlson in June 1978, Ann Wood Mische in 1979, and Barbara L. Abernethy in 1980.<sup>31</sup> Acceding to the pressure and reality of the need for still more help, the Firm interviewed in earnest in the Fall of 1979. To that date, it has been said that the Firm had never paid more than \$18,000 per year as a starting salary to any associate. Times were changing, and with them the attitudes of the marketplace. The Firm had to examine its associate compensation policy in order to compete for the top students.

The McCandlish Class of 1980 would reap the benefits of the Firm's introspection. High demand for young legal talent drove starting associate salaries to the princely sum of \$24,000 per year. Undoubtedly thinking the sum to be exorbitant, few principals missed an opportunity to demand quite a bit more in terms of billable hours and productivity from these young greenhorns. John M. Gray, who worked as a litigator, left within eight months and Paul B. Terpak, who worked primarily in the evolving municipal group headed by Ranny Church, remained a little longer but ultimately departed.<sup>32</sup> Peyton Mahaffey stayed. Under the sometimes watchful eyes of Walsh, Loftus and Rust, he discovered a penchant for general business, corporate and commercial litigation, which, with a few exceptions, he has pursued ever since.

In 1980 Robert H.J. Loftus became a principal in the firm of **McCandlish, Lillard, Church & Best** and has continued to develop his litigation practice.<sup>33</sup> Over the years his practice has

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<sup>31</sup> **Steven David Stone** was an associate with the Firm from 1977 to 1980. Today he practices in the Law Offices of Steven David Stone, P.C. in Alexandria, Virginia. **Grady K. Carlson** was an associate with the Firm from June 1978 to July 1984. Today he is a partner in the Tysons Corner offices of Hunton & Williams. **Ann Wood Mische** was with the Firm from 1979 to 1982, when she left to join the firm of Kattenberg & Sickels in a practice devoted primarily to family law. Today she is a partner in the Fairfax firm of Joseph & Mische. **Barbara L. Abernethy** had been practicing with a McLean firm for a year following her graduation from American University Law School in 1979. In May 1980 she joined the Firm as an associate focusing in the areas of business and estate planning. In August 1981 she married fellow associate Grady K. Carlson, and remained with the Firm until 1984. In December 1984, Barbara Carlson left the active practice of law.

<sup>32</sup> **John M. Gray** joined Mays & Valentine in Richmond in 1981, then worked for Fried, Frank in Washington D.C., and later became general counsel for a national trade association in the food industry based in Washington D.C. **Paul B. Terpak** joined the Fairfax firm of Blankingship and Keith and served for some time as its Managing Partner. Terpak also went on to become President of the Fairfax Bar Association.

<sup>33</sup> For several years, **Robert H. J. Loftus** served on the Policy Committee of Miles & Stockbridge after the merger with the McCandlish Firm in 1984, and was initially President of the "re-established" Firm of McCandlish & Lillard, P.C. at a very important time of transition from June 1995 to January 1997.

focused on commercial litigation, including the successful litigation of numerous complex and business liability issues for such nationally recognized companies as Marriott, Bell Atlantic, Waste Management, Inc., Virginia Power, Lawyers Title, and others. Loftus has written a number of appellate briefs and been counsel of record in reported decisions.<sup>34</sup>

In 1981 the Firm hired R. Kevin Kennedy, Jacquelyn K. Boyden, and James E. Haluska as associates. Their areas of practice were much needed at that time. Northern Virginia, specifically Fairfax County, was experiencing an unprecedented rate of development. American health care was about to undergo a radical change resulting from the pressure of the insurance lobby. Medical advances created controversy in previously unimagined areas. Kennedy pursued a business, real estate and commercial lending practice. Boyden had clerked one year for Justice A. Christian Compton of the Virginia Supreme Court before coming to the Firm. Boyden's practice was primarily one of medical malpractice defense litigation and she worked closely with Gerald R. Walsh prior to his departure from the Firm in 1986. Boyden continued to develop her practice and became a partner in the Firm in 1988. In 1990 she departed to become Assistant General Counsel at one of the Firm's clients, Inova Health Systems.<sup>35</sup> Haluska, an experienced trial attorney, was hired to support Walsh in the medical practice defense area but would leave the Firm within three years.<sup>36</sup>

In January 1982, after more than twenty-one years with the Firm, Steve Best would briefly join another Fairfax firm, Hazel, Beckhorn & Hanes before pursuing real estate development interests.<sup>37</sup> Later that year the firm of Rust and Rust merged into McCandlish & Lillard, and the long-time friends and previous office neighbors who once shared a bathroom were now together in one firm. The Firm became known as **McCandlish, Lillard, Rust and Church**.<sup>38</sup> John H. Rust had been a member of the Bar since 1938 and actively engaged in practice since that time

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<sup>34</sup> **Robert H. J. Loftus' Reported Cases:** Leachman v. Beech Aircraft Corp., 694 F.2d, 1301 (C.A. D.C. (1982); McCandless v. Beech Aircraft Corp., 697 F.2d 1156 (C.A. D.C.) 1983; Resource Conservation Management, Inc. v. Board of Sup'rs of Prince William County, 238 Va. 15, 380 S.E.2d 879 (1989); Marriott Corp. v. Combined Properties Ltd. Partnership, 239 Va., 391 S.E.2d 313 (1990); Pahlavi Ansari, 113 F.3d 17 (4th Cir. 1997).

<sup>35</sup> In the late 1990's **Jacquelyn K. Boyden** moved to Chapel Hill, North Carolina to continue her career as Assistant General Counsel for Blue Cross Blue Shield of North Carolina.

<sup>36</sup> **James E. Haluska** would leave the Firm prior to the merger with Miles & Stockbridge in 1984. He continued in the insurance defense litigation area, first as in-house counsel to an insurance carrier and later in private practice.

<sup>37</sup> **Steven L. Best** practiced with the Hazel firm for a short period before setting up his own practice. In the early 90's, after 33 years of private practice and some real estate development, Best began to spend more and more time pursuing his interests in art and sailing. Until his untimely death in 2008, he lived near Hope Town in Abaco, Bahamas where he enjoyed painting, sailing and writing. Steve Best's publications, paintings and watercolors have been exhibited from New York to the Bahamas, and many places in between.

<sup>38</sup> In addition to John and Jack Rust, their three associates, **Henry A. Schutz, III, Thomas James Cavuto** and **Everett M. Garber** joined the Firm. Cavuto and Garber would leave within three years and Schutz would leave within four.

in Fairfax. He served as Mayor of the Town of Fairfax in the 1940's, in addition to terms as Town Attorney, and later City Attorney, after the Town's incorporation in 1962. His son, John H. ("Jack") Rust, Jr. was a prominent member of the local bar and member of the House of Delegates at the time of the McCandlish and Rust merger. Jack Rust also served as Fairfax City Attorney, succeeding his father from 1976-1978. Along with the merger, three associates also joined the firm, Thomas J. Cavuto, Henry A. Schutz and Everett M. Garber along with Jack Rust and his father.<sup>39</sup>

In 1982 the longstanding Treasurer of Fairfax City, Frances L. Cox, was indicted on the charge of embezzlement of funds from the City. Cox had been a friend of the Rusts, and she naturally turned to them for representation. Jack Rust tapped Peyton Mahaffey to help him defend Cox. The case was closely scrutinized by the local press, including the Washington Post, which followed the case daily. After a two-week trial, Cox was convicted and sentenced to 10 years in prison. However, Rust and Mahaffey appealed the conviction to the Virginia Supreme Court, and in a professionally satisfying victory, won a reversal on constitutional grounds. Regrettably for Rust, the scrutiny from the Cox case probably cost him the Republican nomination for the House of Delegates in his bid for re-election later that year. It was rare for the Firm to handle felony criminal matters, and after the Cox experience, rarer still.

Both Rusts were with the Firm only briefly following the merger with Miles & Stockbridge in 1984 (see Section 1985 - 1995). Jack Rust left to join the Alexandria firm of Thomas & Fiske by September 1984, and his father, John Rust, essentially retired from the daily practice of law by the end of 1985.

## 1985–1995

### **MERGER AND MOVE TO FAIR OAKS PLAZA 11350 Random Hills Road, Suite 500, Fairfax**

The 1980's were a time of tremendous growth in Northern Virginia. The Firm was being approached by larger firms desiring to move into the Northern Virginia area. Twice the Richmond-based firm of Hunton & Williams proposed a union, without success. However, by 1984 significant pressure was brought to bear on the McCandlish Firm from several fronts. The Firm had certain lawyers representing substantial clients of Hunton & Williams regionally. Meanwhile, Bill Bauknight had forged a connection with the Baltimore-based law firm of Miles & Stockbridge through his successive affiliations with both the McCandlish Firm and Miles, resulting in various cross referrals of work.

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<sup>39</sup> **John H. Rust, Jr.'s Reported Cases:** *Tuscarora, Inc. v. B.V.A. Credit Corporation, et al.*, 218 Va. 849, S.E.2d 778 (1978); *United Virginia Bank/National v. Best*, 223 Va. 112, 286 S.E.2d 221 (1982); *Cox v. Commonwealth*, 227 Va. 324, 315 S.E.2d 228 (1984).

Ultimately, the McCandlish Firm would in effect merge with both. Three partners and two associates would leave to form the Northern Virginia office of Hunton & Williams,<sup>40</sup> and the rest would remain at the Barbour House as the Northern Virginia office of Miles & Stockbridge.<sup>41</sup> The majority of the Firm (now practicing under the name Miles & Stockbridge) would spend two more years at the Barbour House. “Principals” in the Virginia office now became “Partners” in Miles, which was a Maryland general partnership. Growing pains resulted in the move to the newly constructed Fair Oaks Plaza Building on Random Hills Road, just outside of the City limits. Lawyers continued to be added, both at the associate and lateral principal levels.<sup>42</sup>

The last major Tyson's Corner building site held in private ownership was sold for development in 1984. Sutliff handled the acquisition, financing and governmental development approvals for the developer. Two years later he handled the first major redevelopment in Tysons. Sutliff worked with the developer to acquire a site on Route 7 used as a one-story K-Mart and grocery store with acres of asphalt surface parking, redeveloping it as Fairfax Square, with upscale retail (Tiffany's, Hermes), high end restaurants (Morton's) and high-rise offices and structured parking.

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<sup>40</sup> Randolph W. Church, Jr., Thomas J. Cawley and William E. Donnelly, III, partners; and Grady K. Carlson and Stephen M. Sayers, associates.

<sup>41</sup> Robert J. McCandlish, Jr., Rothwell J. Lillard (of counsel), John H. Rust, Sr., John H. Rust, Jr., Jesse B. Wilson, III, Gerald R. Walsh, Peter A. Arntson, Robert H. J. Loftus, Randolph A. Sutliff, R. Peyton Mahaffey, R. Kevin Kennedy, Jacquelyn K. Boyden, Randolph D. Frostick, Wm. Quinton Robinson, Henry A. Schutz, III, Joel M. Dahnke, Bruce W. Henry, Timothy E. Cupp, Barbara A. Carlson and Ann Bounds Newell.

<sup>42</sup> A number of attorneys not previously mentioned arrived and departed the Fairfax office during the Miles years. **Wm. Quinton Robinson**, an associate at the McCandlish Firm, would become a partner of Miles & Stockbridge, but left just prior to the re-establishment of McCandlish & Lillard, and today practices with the firm of Blankenship & Keith in Fairfax, where he serves as Managing Partner. **John P. Rowley, III**, an associate and later a partner, left to serve in the U.S. Attorney's Office in Charleston, West Virginia and Alexandria, Virginia, and is now practicing with the firm of Baker & McKenzie in its Washington D.C. office. **Peter Lipresti** came to the Fairfax office as a partner and spent five years with the office, primarily representing physicians groups, health care providers, and pursuing a corporate and trust and estate planning practice. He practiced for five years with the firm Jackson & Campbell, P.C. in Washington, D.C., before starting his own solo practice in Fairfax. **Celeste E. Burns-Vella** was hired as an associate in the Virginia office, and would be elected principal before leaving in 1994. **Brian F. Kenney**, a principal specializing in bankruptcy matters, remains with Miles & Stockbridge today in its Tyson's Corner offices. **Barent L. Fake**, **Margaret Ann Brown** and **Richard M. Pollack** were all principals in the Virginia office of Miles who have since left that firm for other opportunities. **Randolph D. Frostick**, an associate at the time of the Miles merger, would leave after a time, and practices today in the firm of Vanderpool, Frostick & Nishanian, P.C. in Manassas. **James M. McCauley** was an associate for several years before leaving. Since 1990 he has served as the Ethics Counsel for the Virginia State Bar. Other associates during the Miles years included **Robert A. Bauman**, **Marian L. Beckett**, **Rodney B. Boddie**, **Randall K. Bowen**, **Susan L. Bozorth**, **C. Thomas Brown**, **Deborah D. Cochran**, **Kevin M. Fitzpatrick**, **John C. Holloran**, **John J. Joyce**, **Ian C. Markley**, **Amy S. Owen**, **Patrick M. Pickett**, **Laura L. Ratchford**, **Holly H. Sadeghian**, and **Mark B. Taylor**. Years later, Cochran and Owen formed the firm currently known as Cochran & Owen, LLC.

Fairfax County infrastructure had evolved into a network of interconnected highways to accommodate a construction frenzy. The Washington, D.C. metrorail was on its way to Northern Virginia and the Virginia Department of Transportation was studying further methods to control the volume of traffic during rush hours. In the Spring of 1851, Captain F. D. Richardson was a bond holder for the "Providence Branch Plank Road Company". A plank road was being laid from Fairfax C.H. to 'three miles before the Potomac at the Little Falls'. Today that road is called the Little River Turnpike. Unlike the "Brickyard" in Indianapolis, there remains not one vestige of the old plank road.

In 1985, William L. Carey joined the law firm as an experienced litigator, particularly in the tort defense and medical malpractice defense areas. Carey clerked for The Honorable James C. Turk, Chief United States District Judge for the Western District of Virginia. During his tenure, Carey developed extensive trial experience as lead counsel in the courts of Northern Virginia, including the Federal Court, with a practice concentrated primarily in the representation of self-insured clients in the medical malpractice, general tort and worker's compensation fields. Carey has been counsel in a number of reported State and Federal decisions.<sup>43</sup> The 1980's were the beginning of the computer age for business. IBM Selectrics gave way to Personal Computers and DOS became the language of business production for consulting firms. Cary became a partner in 1989. In the late 1990's Carey, with support from Jack Rust, spearheaded a move to convert the Firm from PC to Apple. Although that change met with great resistance initially, Carey persevered until his departure in 2003. Thereafter, Adam W. Smith took up where Carey left off and serves as an invaluable source of computer knowledge, technical support, and general good humor concerning the networking of the Firm, which is still served predominantly by Apple products.

In 1986 R. Kevin Kennedy left to join former principal Jack Rust at the Alexandria firm of Thomas & Fiske. Later that year Marc E. Bettius,<sup>44</sup> Douglas J. Sanderson and John B. Connor

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<sup>43</sup> **William L. Carey's Reported Cases:** Tony Guiffre Distributing Co., Inc. v. Washington Metropolitan Area Transit Authority, 740 F.2d 295 (4th Cir. 1984); John Driggs Co., Inc. v. Somers, 228 Va. 729, 324 S.E.2d 694 (1985); Hunt v. Erie Ins. Group, 238 Va. 74, 380 S.E.2d 631 (1989); Board of Sup'rs of Fairfax County v. Thompson Associates, 240 Va. 133, 393 S.E.2d 201 (1990); Chesapeake & Potomac Telephone Co. of Virginia v. Murphy, 13 Va. App. 304 (Va. App. 1991), 411 S.E.2d 444; Chesapeake & Potomac Telephone Co. of Virginia v. Murphy, 12 Va. App. 633 (Va. App. 1991), 406 S.E.2d 190; Com., Dept. of Transp. v. Fairbrook Business Park Associates, 244 Va. 99, 418 S.E.2d 874 (1992); Weichert Co. of Virginia, Inc. v. First Commercial Bank, 246 Va. 108, 431 S.E.2d 308 (1993); Bell Atlantic Network Services v. Virginia Employment Com'n, 16 Va. App. 741 (Va. App. 1993), 433 S.E.2d 30; Dulles Corner Properties II Ltd. Partnership v. Smith, 246 Va. 153, 431 S.E.2d 309 (1993); Reliance Ins. Co. v. J.W. Burrell, Inc., 247 Va. 418, 443 S.E.2d 143 (1994); In re: Peterson v. Fairfax Hospital, 1994 WL 1059284, (Va. Cir. Ct. 1994); Fairfax Hosp. By and Through INOVA Health System Hospitals, Inc. v. Curtis, 254 Va. 437, 492 S.E.2d 642 (1997); Economopolous v. Koliitis, 259 Va. 806, 528 S.E.2d. 714 (2000).

<sup>44</sup> **Marc E. Bettius' Reported Cases:** Resource Conservation Management, Inc. v. Board of Sup'rs of Prince William County, 238 Va. 15, 380 S.E.2d 879 (1989); Com., Dept. of Transp. v. Fairbrook Business Park Associates, 244 Va. 99, 418 S.E.2d 874 (1992); Dulles Corner Properties II Ltd. Partnership v. Smith, 246 Va. 153, 431 S.E.2d 309 (1993); Weichert Co. of Virginia, Inc. v. First Commercial Bank, 246 Va. 108, 431 S.E.2d 308 (1993); Tauber v. Com., 255 Va. 445, 499 S.E.2d 839 (1998).

joined the Firm as partners. Connor left after a short period, while Bettius remained with the Firm through 1997. Sanderson helped to reinforce the Firm's real estate and commercial practice. Sanderson has represented developers, builders, investors, landlords, tenants, banks and other businesses primarily in real estate and related fields since 1977. He has also represented lenders in the management, negotiation and sale of lender-owned real estate.<sup>45</sup> In addition, Sanderson began in earnest to develop a sub-specialty representing people in matters of divorce, equitable distribution and property and separation agreements. Sanderson has also continued the Firm's tradition of public service.<sup>46</sup>

On March 5, 1987 Chief Judge Barnard F. Jennings entered an Order appointing Jesse B. Wilson, III as Commissioner of Accounts for the Circuit Court of Fairfax County. In the same Order, the Court recognized and approved the resignation of Robert J. McCandlish, Jr. as Commissioner of Accounts, effective April 1, 1987, and further appointed McCandlish as Deputy Commissioner of Accounts. Nine other judges of the Circuit Court also signed the Order. On April 1, Wilson and McCandlish appeared before the Clerk of Court, Warren E. Barry, to take the oaths prescribed by law. In the Fall of 1987, Paul W. Boyer and Eric J. Berghold, just out of law school, joined the Firm as associates. Boyer would leave to take a position with the Export-Import Bank in Washington after less than five years with the Firm, while Berghold remained and would pursue his interest in worker's compensation, and different types of litigation.<sup>47</sup>

By the end of the 1980's Tyson's Corner would be glutted with speculative office space by hundreds of thousands of square feet. The proximity of Fairfax and the surrounding counties to Capitol Hill, combined with the surplus of available office space, caused corporations to open offices or to move their entire operations into Northern Virginia. Communications and information technology firms were about to take hold.

Peyton Mahaffey earned partnership on January 1, 1988. With few exceptions since joining the Firm in 1980, he has actively litigated business, corporate and commercial matters on a continuing basis. He developed broad experience as a trial lawyer and lead counsel in State and Federal cases and has tried numerous jury and non-jury cases. He has written and argued several appellate briefs to the Virginia Supreme Court and 4th Circuit Court of Appeals, and has

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<sup>45</sup> **Douglas J. Sanderson's Reported Cases:** *Dart Drug Corp. v. Nicholakos*, 221 Va. 989, 277 S.E.2d 155 (1981).

<sup>46</sup> **Douglas J. Sanderson** was a member of the Board of Directors of the Legal Services of Northern Virginia from 1991-1998 (President, 1993-1995), volunteer as legal counsel to The Arts Council of Fairfax County, Inc. since 1992, has lectured frequently in Continuing Legal Education seminars, has volunteered with numerous community organizations and is listed in *Who's Who in American Law*, *Who's Who in the South and Southwest* and *Who's Who in America*.

<sup>47</sup> **Eric J. Berghold's Reported Cases:** *Chesapeake & Potomac Telephone Co. v. Williams*, 10 Va. App. 516 (Va. App. 1990), 392 S.E.2d 846; *Cohen v. Fairfax Hosp. Ass'n*, 12 Va. App. 702 (Va. App. 1991), 407 S.E.2d 329; *Chesapeake & Potomac Telephone Co. of Virginia v. Murphy*, 13 Va. App. 304 (Va. App. 1991), 411 S.E.2d 444; *Chesapeake & Potomac Telephone Co. of Virginia v. Murphy*, 12 Va. App. 633 (Va. App. 1991), 406 S.E.2d 190; *Com., Dept of Transp. v. Fairbrook Business Park Associates*, 244 Va. 99, 418 S.E.2d 874 (1992); *Weichert Co. of Virginia, Inc. v. First Commercial Bank*, 246 Va. 108, 431 S.E.2d 308 (1993); *Carter v. Williams*, 246 Va. 53, 431 S.E.2d 297 (1993); *Broyhill v. DeLuca (in re: DeLuca)*; 194 B.R. 65 (E.D.Va 1996); *Economopolous v. Kolitis*, 259 Va. 806, 528 S.E.2d. 714 (2000).

been the principal attorney on reported State and Federal decisions.<sup>48</sup> Mahaffey has successfully brought and defended fraud, business conspiracy and tortious interference with contract claims, minority shareholder oppression actions and suits involving partnership dissolutions, non-solicitation and non-competition agreements. He has represented builders, developers and individual purchasers of real estate with many cases involving declaratory, injunctive or other emergency relief. He has successfully represented local, regional and national businesses, banks and mortgage companies in major corporate and contract litigation, as well as individuals, physicians, architects, and other professionals in their practice groups. Like many of the Firm's attorneys, Mahaffey has been active in Bar and Continuing Legal Education activities.<sup>49</sup>

The "baby boomers" were becoming middle-aged, soon to be senior citizens, and Washington was listening to the arguments of insurers and health care providers. Simultaneously, research sought cures for cancer, heart disease and the latest threat, AIDS. The average life expectancy had risen to the late 70's and continues to rise. These good things seemed to be too much, and a new trend developed toward law suits directed at doctors and hospitals. Whether a provider of a product or a service, liability and the potential for being sued became a matter of great concern.

The Firm added three attorneys in 1990, including Gary W. Brown, a highly experienced D.C. and Virginia medical malpractice defense litigator. Brown would expand the Firm's growing Medical Malpractice Defense Group.<sup>50</sup> He was joined by an associate, Adam W. Smith, and

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<sup>48</sup> **R. Peyton Mahaffey's Reported Cases:** *Cox v. Com.*, 227 Va. 324, 315 S.E.2d 228 (1984); *Fullerton Aircraft Sales and Rentals, Inc. v. Beech Aircraft Corp.*, 842 F.2d 717 (4th Cir. 1988); *Norton 72 Ltd. Partnership v. Resolution Trust Corp.*, 962 F.2d 7 (4th Cir. 1992); *McIntyre v. Crouch*, 23 F.3d 402 (4th Cir. 1994); *American Title Ins. Co. v. Burke & Herbert Bank & Trust Co.*, 25 F.3d 1038 (4th Cir. 1994); *Sibay v. Sibay*, 101 F.3d 695 (4th Cir. 1996); *Prospect Development Co., Inc. v. Bershader*, 258 Va. 75, 515 S.E. 2d 291 (1999).

<sup>49</sup> **R. Peyton Mahaffey** is a past Member of the Board of Governors of the Virginia State Bar, Young Lawyers Conference (1986-1990), and Fifth District Disciplinary Committee, and Past President of the Northern Virginia Young Lawyers Association (1984). He has served on the Civil Litigation Section of the Virginia Bar Association since 2002. He has lectured on "Covenants Not to Compete" for the Fairfax Bar and published the Virginia section of *State Variations of Commercial Law* (Commercial Law Digest, 1994). With Daniel P. Lyon of the Firm, he co-authored published articles entitled *When is Raiding a Competitor's Employees Illegal?* (Virginia Business Law Journal, 1996), *Seller Beware – The Impact of Prospect Development Co. v. Bershader on the Sale of Real Estate in Virginia* (The Fee Simple, Virginia State Bar Association – Real Property Section, Vol. XX, No. 1 (1999)), and *Division in Kind* (Point of Beginning, Vol. 26, No. 2 (2000)). He also is listed to "The Legal Elite" by **Virginia Business** magazine for 2000 – 2008, to the "Top Lawyers" in the Washington metropolitan area by **Washingtonian Magazine** in 2004, and to the "Super Lawyers" in 2006 – 2008. Mahaffey succeeded Randolph Sutliff as President and managing partner of the firm in 2007.

<sup>50</sup> **Gary W. Brown's Reported Cases:** *Thunberg v. Thunberg*, 283 A.2d 444 (D.C. 1971); *Oler v. Liberty Mut. Ins. Co.*, 297 A.2d 333 (D.C. 1972); *S. Kann's Sons Corp. v. Hayes*, 320 A.2d 593 (D.C. 1974); *Fragar v. Pecot*, 327 A.2d 306 (D.C. 1974); *Winter v. Brown*, 365 A.2d 381 (D.C. 1976); *Statler Hilton Hotel Corp. v. Wells Fargo Armored Serv. Corp.*, 370 A.2d 1358 (D.C. 1977); *Westinghouse Elec. Corp. v. Nutt*, 407 A.2d 606 (1979); *Sponangle v. Pre-Term, Inc.*, 411 A.2d 366 (D.C. 1980); *Jones v. Maddox, Inc.*, 413 A.2d 1288 (D.C. 1980); *Jones v. Maddox, Inc.*, 430 A.2d 488 (D.C. 1981); *Hill v. McDonald*,

another partner, Edward J. Longosz, II. Born and raised in Oklahoma, Brown entered the private practice of law in the Washington, D.C. area in 1970 and has continuously engaged in an active civil trial practice ever since. He concentrates in the area of medical malpractice, legal malpractice, product liability and employer discrimination, and is a trained arbitrator and mediator. In addition to being active in community affairs, bar activities and church activities, Brown heads up the Medical Malpractice Defense Group of the Firm. In 1983-1984 he served as President of the D.C. Defense Lawyers Association. In 1996 he was named "Lawyer of the Year" by that organization. Brown served as Chairman of the Firm from 1998 to 2007.

Effective December 31, 1991, after nearly 56 years of practice, Robert J. McCandlish, Jr. formally retired from the practice of law. The Fairfax partners, led by Jesse B. Wilson, III, organized a formal retirement celebration which was held on February 21, 1992 at the Washington Golf & Country Club. In addition to the partners and spouses of the Fairfax Office, the McCandlishes were joined by family members and a large number of Mr. McCandlish's old friends from the Fairfax bar, including Judge Arthur Sinclair, Judge Franklin P. Backus, Judge James Keith, William C. Bauknight, Jr., Edgar A. Prichard, F. Sheild McCandlish, A. Hugo Blankingship, Jr., Randolph W. Church, Jr., Henry C. Mackall and Douglas S. Mackall, III. Ann Lillard (Mrs. Rothwell J. Lillard) and Anne Van Dyck (Mrs. E. Calvin Van Dyck), also attended. Mrs. Josephine McCandlish recalled the event as "The perfect formal ending to Bob's career, as well as a very happy evening with ... many beautiful toasts." Wilson read a letter of tribute and friendship from Chief Justice Harry L. Carrico before presenting the original to Bob McCandlish.

In 1992 the Firm welcomed Stephen K. Fox as a partner. Fox rejoined his old colleagues, Marc E. Bettius and Douglas J. Sanderson. He brought to the Firm broad experience in general and commercial civil litigation, land use litigation, eminent domain litigation, zoning and construction law. Prior to his private practice, Fox was an Assistant Commonwealth's Attorney and Assistant County Attorney for Fairfax County. Continuing the Firm's tradition of service to the bar, Fox served on the Board of Governors of the Virginia State Bar Litigation Section from 1988 to 1995 (Chairman, 1992-93) and the Board of Directors of Legal Services of Northern Virginia. In addition, he was a member of the Judicial Screening and Professionalism Committees of the Fairfax Bar Association.<sup>51</sup>

In the Fall of 1992 the Firm hired its clerk of the previous summer, Daniel P. Lyon, as an associate. Lyon had had a brief career as a Certified Public Accountant and consultant for

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442A.2d 133 (D.C. 1982); *Edwards v. Bechtel Assoc. Professional Corp.*, 466 A.2d 36 (D.C. 1983); *General Elevator Co. v. District of Columbia*, 481 A.2d 116 (D.C. 1984); *O'Connell v. Maryland Steel Erectors, Inc.*, 495 A.2d 1134 (D.C. 1985); *Peacock v. J.C. Penney Co.*, 764 F.2d 1012 (4th Cir. 1985); *Donohoe Constr. Co. v. Mount Vernon Assoc.*, 235 Va. 531, 369 S.E.2d 857 (1988); *Triplett v. George Hyman Constr. Co.*, 565 A.2d 83 (D.C. 1989); *Magnuson v. Peak Technical Services, Inc.*, 808 F.Supp. 500 (E.D. Va. 1992); *Stokes v. Children's Hosp.*, 805 F.Supp 79 (D.D.C. 1992), *aff'd*, 308 U.S. App. D.C. 313, 36 F.3d 127 (1994); *Fairfax Hosp. System, Inc. v. Curtis*, 249 Va. 531, 457 S.E.2d 66 (1995).

<sup>51</sup> **Stephen K. Fox's Reported Cases:** *Obenshain v. Halliday*, 504 F.Supp. 946 (E.D. Va. 1980); *Fox v. Custis*, 712 F.2d 84 (4th Cir. 1983); *Fox v. Custis*, 236 Va. 69 (1988); *Board of Supv'rs v. Group Health Ass'n.*, 243 Va. 296 (1992).



KPMG Peat Marwick from 1986 – 1989 before attending law school at George Mason University.

“Partners” became “principals” once more when the Virginia office, which had been part of a Maryland general partnership since the merger with Miles & Stockbridge in 1984, once again became a professional corporation. The formal change in the Firm's status was effective on January 1, 1994.

In 1994 R. Kevin Kennedy, then a principal at Hazel & Thomas (the successor to Thomas & Fiske), left them and returned to the Firm as a principal, to pursue a banking and commercial lending practice. A new development spurred by the savings and loan crisis was the creation of the Resolution Trust Corporation (RTC). Banks nationwide were being dissolved and the loans that they held were being bundled and sold to the highest bidder. Foreclosure on commercial and residential properties was occurring at a rate not before witnessed. Businesses and individuals alike were being affected, and restructuring was the rule of the day. The Firm's business and commercial attorneys were well-positioned to handle substantial and complex workouts and re-structurings. However, the reorganizations throughout the banking industry would portend more changes in the Firm itself.

## 1995 - Present

### McCANDLISH & LILLARD "RE-ESTABLISHED"

The combination of the McCandlish Firm and Miles & Stockbridge, while for over a decade very productive for both original firms, would run its course. By the mid-1990's the Fairfax lawyers came to believe that the regional vision which had led to the merger was no longer a top priority. The vision was that of Lowell Bowen, the managing principal of Miles & Stockbridge, Bill Bauknight, and the Firm's Virginia principals. A significant factor in this change was the evolution of regional banking based not in Baltimore, Washington or Richmond, but in Charlotte, North Carolina. More and more of the Fairfax lawyers' clients would have conflicts of interests with clients of lawyers in other parts of Miles & Stockbridge, particularly in the health care and banking areas, and the real estate market was suffering. By the Spring of 1995 the Fairfax lawyers determined to withdraw, as a group, from Miles & Stockbridge and "re-establish" the McCandlish Firm. The McCandlish Firm had remained active to retain the retirement plan already in place at the time of the Miles & Stockbridge merger. In its simplest terms, the "split-off" was accomplished by reactivating the McCandlish Firm's professional corporation.

On July 1, 1995 the Virginia lawyers formally announced the re-establishment of **McCandlish & Lillard, a Professional Corporation**, much to the delight of Bob and Josephine McCandlish, who by now had retired to Winchester, Virginia, as well as the Lillard family. Sadly, Rothwell J. Lillard had passed away on September 6, 1989, and would not know that his legacy to the Firm would be symbolized with his name. Robert J. McCandlish, Jr. would live to see the re-emergence of the Firm, before passing away on March 25, 1996. Bob McCandlish and Jack Lillard, longtime friends and law partners, are laid to rest at The Old Fairfax City Cemetery, near Truro Episcopal Church, only a few blocks from where they lived and worked together as law partners for many, many years. The bonds of family, friendship and partnership brought the

three original founders of the Firm to a final repose close to one another. Despite its quiescent status for nearly a decade, there was never any debate among the Virginia lawyers that the new, "old" Firm would properly bear the name "McCandlish & Lillard."

R. Kevin Kennedy had returned to practice with his old colleagues less than a year before the re-establishment of McCandlish & Lillard. He pursued a corporate, banking, and commercial real-estate based practice until 1999 when he again departed for an opportunity to become President of Excel Title Corporation, a new venture underwritten by a Firm client, George Mason Mortgage Corporation. During his two tenures with the Firm (1981-86; 1994-99), Kennedy's practice focused primarily on real estate acquisition, development, construction and permanent financing. He developed significant experience in financial and collateral restructuring of troubled loans, and also had experience in tax-exempt bond financing. Presently he is sole owner of the law firm of R. Kevin Kennedy, PLC.

In 1995 William McCauley ("Mac") Arnold joined the Firm as a principal. Arnold brought and has continued to develop his considerable experience in the defense and collection of construction-related claims involving delay, defective specification, acceleration and scope of work disputes in private and governmental building projects.<sup>52</sup> His background includes three years with the Fairfax County Attorney's Office representing the County on land use matters. Arnold is one of the first attorneys in Virginia to receive certification in civil trial advocacy from the National Board of Trial Advocacy. He is also qualified as a Certified Financial Planner, a designation granted by the Institute of Certified Financial Planners. The designation is useful in Arnold's practice in the estate-planning area.

Jack Rust returned to the Firm in 1996. Since his departure in 1984 Rust had started a bank (Patriot National Bank), and continued his business and commercial litigation practice. While with the Firm the second time, Rust helped start a second bank (Cardinal Bank, N.A.) and continued his law practice. However, the unexpected death of an incumbent created the opportunity for Jack Rust to return to politics, and in 1998 he sought and won re-election to the Virginia House of Delegates. Politics, the bank, and business interests would demand more and more of Rust's time, and he would leave the Firm for the second time by the end of 1998.

In 1996 Eric J. Berghold became a principal in McCandlish & Lillard. Berghold has developed extensive trial experience in the courts of Northern Virginia, and appears frequently before the Worker's Compensation Commission. Since joining the Firm his practice has focused primarily on commercial litigation and health care malpractice, and includes workmen's compensation, tort liability, mechanic's liens, landlord/tenant disputes, and bankruptcy. Berghold has taught continuing legal education courses on workmen's compensation and employment law.

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<sup>52</sup> **William McCauley Arnold's Reported Cases:** *In re: Thompson*, 92 F.3d 1182 (4th Cir. 1996); *Light v. Beaver Creek Development Partners*, 125 F.3d 848 (4th Cir. 1997).

In 1997 Adam W. Smith<sup>53</sup> became a principal in McCandlish & Lillard. Smith originally came to the Firm as an associate with Gary W. Brown in 1990, and remained with Miles & Stockbridge briefly after the split, before returning to the Firm in 1996. Smith has developed a reputation for comprehensive preparation and research in his litigation practice, which focuses primarily in the defense of medical malpractice, products liability, legal malpractice, and general tort liability claims. He also enjoys a growing personal injury practice.

In July, 1997, on the eve of the Human Genome Research Project and the cloning of "Dolly" the sheep (to mention only two events that foretell the changes in medicine that would test the legal system by posing unimagined legal issues), Brian R. Sanderson joined McCandlish & Lillard as an associate. Brian Sanderson came to the Firm with several years experience participating in the defense of physicians and hospitals in cases of medical liability. He was hired to help support the growing Medical Malpractice Defense Group, and focused his efforts in representation of Inova Fairfax Hospital, Inova Alexandria Hospital, and Inova Mount Vernon Hospital. In addition to his medical malpractice work, Brian Sanderson has also participated in the defense of products liability and premises liability cases.

In 1998 the Firm gained a Loudoun County presence by welcoming back Stephen C. Price as a principal, along with an associate, Lawrence J. McClafferty. Their previous practices were in Leesburg and they continue the Leesburg Office of McCandlish & Lillard. Price had been an associate with McCandlish, Lillard, Church & Best from 1974-1977 before pursuing an LL.M. at Cambridge, and returning to announce the opening of his own office for the general practice of law in Leesburg in 1977. Since his early years with McCandlish & Lillard, Price has developed broad experience as a litigator in commercial and real estate related cases in the Virginia and Federal Courts.<sup>54</sup> His practice includes unfair competition, business, tort and contractual disputes. He has also served as right-of-way counsel for the Virginia Department of Transportation, and represents landowners in condemnation and a variety of real-estate related matters, including litigation. He embodies the Firm's tradition of service to the profession and

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<sup>53</sup> **Adam W. Smith's Reported Cases:** *Cameron v. WMATA*, 649 A.2d 291 (D.C. 1994); *Weston v. WMATA*, 98 F.3d 682 (D.C. Cir. 1996); *Dada v. Children's Hosp.*, 715 A.2d 904 (D.C. 1998); *Simon v. Forer*, 265 Va. 483, 578 S.E.2d 792 (2003).

<sup>54</sup> **Stephen C. Price's Reported Cases:** *Cale v. Paderick*, 546 F.2d 577 (4th Cir. Va. 1976); *Cradle of Democracy Broadcasting Co. v. David Green Broadcast Consultants Corp.*, 33 B.R. 1004 (1983); *McLean Bank v. Nelson*, 232 Va. 420 (1986); *United States v. 198.73 Acres of Land*, 800 F.2d 434 (4th Cir. Va. 1986); *Trout v. Commonwealth Trans. Comm'r*, 241 Va. 69 (1991); *First State Holdings, Inc. v. Shor Leesburg Assn., L.P.*, 28 Va. Cir. 314 (1992); *DCDF Inc. v. Shay*, 30 Va. Cir. 185 (1993); *Sjurseth v. Loudoun Co.*, 31 Va. Cir. 335 (1993); *DCDF, Inc. v. Cam-Net Data Sys.*, 31 Va. Cir. 457 (1993); *Alberts v. Karl Mintjens Furniture International, Inc.*, 30 Va. Cir. 245 (1993); *Dator Corporation v. Rufus S. Lusk & Son*, 1995 U.S. App. Lexis 14605; *Loudoun County Bd of Supervisors v. Vanguard Ltd. Pshp.*, 38 Va. Cir. 200 (1995); *Miller v. Miller*, 1996 Va. App. Lexis 499; *Wilson v. Farmington on the Green Homeowners' Assn.*, 1997 Va. Cir. Lexis 693; *Stephens v. Caruthers*, 97 F. Supp. 2d, 698 (2000); *Am. Online, Inc. v. E\*Trade Group, Inc.*, 59 Va. Cir. 48 (2002); *Shilling v. Jimenez*, 268 Va. 202 (2004); *Kerttula v. Candea*, 68 Va. Cir. 414 (2005); *Gowin v. Granite Depot, LLC*, 272 Va. 246 (2006); *Phoenix Renovation Corp. v. Rodriguez*, 461 F. Supp. 2d 411 (E. D. Va. 2006); *Phoenix Renovation Corp. v. Rodriguez*, 461 F. Supp. 2d 411 (E.D. Va. 2006).

civic activity.<sup>55</sup> McClafferty's practice focuses on civil litigation, particularly with respect to community associations, employment matters and commercial disputes. In addition to successfully handling Consumer Protection Act and other commercial matters, McClafferty has successfully represented plaintiffs in Loudoun and Fairfax in disputes between homeowner associations and residents. One such case gave McClafferty his first opportunity to defend successfully a trial judgment on appeal to the Virginia Supreme Court.<sup>56</sup> In 2007, McClafferty was elected President of the Loudoun County Bar Association.<sup>57</sup>

A few months later in 1998 John W. Farrell joined the Firm as a principal to expand the Firm's practice in the area of real estate development, land use, environmental regulation and zoning. Farrell brought over 25 years of experience in these areas and has represented landowners and developers in innumerable land-use and environmental cases and controversies. Farrell has extensive experience on behalf of lenders and borrowers in transactions involving real estate acquisition, construction and development loans, leasing and sale of mixed-use communities, condominium and residential projects, commercial and retail properties, and workouts and foreclosures of non-performing loans. Farrell has lectured to bar groups and trade associations in his areas of expertise, and is active in civic affairs.<sup>58</sup>

In the late spring of 1998 Peyton Mahaffey asked his good friend Daniel P. Lyon, by now a senior litigation associate, to help represent a Fairfax couple whom he was persuaded had been defrauded by a Northern Virginia builder/developer. Mahaffey and Lyon had worked successfully on numerous trials and appeals beginning with a six-day fraud case in 1991 when

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<sup>55</sup> **Stephen C. Price** is a past president of the Loudoun County Bar Association and is a member of the Board of Governors of the Virginia Bar Association. For 10 years he served as a substitute judge for the General District Courts of Loudoun, Fauquier and Rappahannock Counties. Price has served on the Virginia Advisory Board for George Washington University and the Board of Oatlands Dodona Manor and the Loudoun County Legal Aid Society. Price is a member of the Church of Our Saviour, Oatlands, where he has served as a vestryman. He has been an Assistant Scoutmaster with Troop 961 in Bluemont. He is the past president of the American Friends of Cambridge University.

<sup>56</sup> **Lawrence J. McClafferty's Reported Cases:** *Sully Station II Community Association, Inc. v. Reginal W. Dye, et al.*, Va. (Record No. 991078, 2000), S.E.2d ; Reported Circuit Court cases include *In re: Sadie Irene Reid*, 48 Va. Cir 342 (Loudoun Cir. Ct. 1999); *Martin v. Ashburn Farm*; *Pugh v. Ashburn Farm* (Loudoun Cir. Ct. 1999); *Cornwell v. Main Street Village Association*, 42 Va. Cir 48 (Loudoun Cir. Ct. 1997).

<sup>57</sup> The Firm has always encouraged its lawyers to be active in professional Bar Associations. In addition to countless committee memberships and pro bono activities, bar association activities have included **two Northern Virginia Young Lawyers Association Presidents** (Randolph W. Church, Jr. and R. Peyton Mahaffey); **six Fairfax Bar Association Presidents** (Robert J. McCandlish, Rothwell J. Lillard, Hugh Marsh, Jesse B. Wilson, III, and Stephen L. Best); **two Loudoun County Bar Associations Presidents** (Stephen C. Price and Lawrence J. McClafferty); and **two Virginia Bar Association Presidents** (Robert J. McCandlish, 1960 and Jesse B. Wilson, III, 1979).

<sup>58</sup> **John W. Farrell** has been a lecturer and instructor in real estate, land use and environmental law for the Virginia Law Foundation, Northern Virginia Building Industry Association, and the National Business Institute. He is the former chairman of the Planning Board of the Town of Walpole, Massachusetts and the past chairman of the Land Use Environment and Transportation Committee of the Fairfax County Chamber of Commerce.

Lyon was a summer clerk. The precedent-setting case of *Prospect Development Co. v. Bershader, et al.*, 258 Va. 75 (1999), 515 S.E.2d 291 proved to be one of their most interesting and successful collaborations, establishing new law in Virginia and drawing substantial attention in the legal community and area newspapers.<sup>59</sup>

The 1999 census reported that Fairfax County had a population of 945,717, and Fairfax City's population was 20,697. Arlington County had been eclipsed at a mere 174,818. In existence for over 90 years, the Firm had grown steadily to meet the needs of the changing and growing metropolitan area. The growth continues and the Firm adapts to meet the needs of its clients. Fairfax County is listed and recorded by some measure as the wealthiest county in the nation, while Loudoun County was reported in 1999 as being the fastest growing county in the United States. Much to the chagrin of established residents, Loudoun experienced tremendous growth. In addition to being the focus of many high tech industries, Loudoun had a close encounter with Disney, was the site of the nation's first privately owned toll road, and is wrestling with the potential of an outer beltway that would slice the county into East and West forever. The ever-illusory balance between old and new, tradition and growth, is a natural incubator of legal issues. Besides growth in population to think about, the boomers are now ever closer to being sixty. The Federal Government has informed the citizens that Social Security is not as secure as it should be and statistics demonstrate that only five out of every one hundred Americans will be able to afford any form of retirement. Through publications, television, and radio, new topics are arising. These will become everyday issues, and they include income tax planning, estate planning, home based businesses and the right to die. While such things were not always the domain of the average person, as the new century is upon us these and many other remarkable concepts are the stuff of daily discussion as well as political platforms. A far cry from a story told by Mavis Cobb, a Fairfax lawyer who passed away in April 2000. Upon receiving her Law degree in 1937, she went to the office of then Commonwealth's Attorney Hugh B. Marsh seeking employment, and was turned down. Mr. Marsh told her there were discussions in his office "that you shouldn't know about". She had worked with Senator John W. Rust in his Fairfax law office as a clerk and title examiner. She was qualified and determined. As it was told by Ms. Cobb, she opened her own practice after initially working at the Justice Department, and did well.

Vicki L. Layman joined the Firm as a principal in 1999 in the medical malpractice defense area. Layman began her legal career in Louisville, Kentucky in 1983. In 1989 Layman moved to Fairfax, Virginia and began a full-time practice of defending hundreds of health care providers, predominantly in civil actions before Medical Malpractice Review Panels, as well as the circuit courts of Northern Virginia. By mid-2006, the landscape of medical malpractice defense work for

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<sup>59</sup> *Prospect Development Co. v. Bershader, et al.*, 258 Va. 75 (1999), 515 S.E.2d 291 established new law in Virginia in at least two areas. It is the first time the Virginia Supreme Court has created a negative easement (an easement requiring the owner of the servient tract to refrain from certain uses of land) by estoppel. It was also the first time the Virginia Supreme Court has held that a chancellor, in the exercise of his discretion, may award attorney's fees to a defrauded party. Essentially, this recognized in Virginia a formal exception to the "American Rule" which had generally been interpreted to prohibit the award of attorney's fees in the absence of a statute or contract permitting attorney's fees.

physicians had changed, and in early 2007, Layman left the firm to go into plaintiff's personal injury and plaintiff's medical malpractice work.

In December 1999 the Firm added Ralph M. Tener as a principal. Tener was brought in to head the Firm's new Information Technology Group. Early in his formal affiliation with McCandlish & Lillard, Tener negotiated the sale of a client's business: an auspicious beginning when the client is a start-up software and internet company, sold to a publicly held company for \$6.5 Million cash, \$1.5 Million in publicly traded stock, and a \$3 Million cash earn-out. Thirty (30) years after Jack Lillard's tenure as Class President, Tener served as President of the University of Virginia Law School Class of 1978. Tener has a substantial background in computer law, has represented clients in numerous venture capital investments and sales and acquisitions of business and information technology products, and maintains an active trademark and copyright registration practice. Tener is also active in the bar and teaching Continuing Legal Education.<sup>60</sup>

By the year 2000 the Firm had successfully expanded into new areas in a continuing effort to meet the legal needs of a dynamic Northern Virginia, which has been, among other things, the epicenter of telecommunications and internet related businesses, whether publicly traded, privately held, or startup. The Firm reorganized itself into five practice groups: the Business Group, the Real Estate Group, the Individual Services Group, the Litigation Group and the Information and Technology Group. A number of attorneys are active in more than one group. Growth and change continues.<sup>61</sup> The Firm was joined by Timothy J. Callahan in an Of-Counsel capacity. Callahan is an experienced trusts and estates attorney who had practiced with Ralph Tener for many years. Callahan was a delightful addition to the Firm's Trusts and Estates Practice, and its Individual Services Group, before resigning in 2005 to move to Portsmouth, Virginia, where he heads a title insurance company. In the Spring of 2000 Stephen K. Fox left the Firm to re-establish his own private practice of law in Fairfax.

On January 1, 2000 Daniel P. Lyon became a principal in the Firm. In the eight years following law school and a summer clerkship with the Firm, Lyon, who had become a CPA prior to attending law school, gained extensive experience litigating commercial issues on behalf of businesses and individuals at the trial and appellate level. His experience includes issues concerning technology, employment, covenants not to compete, banking, real estate and fiduciary duties. Early in his career, he worked as a litigator on numerous trials and appeals. Later on, Lyon developed substantial experience aiding entrepreneurs in the formation,

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<sup>60</sup> **Ralph M. Tener** founded the Computer Law Section of the Fairfax Bar Association in 1986, and served as its Chairman for 8 years. He has also served as president of the Board of Directors of the D.C. Computer Law Forum, and currently teaches the intellectual property segment of a course on government contracting and computer law for the University of Virginia Continuing Legal Education Center in Falls Church, Virginia.

<sup>61</sup> In the Fall of 1999, **Ann C. Wessel** and **Jovanna V. Diaz**, third-year law students at the University of Virginia and American University, respectively, accepted offers of employment as first-year associates starting in the Fall of 2000. Wessel, who clerked for the Firm in the Summer of 1999, joined the Litigation Group, and Diaz worked with attorneys in the Information Technology, Business, and Real Estate Groups.

operation and growth of their businesses. He insures that the intellectual property of his clients is properly protected through the integrated use of trademark, copyright, patent and trade secret laws. Lyon has co-authored articles on the Bershader case as well as covenants not to compete, and has lectured on the latter subject for the Fairfax Bar Association Continuing Legal Education Committee. He has served extensively on the Central Fairfax Chamber of Commerce since 1983 and was its Chairman for the Year 2000.

In a departure from his typical business litigation practice, Mahaffey was approached in 2000 by an existing client to represent his minor child whose lower leg was traumatically amputated in a bizarre boating accident. The case was complicated by the fact that there was initial litigation in Oklahoma (the home of the mother and child), the defendant resided in Georgia, and the accident happened in the mountains of North Carolina. A suggestion had been made by one carrier that there was very little insurance coverage. Suspicious of an apparently “generous” offer of \$100,000, Mahaffey sought a stay in the Oklahoma case, and filed suit in the state court for Fulton County, Georgia. Ultimately, additional insurance was disclosed, the case was mediated, and annuity was negotiated that would pay the child \$8.2 Million over his lifetime in a structured manner.<sup>62</sup>

Ann C. Wessel joined McCandlish & Lillard as an associate in September 2000, following a summer clerkship with the Firm in 1999. From 2000 – 2003, Wessel worked in the Litigation Group of the Firm, focusing her practice on medical malpractice defense, family law, and commercial litigation matters.<sup>63</sup> In May 2003, Kate McSweeney joined the firm as a summer associate and remained with the firm during her last year of law school, becoming a full time associate in August 2004. Her practice areas included litigation, land use, family law, and general business law.<sup>64</sup>

J. Robert McAllister, III joined the Firm on January 1, 2004 as Senior Counsel. Prior to joining the Firm, he was a principal in the law firm of Adams, Porter and Radigan, Ltd. which had ceased operations as of December 31, 2003. McAllister specializes in business, healthcare and tax-exempt organization law. He is actively using these specialties with the Firm. Accompanying McAllister to the firm was Anne Reilly Jones, a Summa Cum Laude graduate of St. Joseph’s

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<sup>62</sup> Bryan P. McCoy, Natural Parent and Natural Guardian of Logan McCoy, a minor, et al. v. Wright, State Court for Fulton County, Georgia, Case No. 00VS008862B (2000).

<sup>63</sup> An active member of the Fairfax Bar Association, Wessel served on the Community Outreach Committee as a Subcommittee Chair from 2001-2003, and as President of the Committee from 2003-2006. Wessel routinely devoted time to handling pro bono family law cases through the FBA’s Pro Bono Committee. In September of 2003, Wessel transitioned to the national security arena, working with Homeland Defense for the Defense Department for several years, and more recently with the Department of Homeland Security.

<sup>64</sup> McSweeney had made a mid-life career change after more than two decades as a senior broadcast executive and media consultant in the television industry primarily in various capacities at Turner Broadcasting Systems. From 1997 through 2002 she was an independent business consultant and began attending George Mason University School of Law. She left the firm in August 2005 to pursue a different area of practice with a firm in the District of Columbia.

University in Philadelphia, Pennsylvania in 1980. Jones, who had returned to the practice of law sometime earlier after taking a break to focus on raising a family, has a substantial background in Economics, Mathematical Economics, Monetary Theory and Econometrics. She spent time early in her career as an economist with the Federal Reserve in Washington, D.C. before resigning to attend Georgetown University Law Center where she graduated in 1987. At the Firm, Jones has put her prior experience in business economics and the Regulatory world to use by concentrating her practice in the areas of health care, business, and corporate law. She has also developed a growing expertise in the area of not-for-profit representation in connection with one of the Firm's valued clients, The Claude Moore Charitable Foundation, Inc.

Doctor Claude Moore was a highly-respected philanthropist, living in Loudoun County. Peter Arntson assisted Dr. Moore with his estate planning. Almost all of his assets were left to the Claude Moore Charitable Foundation. Jesse Wilson and Peter Arntson became two of the Foundation's four Trustees. When Dr. Moore died in 1991, his estate consisted almost entirely of real estate, which was in a deep recession. The value of his estate was less than \$20,000,000. Through careful management, the value of those assets has risen dramatically to a December 31, 2007 estimated value in excess of \$250,000,000, with the Foundation donating about 5% per year to charitable causes, primarily in Virginia. Part of that management was the rezoning of 600 areas of land that was replanned to be the terminus station for metros' Silver Line, Moorefield Station. That rezoning effort, led by Randy Sutliff, increased the density of the parcel from 600 homes to 6,000 homes plus 9,750,000 sq. feet of non-residential (office, retail, hotel, etc.). It is the largest increase in allowed use in the history of Loudoun County.

In 2004 the Firm was approached to represent a large condominium unit owner's association in connection with a very substantial and complex claim against a developer arising from claimed defective construction in a very large Fairfax condominium complex. The Firm took on the representation and thus began a four-year saga in which the Firm, led by Robert H.J. Loftus, pursued the developer with claims of fraud and abuse of the corporate privilege and piercing the corporate veil in addition to the underlying claims of defective construction, breach of contract, breach of warranty and related counts. The case was bifurcated into a defective construction case handled very successfully by W. McCauley Arnold and Robert Loftus. Next came the challenge of persuading the court to defeat corporate immunity and impose personal liability because of fraud and abuse of the corporate privilege. Five weeks of trial took place over a period of six months involving more than 800 exhibits. On the eve of trial, the developer attempted to abort the proceedings by placing its corporate entities in bankruptcy. A quick trip to the bankruptcy court resulted in the assets of the estate being abandoned and trial proceeded. Proof of the case required tracing the movement of funds through a maze of corporations and construction projects spanning almost a decade. Loftus's persistence paid off when the court imposed a \$7.3 Million verdict upon the developer and his wife, a co-owner of the business.<sup>65</sup>

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<sup>65</sup> *The Board of Directors of the Westbriar Condominium Unit Owner's Association v. Jade WFW, LLC, et al.*, Circuit Court of Fairfax County, Law No. 214196. Final Order entered December 18, 2007. The case is on appeal.



In 2005 Regina Petruzzi Neumann (then Regina M. Petruzzi) became an associate at McCandlish & Lillard. Neumann concentrates her practice in the area of General Litigation, with particular emphasis on business torts, professional liability, medical malpractice defense and personal injury litigation. Prior to joining the Firm, she practiced with a firm in Pittsburgh, Pennsylvania, where she appeared before state and federal courts. While practicing at McCandlish & Lillard, Neumann expanded her practice to include domestic relations matters; however, despite residing and starting a family in the heart of Redskins country, she has been unwilling to separate completely from her roots and remains a die-hard Pittsburgh Steelers' Fan. Ms. Neumann left the firm 2011 to establish a Northern Virginia presence for a firm headquartered in her native Pittsburgh and focused on intellectual property.

In the summer of 2005, Anne Rocktashel, a former engineer with Sprint and Cisco Systems, joined the Firm as a Summer Associate, while attending George Washington University Law School. In August 2006, she became a full time Associate at McCandlish & Lillard, focusing general litigation with particular emphasis on commercial matters and business torts, in addition to business, corporate law, and domestic relations. Ms. Rocktashel departed the firm in 2012 to focus exclusively on employment law matters at another reputable firm in Northern Virginia.

Beginning in 2006, the Firm got heavily back into a practice area from two generations earlier – location of electric transmission lines. This time around, the Firm did not represent the power companies. Randy Sutliff and Anne Jones represented a large group of landowners opposed to a transmission line in western Loudoun County. That matter was successfully resolved by emergency legislation enacted by the General Assembly which created a “pilot project,” installing the line underground. Following that, in 2008 Randy Sutliff, Eric Berghold, Anne Jones and Anne Rocktashel represented the Board of Supervisors of Fauquier County in a three week proceeding before the State Corporation Commission regarding a proposed 500 Kv transmission line, which would begin in western Pennsylvania across West Virginia, through the Shenandoah Valley and Fauquier County to Bull Run. The proposed line represents not only the first real challenge to asserted “need,” but also the first transmission line proposed in Virginia subject to potential federal intervention.

In October 2006, a 90-year affiliation between McCandlish & Lillard and the Commissioner of Accounts Office, came to a close.<sup>66</sup> Jesse B. Wilson, III retired from the Commissioner of Accounts Office after 24 years of service to the citizens of the 19th Judicial Circuit, and Peter A. Arntson after 13 years of service. A farewell luncheon was held in their honor on October 11, 2006 at Maggiano's Restaurant at Tysons Galleria II. Their retirement marked the end of an era for the Firm that had begun with the appointment of F.D. Richardson as Commissioner of Accounts in 1916, as well as the conclusion of two long and distinguished careers of public service to the FBA and the citizens of Fairfax County in the Commissioner of Accounts Office.

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<sup>66</sup> See *infra* at note 4.

In 2007, R. Peyton Mahaffey succeeded Randolph A. Sutliff as the President and managing partner of the Firm.<sup>67</sup> To make the transition more interesting, if not more difficult, Charlotte M. Andrews, the Firm's beloved and long-standing Office Administrator, announced her retirement to Myrtle Beach, South Carolina after nearly 25 years of service to the Firm in administration. In 2009, Tom Duka was hired as the Firm Administrator and continues in this post. Having the benefit of years of experience as an administrator and Office Manager at law firms similar in size and much bigger than McCandlish, Mr. Duka has overseen office renovations and relocations, the hiring of many new staff members and attorneys at the Firm, and smoothly managed the often complex challenges related to the incorporation of new technologies into the practice of law.

Since 2007, the firm has welcomed several new attorneys.

In 2007, Will Walsh, joined the Firm as a Summer Associate, while attending George Mason University Law School. In August 2008, Mr. Walsh became a full time Associate at McCandlish & Lillard. A Northern Virginia native, Mr. Walsh's practice focuses on a broad range of business and real estate matters for the firm's clients. He is a co-chair of the Business Law Section of the Fairfax Bar Association.

In 2008, the Firm welcomed Christopher Leins as Summer Associate. A native of Northern Virginia, Mr. Leins was attending Wake Forest University School of Law at the time. A year later, in August 2009, Mr. Leins joined the firm as a full time Associate. Mr. Leins' practice included commercial litigation, real estate litigation, and medical malpractice defense. Mr. Leins left the Firm in 2013 to focus his practice exclusively on ERISA litigation and labor and employment law disputes in federal court.

In 2009, Laura Golden Liff joined the firm as a Summer Associate while she attended The Catholic University of America, Columbus School of Law in Washington, DC. Another Northern Virginia native, Ms. Liff joined the firm full-time as an Associate in August 2010. Ms. Liff devotes a great deal of time and energy in encouraging pro bono participation among the firm's attorneys. She serves as a chair of Virginia Bar Association's Pro Bono Hotline and has been recognized as being among Virginia's "Legal Elite" by *Virginia Business* for her leadership. Ms. Liff additionally is an active member of the Fairfax Bar Association, the Virginia State Bar, the Virginia Women Attorney's Association and the American Bar Association. Ms. Liff's practice has included family law and domestic relations, as well as complex commercial and fiduciary litigation.

The firm hired Derek E. Karchner as a Summer Associate in 2010, while he attended The Catholic University of America, Columbus School of Law in the evenings. In 2011, Mr. Karchner joined the firm full-time as an Associate. Mr. Karchner's practice includes significant involvement in the firm's business and real estate practice groups, as well as experience in real estate and commercial litigation. Mr. Karchner is active with the Dulles Area Transportation

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<sup>67</sup> In addition to Mahaffey succeeding Sutliff as President in 2007, Ralph M. Tener succeeded Gary W. Brown as Chairman, Daniel P. Lyon became the Firm's Treasurer, and Eric J. Berghold was given new responsibilities as Vice-President in Charge of Human Resources

Association and NAIOP Northern Virginia. In the first few years of his practice, Mr. Karchner has: prevailed as single chair at trial in the Loudoun County Circuit Court involving a real estate contract dispute; helped a client negotiate and secure amendment to a franchise agreement; helped client secure a \$200,000 arbitration award involving dispute over client's exercise of a right of first refusal to purchase retail space it had been leasing. He has also been selected as one of Virginia's "Legal Elite" by *Virginia Business* magazine.

In 2012, the firm welcomed Angela G. Campbell and Autumn D. McCullough as full-time Associates with the firm. Each brings a wealth of experience to bear on their work for the firm's clients. Ms. Campbell, resident in the firm's Leesburg office and a graduate of Cumberland School of Law, focuses her practice on general civil litigation, commercial litigation, and business law. Prior to joining McCandlish Lillard, Ms. Campbell served on the staff of U.S. Senate Majority Leader Trent Lott from 1997 to 2005. During her tenure on Capitol Hill, Ms. Campbell progressed in responsibility, working extensively with transportation issues and funding, land and water infrastructure issues, appropriations and federal funding support for major economic development projects, and was ultimately appointed the Senator's Counsel and Director of Projects. Ms. McCullough brought with her to the firm a successful and thriving estate planning and administration practice, and continues to focus on these areas, while also devoting time to real estate and business matters. In 2012, Ms. McCullough was named as a Virginia Business Legal Elite Outstanding Young Lawyer.

2012 also saw the relocation of the Firm's Leesburg office. Having outgrown its long-standing home at 212 East Market Street, the Firm's Leesburg office moved into a newly constructed office space at 201 Loudoun Street in Leesburg.

While 2012 saw many positive developments, the firm also mourned the passing of Jesse B. Wilson, III after a long battle with illness. Just months before Mr. Wilson's passing, the Firm had re-instituted a tradition he had started. Hound Dog Day was (and is) celebrated by the firm each year on August 2<sup>nd</sup>, exactly six months after Groundhog Day. According to legend, if Mr. Wilson's hound dog walked by his water bowl on August 2<sup>nd</sup> and stopped, the region could expect summer to continue, but if he kept walking, winter would certainly come early.

A sign of its continued growth, McCandlish Lillard hired Jerad Tomac as an Associate in 2013. Mr. Tomac is a graduate of The Catholic University of America, Columbus School of Law and worked at McCandlish as a Summer Associate in 2012. Mr. Tomac's practice focuses on all aspects of estate and trust planning, administration and litigation; guardianship and conservatorship matters; as well as other civil litigation. Mr. Tomac brings a unique perspective to the firm as an Associate, having worked prior to and during law school full-time as a Law Clerk for the Hon. John H. Rust, Jr., the Fairfax Commissioner of Accounts, where he facilitated and assisted in drafting reports for dozens of hearings related to fiduciary matters. Prior to attending law school, Jerad served in the U.S. Army as a Signals Intelligence Analyst at Goodfellow AFB, San Angelo, Texas; Camp Essayons, Uijongbu, South Korea; the Defense Language Institute, Presidio of Monterey; and the 704<sup>th</sup> Military Intelligence BDE, Ft. Meade, Maryland.

## **Continuing to Look Forward**

Today, we view ourselves as beneficiaries of a legacy of excellence and leadership built over more than a century of practice in Northern Virginia. Far from being stuck in the past, this legacy drives us toward the future, and helps us anticipate the legal challenges our clients will face tomorrow. While we are proud of our history, we speak the language of technology. We believe that the lawyers at McCandlish Lillard not only benefit from a tradition of excellence, we stand ready to counsel and advise our clients when possible, and fight when necessary, in order to face tomorrow with confidence and success, no matter how uncertain it may seem.