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Foreword

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FOREWORD

*Lawrence S. Margolis**

In June 1981, the Judicial Administration Division of the American Bar Association held a two day program in Washington, D.C. entitled a "National Conference on the Role of the Judge in the '80s." The conference was chaired by the Honorable Jean S. Cooper of Washington, D.C. and she was ably assisted by the Honorable J. Edward Harris, of San Diego, California. The purpose of the conference was to examine the role of the judge in the next decade, to identify problems facing the judiciary, and to offer possible solutions.

Separate panels and keynote speakers delved into several vitally important subjects of interest to judges, lawyers, the public, and the media. The articles included in this symposium of the Catholic University Law Review are based either on speeches delivered by the panelists or are outgrowths of the conference. The Honorable Rose E. Bird, Chief Justice of the California Supreme Court, provided an overview of various problems confronting the judiciary and a reaction to the proposed solutions to those problems. One of the panels provided a brief historical perspective on the role of the judiciary in our society and particularly, judicial activism versus restraint. Professor Raoul Berger's article presents a historical argument favoring judicial restraint. In another article written for this symposium, Professor Charles M. Lamb addresses the issue of whether this term, judicial restraint, should be discarded in light of the ambiguity and uncertainty surrounding its usage. A second panel consisting of both lawyers and judges discussed perceptions and expectations of judicial responsibility. Marna S. Tucker, Chairperson of the ABA Commission on Public Understanding of the Law, and the Honorable Abner J. Mikva have provided a point/counterpoint to their views on how judges may best fulfill their responsibilities. The third panel dealt with the changing nature of judicial work, including improved management and various technological advancements. Paul J. Nejelski, Circuit Executive for the Third Circuit of the United States Court of Appeals and former staff director of the ABA Com-

* Past Chairman of the Judicial Administration Division of the American Bar Association. He has been a United States Magistrate for the District of Columbia for the past eleven years.

mission to Reduce Court Costs and Delay, has outlined various practical changes that will be witnessed by judges in the coming decade.

The need for conferences of this sort is manifest. The continuing increase in the litigiousness of American society shows no sign of abatement.¹ The judiciary must meet this demand without any reduction in the quality of the adjudication process. The ideas and proposals contained in this issue represent a sampling of the thoughts of members of the judiciary and interested observers on how judges in the eighties can meet this demand.

1. In his recent annual report on the judiciary, Chief Justice Warren E. Burger stated that 1981 witnessed a continuation of a fifteen year increase in federal case filings. In 1981, filings in the United States Courts of Appeals and in the United States District Courts increased 14% and 7% respectively over the last judicial year. A recent statistical study by the Administrative Office of the United States Courts has projected that case filings in the United States Courts of Appeals and United States District Courts will both increase by approximately 80% between the years 1975 and 1983. W. BURGER, YEAR-END REPORT ON THE JUDICIARY 23 (Dec. 28, 1981) (available at Public Information Office of the United States Supreme Court).