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INTRODUCTION: TOXIC TORTS: JUDICIAL AND LEGISLATIVE RESPONSES

JOHN M. HYSON†

IN THE SPRING OF 1983, I had the privilege of serving as moderator for the *Villanova Law Review's* symposium entitled *Toxic Torts: Judicial and Legislative Responses*. This issue of the *Law Review* contains the papers that were presented at the symposium.

"Toxic Torts" is a newly-coined term for a newly-discovered problem. Only recently have we as a nation come to realize the harmful consequences of human exposure to some of the most useful and ubiquitous products in our society. One of these products—*asbestos*—has given rise to litigation which is so voluminous and complex that it threatens to overwhelm the courts. Toxic tort litigation has forced the courts to re-examine basic concepts of tort liability. And the public, alerted to the serious consequences of exposure to toxic products, has sought legislative solutions at both the federal and state levels.

The first three papers address proposed legislative responses to the toxic tort problem, particularly the proposals for federal legislation. It is perhaps indicative of how serious the toxic tort problem has become that there are proposals to "federalize" an area of law that has always been considered to be within the province of the states. In his paper, Mr. Schwartz sets forth various arguments in support of at least some type of federal legislative intervention. The second paper, by Professor Kircher, examines the proposed federal legislation from a defense perspective, and concludes that it does not offer the promised benefits of uniformity and certainty. The third paper, which is written by Professor Phillips, also examines the proposed federal products liability legislation and finds it flawed in many respects.

The remaining papers are written by practitioners who have had extensive experience in asbestos litigation. Mr. Locks, a plaintiffs' attorney, describes the growth of asbestos litigation and the reasons why so many of these cases go to trial. In the final paper, Mr. Goggin views the problems posed by toxic tort cases from the perspective of a defense attorney. He discusses the various defenses available to the

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trial lawyer in these cases, and describes the evidentiary problems which a litigant must confront.

The editors of the *Villanova Law Review* are to be commended for assembling an outstanding panel of knowledgeable and thoughtful experts on the toxic tort problem. In the following papers, the members of the Symposium panel provide a comprehensive discussion of that problem—a problem for which, as the papers demonstrate, there are no easy and clear answers.