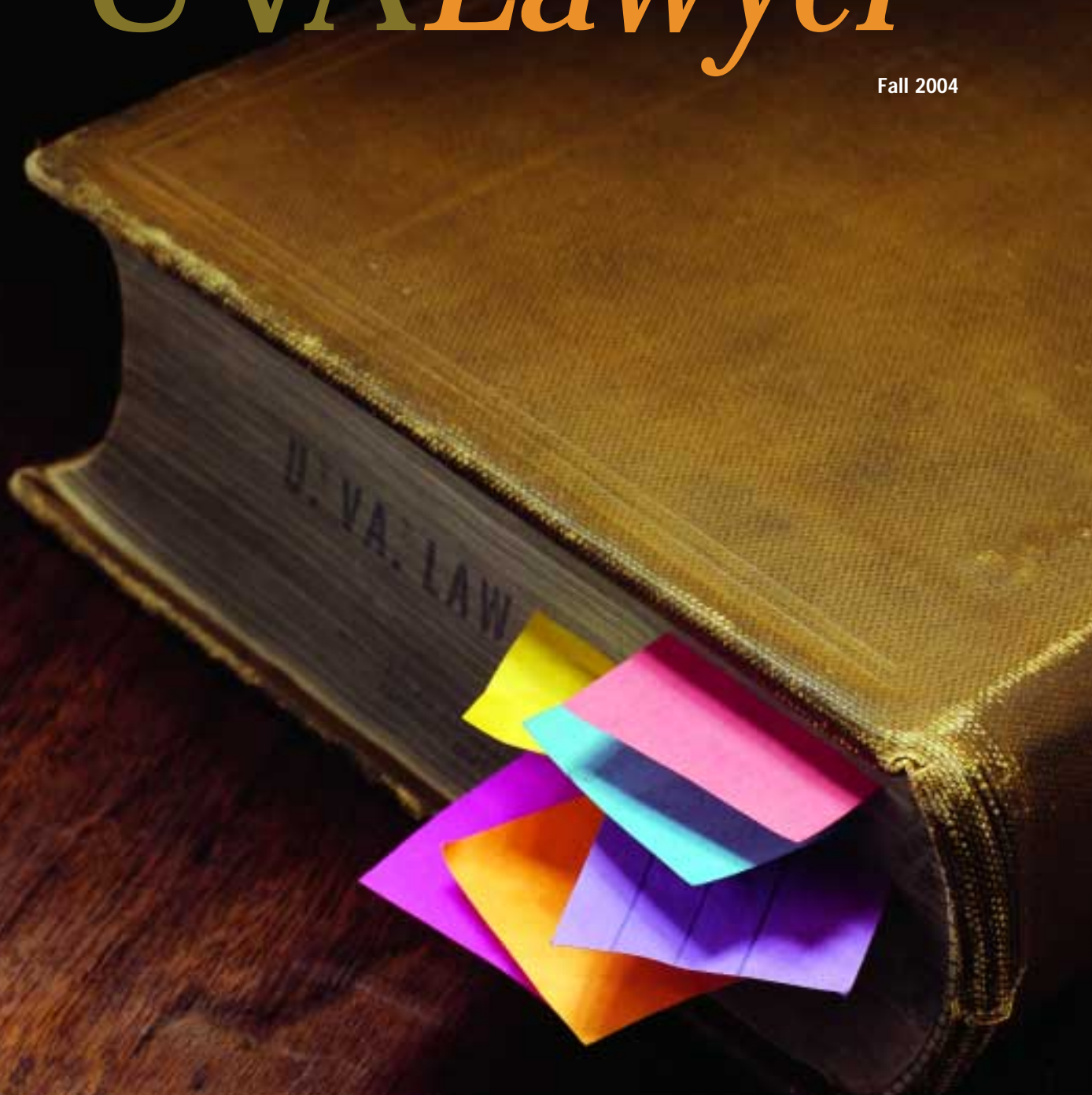


The University of Virginia School of Law

UVA *Lawyer*

Fall 2004



The Face of the Law School



SCHOOL OF LAW





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EDITOR Cullen Couch

ASSOCIATE EDITOR Denise Forster

CONTRIBUTING WRITERS Margaret Heritage,
Earthen Johnson, Luana Mendes-Martinez,
Mike Marshall, Mary Wood

DESIGN roseberries

PHOTOGRAPHY Tom Cogill

ADDITIONAL PHOTOGRAPHY Ian Bradshaw, Cullen Couch,
Susan Baker Kalergis

PRINTING Schmitz Press



The Face of the Law School

■ John C. Jeffries, Jr. '73

This issue of *UVALawyer* celebrates diversity in the Law School. Diversity, of course, has many dimensions. Perhaps the most important — and certainly the most disputed — is use of diversity as a factor in admissions.

At the Law School, assessments of individual applicants begin with intellectual aptitude and academic achievement. We also look for accomplishments and experiences that predict success. These include significant achievement in extracurricular activities, meaningful work experience, successful military service, and contributions to campus or community through service and leadership. Also important are personal qualities, such as a history of growth in response to challenge or the ability to meet and overcome disadvantage. Finally, we seek diversity of all sorts — geographic, racial, ethnic, social, economic, and ideological.

The inclusion of race and ethnicity among the factors that can influence admission is, of course, deeply and durably controversial. It divides the Supreme Court (with a majority approving our current practice) and the nation at large. My own views are expressed in an excerpt reprinted elsewhere in these pages, but I am fully aware that many disagree. Some think we go too far in seeking diversity among our students; others think we don't go far enough.

To the critics of our admissions policy, I offer one comment. No one should ignore the sincere and heartfelt convictions that lay on both sides of this difficult issue, but I believe that concerns about affirmative action generally would be substantially allayed by familiarity with its actual operation here in the Law School. Unlike the experience at some other institutions, our students do not divide themselves into hostile factions. The racial, ethnic, economic, social, and ideological



differences among our students are far less prominent than the commonality of the experience that unites them. The civility, mutual respect, generosity, and affection that have long characterized the Law School community remain vital and vigorous today. In that environment, diversity actually works — as it should — not to divide or separate but to enhance and enrich the education of all.

Lillian BeVier's "Charge to the Class"

Also noted in this issue is Lillian BeVier's "Charge to the Class of 2004." The idea for this event came from the students. They asked Lillian to speak to them about their opportunities and responsibilities as Law School graduates. To my knowledge, the class meeting held for this purpose was the first such event in the history of the Law School, though members of the Class of 2004 hope that others will follow their lead.

In any event, you will be interested — and perhaps inspired — to hear what Lillian had to say. And you will be proud to welcome these fine young lawyers as the newest members of our alumni family. 🏠

On the Occasion of the Retirement of Stanley Henderson

Law Alumni Weekend — May 1, 2004

At the meeting of the Alumni Association, Dean John C. Jeffries, Jr. '73, introduced the featured speaker: retiring Law Professor Stanley D. Henderson. The Dean's remarks as well as Mr. Henderson's address are featured here.



■ John C. Jeffries, Jr. '73

IT IS WITH GREAT PERSONAL PLEASURE — and also a little sadness — that I rise to introduce Stanley Henderson.

Stan and I arrived here on the same day. I was a first-year student — in other words, intellectually a *tabula rasa*. In contrast, Stan was already an experienced teacher, but new to this institution. He had graduated from law school — at the University of Colorado — in 1961.

After clerking for a year, and private practice for two, he entered teaching at the University of Wyoming in 1964, and rose to the rank of full professor. He visited Virginia in the fall of 1970, was immediately offered a permanent position, and has been here ever since.

Stan is an accomplished scholar. He is the author of *Dawson, Harvey & Henderson on Contracts*, now in its eighth edition and one of the top-10 selling casebooks nationally.

By the way, the fact that the casebook is still called *Dawson, Harvey & Henderson* is testimony to Stan's modesty. Messrs. Dawson and Harvey have long since gone to their reward, and Stan has produced the last five editions of the casebook by himself.

It seems to me, Stan, that it is high time that the book be called *Henderson & Somebody* rather than *Somebody & Henderson*.

He is also the co-author of a casebook on Labor Law, and if he keeps on schedule — and if you know Stan, you know he will — in 2005 he will produce a treatise on Labor Law, to be published by Foundation Press.

These are very considerable achievements, and I don't mean to diminish them when I say that no matter what fame he enjoys as a scholar,

Stanley Henderson will always be known — and loved — for his success in the classroom.

For those of you who had Professor Henderson in first-year Contracts, you don't need my help in recalling the thrill of that experience.

For those of you who did not have Stan, you — if you were lucky — had someone like him. Perhaps that person was Hardy Dillard or perhaps Charlie Gregory or perhaps someone else.

But if you were lucky, you had someone who taught you far more than Torts or Contracts. You had someone who taught you law — or to put it more conventionally — someone who taught you to think like a lawyer.

The key word in that sentence is not “lawyer” but “think.”

For many of us, when we learned to “think like a lawyer” was the first time we learned to “think” much at all. To be sure, we learned to think in a particular intellectual tradition and with a particular set of raw materials, but mostly we learned how to think.

And for that — above all else — we thank Stan Henderson.

No one has done it better, or with greater grace. No one has done it with more civility, with more down-to-the-ground decency in his dealings with students. And no one has been rewarded with greater admiration and affection than Stan Henderson.

Let me quote Stan on law teaching:

“Teaching law is essentially about passing on the intellectual culture, especially the inquiring element.

“It is the business of engaging legal materials, of doing something with a vast and untidy body of cases, statutes, and concepts.

“My task is to prepare the students for a lifetime of self-education.”

Well, there you have it. That's as good a short statement of what legal education is — and should be — as you will ever see.

And, Stanley, at that task, we are here to say, you are the master.



Dean Jeffries and reunion attendees demonstrate their affection for Stan Henderson after his address.



Reflections on a Career Teaching the Law

■ Stanley D. Henderson

I DIDN'T INTEND TO GROW OLDER AND FACE retirement. It has all happened by accident. It wasn't supposed to happen to me, only to others.

I met my wife Dee many years ago in a college Speech class. Based on that encounter, she first thought I was destined to be a preacher. That was not in the cards, but I eventually became a teacher. That has proved to be a splendid deal — it gave me a “captive audience,” there were no rules against preaching, and, at hour's end, I did not have to endure the hazards of passing a collection plate.

Looking back, I can fairly say, “Oh, my how things have changed since I arrived here in 1970.” First and foremost, there is this spacious and elegant facility. Once again, our alums reaffirmed their ties to this school in grand

style, and we thank you for that. We thank you a lot. Worn and weary old Clark Hall, and the Spartan, “no-name” quarters that were the original North Grounds, are — to borrow from Simon & Garfunkel — “but a dream to me now.”

Second, there is the make-up of the student body, and the faculty. When I left law school in 1961, there was at best a sprinkling of women and minorities in the nation's professional schools, including the top law schools. In my first Contracts class at Virginia (John Jeffries's class), 120 students in all, there were two black men and eight women, one a black.

To be sure, the constraining norms of our nation's earlier times were gradually eroded. Led by Al Turnbull (and faculty like Charlie Whitebread on the Admissions Committee), we worked very hard to make law study here a more attractive option for those who had found it unattractive. Our classes

have for some time now looked more and more like the people who live in America. Yet the struggle to build a stable consensus for diversity continues. This school, going back to Dean Ribble's fight against “massive resistance” in the 1950s, has demonstrated that it will stand on the right side of any debate over whether lawyers ought to reflect the larger society which they, individually and collectively, affect in so many important ways.

Third, the resident faculty has more than doubled in size since 1970, and equally expanded its intellectual horizons. We are more broadly-gauged now, and tilted toward the related disciplines of the Social Sciences. At the moment, Legal History appears to be the “hot” subject, and we have assembled a wonderful



band of scholars and teachers led by Ted White and Barry Cushman.

The young in our ranks indeed have sparkling credentials; many have multiple degrees from elite schools. It is clear that I could not get a teaching job here now. But you are to find no cover in that statement, for some of you would not today be admitted as 1Ls either! So we share another common bond — our status as historical accidents.

Fourth, with a larger and more broadly-gauged faculty has come ever-increasing diversity in our academic program, including our Graduate Programs. Our current Course Offering Directory runs nearly 100 pages. And the courses and seminars given each year well exceed that number. Further, a number of the offerings, judged by their titles, have strayed from the path you knew — e.g., “Schools, Race,

THE STUDENTS HERE HAVE ALWAYS *been intellectually gifted. I have never had a year where I did not face smart, talented, and winning people.*

and Money,” one of our most successful courses. A particular manifestation of our richer, cafeteria-style curriculum is the emergence of an assortment of ancillary entities and programs, as to which the Community Legal Assistance and Clinical Programs lead the pack.

Another striking change over the years has been the steady growth of our administrative structure and staff. Lots of nonteaching people now work here, as is the case at the other major schools. The telephone directory indicates we currently have some 30 offices or divisions within the Law School. We are blessed to have this talented and caring support staff; they perform splendidly, often with little recognition and for modest pay. Without such people as Elaine Hadden, Dave Ibbeken, Beverly Harmon, and Steve Hopson,

we faculty would not have a clue as to how to keep this place running.

Many of these operations are devoted to the needs of students (e.g., the Student Affairs office and the Placement & Career Services operation). Unlike earlier times, when only minds and character got much of our attention, today we commit much time and energy to ensuring contented campers.

Lastly, I have witnessed a vast expansion of student organizations, including the student-run law journals, which now number nearly a half-dozen. So it is not at all difficult for students to find things to do other than prepare for Contracts or Labor Law.

In a word, the signs of inflation are everywhere. But there is more. Recall the famous admonition to entering law students that circulated in the 1970s, and earlier: “Look to your left. Look to your right. Look at yourself. One of you won’t be here next year.” Now, as my coauthor Bernie Meltzer of Chicago reminds us, the 1Ls at the top schools are regularly told: “Look to your left. Look to your right. Look at yourself. One of you three won’t graduate with a B+ average.”

Still, it must be said that the things that count — the people and the process, and thus the product — have not changed much at all in my time here. That is not surprising, for whatever the field or subdivision of our law, the same issues keep reappearing with each decade.

This was a very good national law school when I arrived. It has only gotten better over the years. I have seen nothing but a succession of Golden Ages. That is so because, as we approach our 200th year, our shared aspirations for this school remain intact, as does our commitment to our traditions.

We law teachers, like all others who collect a paycheck at month’s end, define ourselves by our work. And pride has much to do with the definition we seek. We, like you, know the lifelong value of a rigorous legal education.

So the fundamentals of providing opportunities for learning are unchanged. Professional training continues to get top billing, despite the greater role accorded the interdependent disciplines.

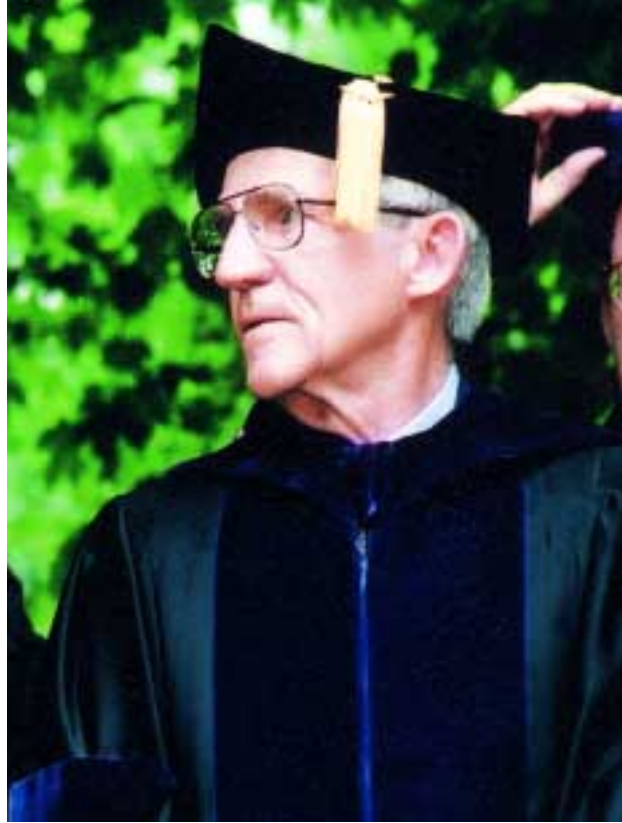
We educate law students through cases, and every case tells a story of people and their problems. And every class has a story of its own. It must be remembered that the ideas making up our common law are “constructed” ideas. The problem, as you know, is that they are also undergoing constant “reconstruction.” So we who “do law” live with much ambiguity and uncertainty. Our task in the Academy is to discover, and to understand, what it is that gives “commonness” to our common law.

That is why the inquiring element — the putting of hard questions — is therefore central to the enterprise. It is, after all, the “hard” cases that increase our confidence in identifying the “easy” cases.

As concerns today’s faculty, then, while the names change, the traditions of excellence, of passion, of commitment, continue. For every Hardy Dillard, Dan Meador, and Tom Bergin, there is a Bob Scott, a Ken Abraham, a Lillian BeVier, a George Rutherglen, and a Michael Klarman — and now moving to center stage, a Barry Cushman, a John Harrison, and a Jim Ryan, and tomorrow a Rosa Brooks and a Clarisa Long. For every Monrad Paulson and Emerson Spies, there is a Dick Merrill — and now a John Jeffries.

The question our alums ask me most often is: “What are the students like these days? Is life in the classroom different?”

First, entering students today are surely better prepared for law study. That is so, I believe, because undergraduate education has



OUR TASK IN THE ACADEMY *is to discover, and to understand, what it is that gives “commonness” to our common law.*

gotten increasingly better. And because admission is now so competitive, those who enter have better credentials, more impressive records. Also, in the last decade at least, more and more 1Ls have been out in the world two, three, perhaps five or more years, before undertaking law study. So they return to formal education with some knowledge of life and work, and many have been to interesting places across the globe and done challenging and significant things.

Does this mean they are smarter than the students I had 10, 20, or 30 years ago? No, I cannot tell that from class participation or reading exams. The students here have always been intellectually gifted. I have never had a year where I did not face smart, talented, and winning people.



Does having better-prepared entering students mean classroom discussion is livelier, more searching or far reaching? It does not, for reasons you well understand. The student culture you knew — especially in the upper-classes — remains largely unchanged. That is to say, to “volunteer,” to appear too eager in class, is to risk a fall from grace with one’s classmates. A teacher must still prod, even shove occasionally.

But there is an added obstacle these days, the arrival of the laptop computer. While this innovation has facilitated law study in many important ways, it has not — for me at least — improved life in the classroom. It is simply not easy to engage those students — a fair number — who are cemented to a keyboard and screen, bent on getting onto a disk every word I say. So I must work harder at finding ways to trick, or shame them into thinking while at the same time typing. I have no reason to believe I have been successful.

Are the interests, work habits, or values of today’s students different from those of 10, 20, or 30 years ago? My answer is generally no. Each fall there arrives another group of talented young people, interested in ideas, in tracking them down and understanding them. The 1Ls, focused on surviving the first year, remain a joy to teach. They are like it is to be age 17 — filled with energy and anxieties. But something happens after the first year, and they suddenly turn 40, the age of the 2Ls & 3Ls.

And 2Ls and 3Ls spend much more time and energy seeking jobs than was the case earlier. As to that, the pendulum swings and we go in cycles. There will be times when larger numbers appear aimed at public-interest work, and then comes an apparent swing toward traditional private-sector employment — a vocational focus on getting a job with a large firm in a popular large city. But of course the state of the larger economy, and thus the

overall market for law-based jobs, has a lot to do with early career choices. As does the amount of student-loan debt a particular student carries.

The point to be underscored is that, whatever the time period, it is passion and commitment that bring one to law study in the first place. And that is what carries one through law school and beyond, whatever the career path.

Virginia’s students have always understood that this school is about “beginnings” — “genesis” if you will. Something meaningful, something significant, is happening in their lives. I see it on their faces. I hear it in their voices. And we are upfront about the message: Hard work is what a lawyer does in order to make a difference, in order to find a satisfying life. Most who join our company seem to buy into the program, and they make a personal connection to this place and its people. I take your presence here this weekend to be proof of that.

You now know that we teachers spoke the truth when we told you that we could do no more than prepare you for a lifetime of self-education.

We “passed on the culture” mainly by sowing seeds. But the real game — the discovery of self and a sense of purpose, of proportion — was always yours, when you sat here in rows, and when, in the years since, you have faced into the headwinds, at times fierce.

So, for most of what you do as lawyer-citizens, you must search within yourself for answers which our law stories and talk of precedents cannot provide. It is not enough to be smart and well-educated, to have left a top law school with a paper certificate.

It has been a grand journey for me. You have been patient and forgiving traveling companions. I will see you on down the trail. 🏠

Professor Henderson welcomes email from friends at: sdh6k@virginia.edu.



Rosenbloom Award Recipient Chris Tyrrell '06 and his wife Susanne with their children (from left) Sarah, Sophia, and Lucy.

First-Year Receives Rosenbloom Award for His Dedicated Service to Peers

IN 1991, DOUBLE-DEGREE HOLDER Daniel Rosenbloom (A&S '51, Law '54) created the Rosenbloom Award to recognize an academically strong student who at the same time enhanced the academic experience of his or her fellow students.

In many ways the study of law is naturally a self-centered endeavor with students finding their own methods of comprehending the information presented by each course. However, occasionally there are students who turn their attention outward to help fellow students with their academic efforts. In establishing this award, Rosenbloom seeks to reward such students.

The inaugural recipient of the Rosenbloom Award, created 12 years ago, is the Law School's own Professor Stephen F. Smith, then a member of the Class of 1992. Through the years, the award has typically been given to a graduating student. Recipients are nominated by Law School faculty and students. In the last academic year, Chris Tyrrell was recognized for his self-less service to other students — the first-time a first-year was so recognized.

"I am deeply honored by this award, and humbled by my fellow students' testimonies in support of my nomination. I am certain that I learned as much from them as they claim to have learned from me," said Tyrrell. "One of the greatest things about the study of the law at UVA — what Mr. Rosenbloom has successfully highlighted with this award — is the team mentality among students. Here, more than at the other elite law schools, you really feel the support of your classmates. Whether offering help with a difficult legal concept or babysitting so you can take your wife out on a date, students here really go out of their way to lend a hand, especially in support of students with families."

Assistant Dean for Student Affairs Beverly Harmon works with faculty, students, and Rosenbloom to vet the nominees. "The Rosenbloom Award is highly valued in the Law School community. Each year there are outstanding nominees. Chris's extraordinary dedication to his peers is precisely the kind of service the Rosenbloom Award seeks to recognize. He is truly deserving." 🏠



Law School students (left to right) Sara Shapouri, Varda Hussain, Brooke Purcell, Jenn DeLeonardo, Arthur Koski-Karrel, and Chris Dunn. Koidu Senior District Officer S. B. Kamara is in the center.

Welcome to Koidu

Student-Run Human Rights Study Project Travels to Sierra Leone

■ Jennifer DeLeonardo '05

AS THE DEAFENING WHIR AND FLYING DUST of the United Nations helicopter receded, six UVA law students were left to explore the major diamond-mining district in Sierra Leone. A hotspot of the decade long civil war, Koidu was the focal point for much of the illegal trade in “blood diamonds.” Driving through town, one of the most riveting sights was the roofs. There were only two varieties — brand new and shining in the sunlight or non-existent gaping holes. The “simple” explanation was provided offhandedly by the head of the Peace Diamond Alliance, an organization sponsored by the United States Agency for International Development — the rebels had burned or otherwise destroyed every roof in the entire town during the civil war. As the District Officer of the region discussed the reconstitution of the local police force, it was hard to put aside his opening comments on being spared his life by the lucky chance that one of the rebels assigned

to kill him was a former student who had enjoyed his schoolroom lessons. Watching hundreds of laborers dig and sift through dirt and clay for diamonds in the hot midday sun for their pay of two cups of rice a day, sitting in a rural courtroom watching cases being processed by barely trained legal assistants awaiting the monthly visit of a rotating judge, a US law student had to reassess what justice really means in a country ravaged by a brutal civil war and abysmal poverty.

For ten days in March, members of the UVA Law Human Rights Study Project (HRSP) ventured far from the comfort of Mr. Jefferson’s University to study transitional justice and human rights norms in post-conflict Sierra Leone, the home of a unique form of hybrid international criminal tribunal, the UN Special Court for Sierra Leone. To understand the meaning and functioning of justice in a post-conflict society, the group interviewed a wide

variety of individuals, including the Chief Justice of the Supreme Court of Sierra Leone, the U.S. Ambassador, the Prosecutor of the UN Special Court, a major diamond dealer, the District Officer of the diamond mining district of Kono, the head of the Pakistani Peacekeeping Battalion, a member of Parliament, UN officials, Sierra Leonean and international staff at over 20 NGOs, and a few random mercenaries.

Founded by Michael Royal '04 in 2002, HRSP is fully run and organized by students and recently became an official non-profit organization. The Project functions as a hybrid between a student organization and an independent study project. After initial research and discussion, each year's team chooses an overarching theme and region or country of focus. Each individual then selects a more finite research topic within that framework. Frequent group meetings and consultation with professors and outside experts allow students to work collaboratively while pursuing areas of independent interest. This year's team — third-years Christopher Dunn and Varda Hussain and second-years Jennifer DeLeonardo, Brooke Purcell, Sara Shapouri, and Arthur Koski-Karell — soon found that taking concepts learned in classrooms and academic articles and looking intensely at how those legal frameworks interact with real people in a real place leads to valuable, deep, and often heated debate amongst group members.

Despite months of pre-trip planning, nothing could prepare team members for what they would encounter on the ground. "Within twelve hours of landing in Freetown, we saw that well over two-thirds of the material we had read about international justice in Sierra Leone — all of which was considered academically authoritative — was either exaggerated, incomplete, or flat-out misinformed," said Koski-Karell. "To see an entire people struggle for justice after a decade-long civil war, to sit down with the present and future leaders of a country teetering between remarkable growth or renewed tragedy, to shake the hands of the very people

who are advancing the rule of international law around the world — these are the defining moments of a 21st century legal education."

The group covered diverse research topics. Members looked at the role of prosecutorial discretion in the formation of international law, the interaction between the establishment of the Special Court and Sierra Leonean constitutional norms, the reconstitution of the Sierra Leonean army, the rehabilitation and reintegration of child soldiers, the international and local regulation of blood diamonds, and the role of the Special Court in building a national justice system.

In addition to the academic component of the trip, team members are responsible for fundraising and logistics. "Our trip could not have happened without six dedicated students. We depended on each other — to raise the funds, to make travel plans, to make contacts with people who were working in Sierra Leone," said Purcell.

The Project is an integral part of the recent upsurge in the international law program at UVA. Along with the Human Rights Clinic run by Deena Hurwitz, an increased number of students electing to spend a summer interning abroad, greater fellowship opportunities for international work and excellent course offerings and professors, interest in international law at UVA has exploded in the past several years.

"HRSP provides an incredible opportunity for international law students to get into the field and see how the concepts and ideas they've studied in the classroom play out in the real world. It was one of my best experiences at the Law School, and represents just one of the many opportunities that sets Virginia apart from other law schools as a place to study international law," said Dunn, the head of this year's group. Dunn was so inspired by the experience that he chose to return to Sierra Leone this fall to work in the Office of the Prosecutor of the Special Court after receiving the Monroe Leigh Fellowship in International Law. 🏠



Alumni Work to Create Thurgood Marshall Professorship




THE THURGOOD MARSHALL RESEARCH Professorship in Law, conceived and funded by more than 100 donors, is a milestone in the Law School's drive to retain and attract a strong and diverse faculty.

The professorship, backed by more than \$1 million in gifts and pledges, honors James Thurgood Marshall, who sat on the Supreme Court from 1967 to 1991 as its first black justice. Before joining the Court, Justice Marshall served more than 20 years as director-counsel of the NAACP Legal Defense and Education Fund. There he devised a strategy to pursue through the courts a definition of equality that assured African-Americans the full rights of citizenship.

Marshall's greatest legal victory came in 1954 with the Supreme Court's landmark

decision in *Brown v. Board of Education*, which declared an end to the "separate but equal" system of racial segregation then in effect in the public schools of 21 states.

Justice Marshall, who died in 1993, spent much of his time and energy using the Constitution to remedy the nation's history of racial inequality. The professorship is to be awarded to scholars of distinction whose work will further the honoree's legacy, rotating as appropriate. The inaugural Thurgood Marshall Research Professor is Kim Forde-Mazrui, Professor of Law and Director of the Law School's Center for the Study of Race and Law (see related story, page 38).

The chair attracted broad support from more than 100 alumni, students, and friends of the Law School. 

Leadership Gifts to the Marshall Research Professorship Were Made By:

Bernard J. Carl '72, a former law clerk to Justice Marshall and now president of Brazos Europe;

Alfonso L. Carney, Jr., '74, retired vice president and associate general counsel of Altria Group, Inc.,

The Honorable **Delores R. Boyd '75**, U.S. magistrate judge for the U.S. District Court for the Middle District of Alabama;

Norborne "Bunny" Berkeley, Jr. '49, retired president of Chase Manhattan Bank;

Euclid A. Irving '76, partner, Paul, Hastings, Janofsky, & Walker LLP;

Jeffrey L. Humber, Jr., '78, retired senior vice president and head of global diversity for Merrill Lynch and former co-CEO of Merrill Lynch South Africa;

Mikael Salovaara (Darden/Law '79), a private investor and former managing director of Goldman Sachs;

Glenn R. Carrington '80, deputy managing partner of the Washington national tax office of Deloitte & Touche;

F. Blair Wimbush '80, senior general counsel for Norfolk Southern Corporation;

Cameron L. Cowan '81, a partner in the Washington office of Orrick;

Thatcher Stone '82 (A&S '78), a partner in the New York office of Alston & Bird;

Eva Chess '85, director of communications for R. R. Donnelley;

Donald McEachin '86, a Richmond trial lawyer who served in the Virginia House of Delegates;


Kim Keenan '87, a senior trial attorney with Jack H. Olender & Associates in Washington, D.C., and president of the National Bar Association;

Byron F. Marchant '87, executive vice president, general counsel, and chief administrative officer of Black Entertainment Television, Inc.;

Noel H. Gordon '90, CEO of Reign Enterprises, a legal staffing company in Princeton, NJ;

Jeffrey L. White '97, who practices in the Washington, D.C., office of Covington & Burling;

Jerome W.D. Stokes, former senior assistant dean for admissions and financial aid at the Law School;

and **Frank D. Kittredege, Jr.**, (Arch '78), founding principal and owner of the Bristol Group, Inc., and a senior principal with Bristol Group Mitretek in Austin, TX. 

“This is your democracy...”

Supreme Court Justice Thurgood Marshall delivered the commencement address at the University's Finals Ceremonies on May 21, 1978. Thurgood Marshall, Jr., was in that graduating class and later graduated from the Law School (1981). Justice Marshall's speech is excerpted below.



THE DEMOCRATIZING ASPECT OF THE Constitution cannot be overstated. For me, its cardinal principle is that all persons stand in a position of equality before the law. The Constitution gives each and every one of you an equal right to your own opinions and to participate in the process of your own governance. These are precious rights that we must continually strive to preserve, and whose promise we must seek to attain. There are still far too many persons in this country who cannot participate as equals in the processes of Government — persons too poor, too ignorant, persons discriminated against by other people for no good reason. But our ideal, the ideal of our Constitution, is to eliminate these barriers to the aspirations of all Americans to participate fully in our government and society. We have realized it far better than most countries, but we still have a long way to travel and we must continue to strive in that direction...

Governments derive their power from many sources — the military or police are instruments of power and many in the short run enforce the government's directives against an unwilling people. But authority is a different question — and no government can govern long, or well, without the authority that comes from a shared consensus among the governed. They must believe that theirs is a rightful, and lawful, and just government.

But in order to preserve this power in the people — the power of defining and limiting the authority of their government — it is first and foremost essential that the people be well

informed.... [T]he duty to keep up, ... to be knowledgeable in some area of human endeavor, is an essential one, not only for the continued survival of our government but in the long run for our civilization. It is hard work being well-informed; but it is essential work for the citizens of a democracy...

Those of you here today about to use your degrees, it is for you now to undertake the projects of this age.... It is not for me to tell you what these are — each generation must find its own calling. But you have the energies of youth — and while you have them, use them, that you may look back on your lives with as much a sense of accomplishment as Jefferson no doubt did...

Each of you as an individual must pick your own goals. Listen to others but do not become a blind follower. Do not wait for others to move out — move out yourself — where you see wrong or inequality or injustice speak out, because this is your country. This is your democracy — make it — protect it — pass it on. You are ready. Go to it. 🏠

— *Papers of the President (#RG-2/1/2.801), Special Collections, University of Virginia Library.*



Donors at the Board of Visitors meeting which established the Marshall Professorship. Left to right, Thatcher Stone '82, Noel Gordon '90, Jeffrey White '97, P.J. Cowan, and Cam Cowan '81.



Commencement 2004



ON MAY 16, THE LAW SCHOOL CONFERRED 358 Juris Doctor degrees, 37 Master of Laws degrees, 29 Master of Laws in the Judicial Process degrees, and two Doctor of Juridical Science degrees. Law School Dean John C. Jeffries, Jr. '73, complimented the Class for being among the School's most stellar. "I've been here for 30 years and I have not seen your equal," he said. "You are the most committed, the most engaged, most active class in our long history," he said. "You have shown more leadership in organizations, projects, and activities than any class before you. The University of Virginia School of Law has never been a more vibrant, a more stimulating, a more fun place to study than when it was inhabited by the Class of 2004."

Class of 2004 Virginia Law Clerks

Gretchen Ann Agee

The Honorable James B. Loken
U.S. Court of Appeals for the
Eighth Circuit

Derek Sterling Bentsen

The Honorable Frank Magill
U.S. Court of Appeals for the
Eighth Circuit

Ben Marston Block

The Honorable Karen LeCraft
Henderson
U.S. Court of Appeals for the
D.C. Circuit

Aaron Shane Foldenauer

The Honorable Robert R. Beezer '56
U.S. Court of Appeals for the
Ninth Circuit

Karen Jennifer Francis

The Honorable Carmen H. Alvarez
New Jersey Superior Court

Jessica Wren Goldthwaite

The Honorable Joseph S. Conte
New Jersey Superior Court

Michelle Renee Gonnam

The Honorable Susan W. Calkins
LL.M '01
Supreme Judicial Court of Maine

Lee Benjamin Kovarsky

The Honorable Jerry E. Smith
U.S. Court of Appeals for the
Fifth Circuit

Lauren Elise Kummerer

The Honorable Steven M. Coloton
U.S. Court of Appeals for the
Eighth Circuit

Elizabeth Grace Lang

Staff Clerkship
Circuit Court of Alexandria

Andrea Claire Mahady-Price

The Honorable Jacques L. Wiener, Jr.
U.S. Court of Appeals for the
Fifth Circuit

Mary Christine Moore

The Honorable Robert B. King
U.S. Court of Appeals for the
Fourth Circuit

John Lee Newby

The Honorable Haldane Robert Mayer
U.S. Court of Appeals for the
Federal Circuit

Alexander Fellows Powell

The Honorable Robert I. Richter
D.C. Superior Court

Allison Maria Orr

The Honorable J. Harvie Wilkerson '72
U.S. Court of Appeals for the
Fourth Circuit

Michael Stephen Passaportis

The Honorable J. Harvie Wilkinson '72
U.S. Court of Appeals for the
Fourth Circuit

Anne Elizabeth Ralph

The Honorable Kenneth F. Ripple '68
U.S. Court of Appeals for the
Seventh Circuit

Samuel Fraser Reid

The Honorable Dennis W. Shedd
U.S. Court of Appeals for the
Fourth Circuit

Kevin Gafford Ritz

The Honorable Julia Smith Gibbons '75
U.S. Court of Appeals for the
Sixth Circuit

William David Sarratt

The Honorable Douglass Ginsburg
U.S. Court of Appeals for the
D.C. Circuit

Edmund Scott Sauer

The Honorable Boyce F. Martin, Jr. '63
U.S. Court of Appeals for the
Sixth Circuit

Karen Elisabeth Servidea

The Honorable Paul V. Niemeyer
U.S. Court of Appeals for the
Fourth Circuit



Kosta Stanko Stojilkovic

The Honorable John G. Roberts
U.S. Court of Appeals for the
D.C. Circuit

Jennifer Whitney Sublett

Staff Clerkship
Circuit Court of Richmond City

Emily Joy Vanderwilt

The Honorable Edward Carnes
U.S. Court of Appeals for the
Eleventh Circuit

Charles Hebard Paine Vance

The Honorable M. Blane Michael
U.S. Court of Appeals for the
Fourth Circuit

Seth Warren Whitaker

The Honorable Phyllis A. Kravitch
U.S. Court of Appeals for the
Eleventh Circuit

Jeffrey Paul Yarbro

The Honorable Gilbert S. Merritt
U.S. Court of Appeals for the
Sixth Circuit

2004 Supreme Court Clerkships

Ryan Ashby Shores '03

The Honorable William H. Rehnquist
Supreme Court of the United States

Melissa Beth Arbus '03

The Honorable John Paul Stevens
Supreme Court of the United States



Charge to the Class of 2004

■ Lillian BeVier

Editor's Note — The Class of 2004 Graduation Committee asked Lillian R. BeVier, John S. Shannon Distinguished Professor and Class of 1963 Research Professor, to give the inaugural "Charge to the Class" at the Law School on April 20, 2004, setting the stage for what the Committee hopes will become an annual event for graduating students. We have reprinted her remarks below.



I AM DEEPLY HONORED TO HAVE BEEN asked to participate in this wonderful "first annual" occasion. This is tradition in the making — what a great way to mark the beginning of the end of one phase of your lives — a time for you, in anticipation of your graduation, to gather with your friends and classmates and professors — to reminisce about the three years spent here together, to celebrate your success, to anticipate the exciting future which looms for all of you, and to begin the bittersweet process of saying farewell to this place and to the many people you've come to know and to care about here and to those who've come to know and to care about you in return. This is one of those moments in your lives when, because you're poised between past and future, reflection about the meaning of that past mingles naturally with your eagerness to embrace the future and your curiosity about what's in store for you.

Thinking about what to say to you today has certainly induced me to reflect about you, and about the time you've spent here, and about what lies ahead for you — and about the world you are inheriting, and how you will go about finding your place in and making your mark on it. I don't need to remind you that there's an awful lot of misery and despair and danger in the world, and the challenges confronting your generation are as formidable as those that have ever faced any group of graduates. But, as full of sin and sorrow as the world is, it is important for you as you go out into it to understand and to appreciate — deeply, genuinely — how exceptionally fortunate you are. Your cup is not half empty,



Professor BeVier and Kevin Ritz '04, chair of the Student Bar Association's graduation committee.

nor is it half full. Yours is the cup that runneth over. Think about it. You are exceptionally smart, you are young, you're healthy, and you live in freedom and in relative security. You have forged warm and wonderful friendships here — I know, because I've had the pleasure of watching you everyday in the halls, and in the minutes right before and after class, and I've been touched by the great affection you have for one another, and how you seem to enjoy one another's company so much, how much fun you have together. During your years here all of us on the faculty have tried to see to it that you are really well-prepared for the professional lives that lie ahead of you. And now you are about to graduate from what you know and I know — even if the *U.S. News and World Report* doesn't know — is the best law school in the country. In becoming a UVA Law graduate you will become a member of the most loyal and generous group of alumni on the face of the planet. It is they who provided the resources to build this wonderful building, and they whose continuing generosity funds so



many of the programs that sustain our margin of excellence. It is they, by the way, who sponsored this event, and they are eager in just a few weeks from now both to give you a grand graduation send-off and to welcome you warmly into the profession.

So, you are most fortunate.

Ah, but what have you done to earn your great good fortune? That's of course an unfair question — you've hardly had a chance to earn it as yet. You've spent much of your lives so far just preparing to live them. You've made the most of the opportunities that present

YOU MUST IDENTIFY AND REMAIN TRUE *to a set of moral values and ethical principles that are beyond yourself.*

themselves to those — like you — who are lucky enough to possess abundant natural talents. You deserve credit for your hard work, and for not wasting your gifts. It's completely right for your parents to take enormous pride in you and in what you have accomplished — and for you to give yourself and for us to give you a great big pat on the back.

But I think it right, too, to remind you of your good fortune because it ought to have an important bearing on how you choose to live your life. Precisely because there is so much sin and sorrow in the world, your own good fortune imposes a profound moral obligation on you. It requires you to try to live your life so as to be worthy of the gifts you have been given and of the blessings that have been conferred upon you.

I can't tell you exactly how to do that. No one can. There is no recipe — there is no formula — for how to go about making your life what you want it to be. There's no blueprint to follow that will enable you both to make your own dreams come true and to fulfill the obligation that your good fortune imposes on you.

There is, though, one indispensable thing

you must do. It is something you may find maddeningly difficult and your ability to accomplish it will depend on the skill and determination you bring to the task. For, if you are to live your life so as to be worthy of your good fortune, you must resolve a grand paradox. On the one hand you must find — and be true to — your own center; stay attuned to — listen — to your own voice; be who you are, make the most of your gifts. In other words, you must know yourself and make the best use of your own particular talents. On the other hand — and here's the paradox — you must identify and remain true to a set of moral values and ethical principles that are beyond yourself. Being true to yourself is not about self-seeking. You cannot be true to yourself — you cannot build a life worthy of the good fortune you've

been blessed with nor one that puts your particular talents to their best use — without being true to something that transcends yourself. You must pursue a greater goal and be guided by a powerful moral compass.

So this is the paradox you must try to resolve. You must be steadfastly true to yourself and attentive to your own inner voice. At the same time you must look beyond yourself so that you can apply your gifts in the service of a larger moral purpose. There are reasons why this won't be easy.

One fact of life that will make it hard for you to hear your own voice and pursue your larger purpose is simply that the demands of your daily life — doing your job, spending time with and taking care of your family, staying in touch with your friends — will have the tendency to consume so much of your energy and attention that you will have little left for introspection or for checking with yourself to see whether you're still on the course you set for yourself, even less will you have the energy or natural inclination to make sure the course you set is in fact the right one for you. There will be times when you're running at 150%

of your capacity and you fear that your career and your life are controlling you rather than you being in control of them. There will be times when either listening to your own voice or being attentive to values beyond yourself may seem to be luxuries you just don't have time for. It's all too easy to set sail on your life and then just to get carried away by its winds. But, having once set sail, you can correct your course. You can find a way of getting where you want to go even when it seems you've been caught in gusts that are carrying you away from where you want to be. Think of the way sailors use wind, even when it threatens to sweep them away or is blowing against them — back and forth they tack, coming about, trimming their sails, zigging and zagging, not against the wind, not carried away by it either, but using it to steer their own calculated course.

There are bound to be strong winds in your everyday life that will have a tendency to pull (or should I say puff?) you off your own course and make it hard for you to hear your own voice, and perhaps they'll even tempt you to compromise your own large goals. But they needn't blow you off your course, and they will do so only if you let them.

And there's a particular aspect of the job of being a lawyer that may also have a tendency to divert you. I'm speaking of the legal obligation that the profession itself imposes, that is, the fiduciary obligation to represent others, to speak for — in the voice of — not yourself but of your clients, to advocate not your own causes but those of your clients, to act in behalf of and promote not your own interests but those of your clients. It is not a bad thing in principle of course to be a counselor whose job it is to help a client realize his or her objectives and not your own. And it is honorable to advocate the causes of others who have neither the skill nor the talent to advocate for themselves — indeed, that is what lawyers are

for. And the fiduciary duty of zealous representation is of course essential to constrain lawyer self-dealing and conflicts of interest. Hopefully there won't be a lot of disconnect between your own and your clients' goals and values. When there is, of course, it's time for you to take stock — to evaluate whether it's right for you to use your talents in the service of clients whose values and goals you don't share, to ask yourself whether what you're doing can really, honestly, be said to be in the service of the larger moral purpose to which you thought yourself committed. But I caution you that even when you and your



ALL OF YOU HIGH ACHIEVERS probably have been blessed — or cursed — with well-developed competitive instincts and it would not serve you well were I to advise you to stifle them. I do urge you, though, to remember that your real competitor is your own best self...

clients are in perfect harmony you may find it difficult to hear your own authentic voice and to act in the service of your own higher purpose when you are professionally compelled to speak in someone else's voice and to act in someone else's interest.

A final factor that will make it difficult to stay tuned in to your own voice and faithful to your own values is the tendency we all have to measure our own worth not in terms of our own talents and skills and values but in terms of how well we're doing compared to the competition. This tendency is exacerbated, of course, by the adversary nature of our legal system — with its relentless requirement that, if your client is to prevail, you must outwit, outsmart, out-argue the other side. But the tendency to measure ourselves and our worth in terms of how we compare to others pervades every aspect of our lives, not just the professional side. We all want to be as smart as



the smartest, as good as the best, as kind as the kindest, as witty as the wittiest, as good-looking as the handsomest or most beautiful. It's natural and very human to make these comparisons of ourselves with others, and to prod ourselves to do better when we think we come up short in one way or another — or the flip side, worse by far, allow ourselves to let our own standards slip when we see others cutting corners and seeming to profit by doing so. All of you high achievers probably have been blessed — or cursed — with well-developed competitive instincts and it would not serve you well were I to advise you to stifle them. I do urge you, though, to remember that your real competitor is your own best self, not some smarter better kinder — or sleazier — other person. Your own best self is who you want to be as good as, that's the person you want to measure up to, the one to whose values and sense of high purpose you must stay true.

I said I didn't have a recipe or a formula to

offer you, and I don't. Implicit in what I've been saying is that you are in charge. You are the one who will make the choices that are either true to yourself — or not. You are the one who will choose to apply your gifts in service of a larger purpose — or not. Your choices will determine whether the life you build will turn out to be worthy of the good fortune that has been bestowed upon you — or not. I hope and trust that you will choose not only the path that's right for you but also the path that's right.

I was asked to charge you — and I'm ready to do that. So, Members of the University of Virginia Law School Class of 2004, I charge you to Stay true to yourself.

Stay close to those who are dear to you.

Follow the course dictated by your own moral compass — which is another way of saying:

Do the right thing ...

In the right way ...

For the right reason. 



2004 GRADUATION AWARDS

Margaret G. Hyde Award	Allison Maria Orr
James C. Slaughter Honor Award	Kevin Gafford Ritz
Thomas Marshall Miller Prize	Jeffrey Paul Yarbro
Z Society Shannon Award	Allison Maria Orr
Law School Alumni Association Best Note Award	David Walker Glazier
Robert E. Goldsten Award for Distinction in the Classroom	Theodore Allan Kiem
Roger and Madeleine Traynor Prize	Michael Stephen Passaportis William David Sarratt
Herbert Kramer/Herbert Bangel Community Service Award	Carmen Lynn Elliott
Mortimer Caplin Public Service Award	James Reyes Whitehead
Robert F. Kennedy Award for Public Service	Erin Cathleen Quay
Edwin S. Cohen Tax Prize	Andrew Falevich
Earle K. Shawe Labor Relations Award	Scott Brian Luftglass
John M. Olin Prize in Law and Economics	Michael Stephen Passaportis
Eppa Hunton IV Memorial Book Award	John Lee Newby II
Virginia Trial Lawyers Trial Advocacy Award	Ford Scott Pippin
Virginia State Bar Family Law Book Award	Nuala Ellen Droney



Marking the 50th anniversary of the Supreme Court's *Brown v. Board of Education* decision, former head of the NAACP Legal Defense and Educational Fund Elaine Jones, a 1970 graduate of the Law School, told the members of the Class of 2004 that they have a special reason to be proud of the school's contribution to the ruling, and a high moral example to uphold as well.

"What is it about *Brown*?" asked Jones. "In four of the five cases brought before the Court the law had got it wrong and upheld the separate but equal law. But there was one Court below where the judge got it right and it was a brave, brave thing he did.... In a 1952 Delaware case, Collins J. Seitz, a University of Virginia Law School graduate, Class of 1940, got it right. Everybody else missed it."





Faculty Briefs

A STRONG LAW SCHOOL PRESENCE at the annual conference of the American Law & Economics Association this past May confirmed the premier role that the Law School plays in the field of Law and Economics. The conference program included five papers by Virginia faculty members **Robert Scott** and **George Triantis**, **Tim Wu**, **Anup Malani**, **Paul Mahoney**, and **Rip Verkerke**. **Jody Kraus**, **Paul Mahoney**, **Anup Malani**, and **Albert Choi** also served as panel chairs. The Law School is also represented in the leadership of the institution (Mahoney is on the Board of Directors of ALEA).



In April 2004, **Kenneth S. Abraham** presented a paper entitled “Liability Insurance and Accident Prevention: The Evolution of an Idea,” at a conference at the University of Maryland School of Law celebrating the 35th anniversary of the publication of Guido Calabresi’s *The Costs of Accidents*. On June 24, he presented a paper entitled “The Influence of Liability Insurance on Tort Law,” at a conference in Munich, Germany, sponsored by the European Center on Tort Law and Insurance.



During 2004, **Rosa Brooks** was elected to the Executive Council of the American Society of International Law. She also became Director of the Alliance for American Leadership Task Force on Human Rights, Democracy & Development. In April, Brooks spoke at a conference at the University of Georgia Law School on prospects for rule of law in Iraq. Also in April, she spoke at the American Society of International Law annual conference on the centennial panel about ASIL’s centennial theme, A Just World Under Law (forthcoming in the next issue of *ASIL Proceedings*). In May, Brooks presented a paper in New York at an Expert’s Meeting on International Humanitarian Law, sponsored by the Open Society Institute. Her article entitled “War Everywhere: Rights, National Security

Law, and the Law of Armed Conflict in the Age of Terror,” will be forthcoming in vol. 153 of the *University of Pennsylvania Law Review*. Brooks is currently working on a book on building rule of law in post-conflict societies, with Jane Stromseth of Georgetown and David Wippman of Cornell (publication scheduled for January of 2005).



Anne Coughlin and **Jennifer Mnookin** have been working on putting a conference together for the fall. The focus of the conference will be on law and literature. In a prospectus for the conference written by Coughlin and Mnookin, they note the phrase “‘law and literature’ seems to presuppose that its parts — ‘law’ and ‘literature’ — are separate and distinct disciplines or fields of inquiry. Law does one thing, and literature does another. Legal texts are separate from literary texts; they are written by distinct sets of people; readers use them for utterly different purposes. Judges draft opinions and legislators write statutes, while novelists tell stories and poets compose verse. Students of law, of course, rarely rub elbows with students of literature. The phrase also implies that, when we bring law and literature together, we are opening up a new discursive space, identifying a range of new pragmatic interventions, methodological possibilities, and theoretical explanations.”

The conference will bring together a group of scholars and writers for a conversation about law and literature, how they define it, where they do it, how they do it, and what they do it

for. The conference question is designed to provide the basis for a conversation that is theoretical (what is law and literature?) yet deeply practical (how do you do it?) The format of the conference is designed to foster an intense and dynamic conversation among the participants. The group, made up of 12 or so participants, will be small, and the conference will be run in seminar-style, with attendance limited to the participants alone.



Risa Goluboff received the Law and Society Association Dissertation Prize for 2004 at the LSA annual meeting in Chicago on May 29. Goluboff’s dissertation

was on “The Work of Civil Rights in the 1940s: The Department of Justice, the NAACP, and African American Agricultural Labor.” At present, she is in the process of talking to publishers about publishing the dissertation as a book.

During 2004, Goluboff also gave a series of talks which included “The Work of Civil Rights in the 1940s: Purging Labor-Related Cases from the NAACP’S Legal Strategy” at the Yale Legal History Forum. She gave a talk on the same subject at “The May Gathering” in Washington, D.C. (See note on Richard Schragger.) She spoke about “*Brown* and the Historical Imagination” at the Law and Society Association Annual Meeting in Chicago, and “Paving the Road to *Brown*” at a Conference on *Brown v. Board of Education’s* 50th Anniversary at the University of Virginia’s Miller Center of Public Affairs. Goluboff also plans to present a paper entitled “The Work of Civil Rights in the 1940s,” at the American Society for Legal History Annual Meeting in Austin, TX in late October.



In May, **Deena Hurwitz**, Director of the Human Rights Program and International Human Rights Law Clinic, participated in a panel at a Workshop on Immigration-Asylum and International Human Rights Clinics at an AALS Conference on Clinical Education in San Diego, CA. She also traveled to Kabul, Afghanistan, in July to work with staff and local partners of (D.C.-based non-governmental organization) Global Rights-Partners for Justice, doing capacity building and strategic planning on transitional justice and human rights documentation. In addition, Hurwitz is writing a review of *International Law From Below, Development, Social Movements, and Third World Resistance*, by Balakrishnan Rajagopal (Cambridge University Press, 2003) for *The George Washington International Law Review* (forthcoming in the fall of 2004). She is also writing a chapter on "Ethical Globalization and Educating Relevant Lawyers" for a forthcoming book by Northeastern University School of Law Progressive Lawyering Project (tentatively titled *Progressive Lawyering, Globalization and Markets: Rethinking Ideology and Strategy*).



Given **Michael J. Klarman's** expertise in constitutional law (see related story, page 52), he has been in great demand throughout the country this spring for his perspective on the 50th anniversary of *Brown v. Board of Education*. Klarman has attended conferences commemorating the anniversary of *Brown* at Yale Law School; Harvard Law School; Hood College; the University of Minnesota

School of Law; Chicago-Kent College of Law (in a panel discussion with Professor Gerald Rosenberg); the Federal Judicial Conference, National Workshop for U.S. District Judges in Philadelphia; Northwestern University School of Law (faculty workshop); Wooster College in Ohio; the Organization of American Historians; the Jepson School of Leadership Studies, University of Richmond; the Brevard County (Florida) Bar Association; the Miller Center for Public Affairs; and the University of Illinois College of Law. At these conferences, he has presented in various formats. "*Brown* at 50," "What *Brown* Should Have Said," "Why *Brown* was a Hard Case," "*Brown* and *Lawrence*," and "Race and the Constitution from the Civil War to the Present."

At Georgetown University Law Center, Klarman attended a conference on *Bolling v. Sharpe* and presented a paper entitled "Why *Bolling* was Hard but Desegregation in D.C. was (Relatively) Easy."

In May, Klarman launched his new book *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*, published in December 2003, at the Wilson Center for International Affairs in Washington D.C. Klarman was on National Public Radio's Talk of the Nation, where he participated in a panel discussion commemorating the 50th anniversary of *Brown*. He also appeared on Virginia Tonight, a PBS-affiliate show, for a program on the same subject. Klarman also spent a week in June at a state of Indiana judges' program teaching a short course entitled "Race and the Constitution from the Civil War to *Brown*."



In February, **Clarisa Long** presented her paper, “The Patent/Copyright Interface,” at Case Western Reserve University Law School. In March, she presented her paper “Information Costs in

Patent and Copyright,” at Yale Law School. In September, Long is scheduled to present her paper “Dilution” at the Canadian Law and Economics Association conference, and in November, she has been invited to present her paper “Intellectual Property Privileges,” at the University of California Berkeley School of Law.



In April, **Elizabeth Magill** presented a paper at a Conference at Northwestern entitled “The Revolution that Wasn’t.” Magill argues in her paper that a principal legacy of the Rehnquist

Court is its revitalization of doctrines associated with federalism.

Using the federalism decisions as a point of comparison, the paper asks why there has been no “revolution” (using the term loosely) in separation of powers jurisprudence during the Rehnquist Court. The paper argues that internal and external factors that drive separation of powers jurisprudence diverge from the factors that drive federalism jurisprudence. The paper focuses on four factors: judicial incentives; the positive law that

the Court is applying; the external factors that influence doctrinal developments; and the likely results of shifts in doctrine.

At the end of June, Magill and co-author, Professor Steve Croley of the University of Michigan School of Law, were awarded a grant from the Milton and Miriam Handler Foundation to study the particular legal instruments agencies have available to implement their statutory mandates, and to examine when and why agencies employ one legal instrument instead of others.



Paul Mahoney was a commentator at a conference entitled “Law, Finance and Political Economy” at Columbia Law School on April 23–24. In May, he presented a paper entitled

“The Value of Judicial Independence: Evidence from Eighteenth-Century England” (co-authored with Professor Dan Klerman of the University of Southern California) at the American Law & Economics Association annual conference. He also presented this paper in June at the Max Planck Institute for Research on Collective Goods in Bonn, Germany. At a Max Planck Institute conference held in Marienbad in the Czech Republic on June 17–18, Mahoney presented a paper entitled “General and Specific Rules: A Mechanism Design Approach” (co-authored with Chris Sanchirico of the University of Pennsylvania).

The second edition of the book *Criminal Law* by **Richard Bonnie '69, Anne Coughlin John C. Jeffries, Jr. '73, and Peter Low '63** was published in June (Foundation Press). Also published in June by Low and Jeffries was *Federal Courts and the Law of Federal State Relations* (5th edition, Foundation Press). Both books are in use in numerous law schools.



Anup Malani has presented a number of papers this year beginning with two at the Law School entitled “Habeas Bargaining” and “The Effect of Joint and Several Liability on the Bankruptcy

Rate of Defendants: Evidence from Asbestos Litigation.” These were followed by “Habeas Bargaining,” presented at UNC Law School, “Testing for Placebo Effects Using Data from Blinded, Randomized Controlled Trials,” presented at George Mason University Interdisciplinary Center for Economic Science, “The Effect of Joint and Several Liability on the Bankruptcy Rate of Defendants: Evidence from Asbestos Litigation,” presented at the American Law and Economics Association Meetings, Northwestern Law School, and “Testing for Placebo Effects Using Data from Blinded, Randomized Controlled Trials” presented at the North American Summer Meeting of the Econometric Society at Brown University.

In February, Malani organized the Olin Program Conference on Empirical Advances in Corporate, Securities, and Bankruptcy Law. The program is available on www.law.virginia.edu. Speakers at the conference included Lucian Bebchuk of Harvard Law School, Michael Klausner of Stanford Law School, and Anup Agrawal of the University of Alabama.

Early in the year, Malani arranged for speakers to visit the Law School to participate in the Sadie Lewis Webb Program in Law & Biomedicine. They were David Cutler, Department of Economics, Harvard University; Darius Lakdawalla, RAND; and Ramanan Laxminarayan of Resources for the Future. He also arranged for Ahmed Saeed of NextCom Ventures, D.C.; Andy Nussbaum, partner/mergers and acquisitions at Wachtell Lipton, New York; Mark Trevino, partner/executive compensation at Sullivan & Cromwell, New York; and Mark Haeefe, Sonic

Funds, Charlottesville, to speak at the Law & Business Programs held throughout the year.

Malani has completed research projects on “Habeas bargaining and settlement,” “Domino effects of bankruptcy with joint and several liability: the case of asbestos liabilities,” “Drivers of executive compensation at non-profit firms,” “Detecting placebo effects with data from clinical trials: application to anti-ulcer medications, statins,” and “Do non-profit firms signal their status to consumers?” Malani’s research in progress includes “Hidden aspects of executive compensation: SERPS and CIC payments,” “Valuing mass tort liabilities in bankruptcy,” “Effect of joint and several liability for asbestos on capital costs: the case of private commercial loans,” “Detecting placebo effects with data from clinical trials: application to caffeine, nicotine patch/gum, impotence therapies, analgesics, and anti-depressants,” and “Determining the option value of therapeutics.”

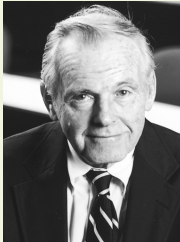


On May 7, at the FDA’s annual awards program, **Richard A. Merrill** was given the agency’s Distinguished Alumnus Award for his work as agency counsel, service as a consultant to the FDA

and other agencies, and his teaching and writing about food and drug regulation. Later that day, at the annual FDA awards ceremony, Merrill was given a crystal bowl in recognition of his selection. The event was presided over and the bowl presented by Lester Crawford, FDA’s Acting Commissioner.

Jennifer Mnookin was a visiting professor at Harvard Law School for the past academic year. She gave a talk at UCLA last fall and a workshop at Florida State in January 2004. In March, Mnookin gave a presentation at the

Law, Culture and Humanities Workshop, a workshop at Stanford Law School, and a workshop at Harvard Law School.



Jeffrey O'Connell is writing a piece on how tort law has betrayed its hopes for aiding injury victims and, on the whole, instead has rewarded lawyers and insurers. The piece, edited by Duke Law

Professor Paul D. Carrington, will appear in a volume published by NYU Press in 2005. He is also working on a piece on malfunctioning U.S. tort law to appear in a volume honoring Swedish insurance law scholar Bill Defwa on his retirement from Stockholm University. The volume will be edited by insurance scholar, Malcolm Clarke of Cambridge. Along with two economists, O'Connell is working on a theoretical economic study costing a reform he has proposed to allow health care providers to foreclose full-scale tort claims against themselves by promptly offering to pay any claimants' net economic losses, i.e., medical expenses and wage losses beyond other applicable coverages.



On April 13, **Robert M. O'Neil** did a segment on NPR's Morning Edition (one of Bob Edwards' last) on his Center's Jefferson Muzzles, followed by many other radio interviews with stations

from Charlottesville to Vancouver. In May, Johns Hopkins Press published *Competing Conceptions of Academic Governance* containing O'Neil's chapter "University Governance and Academic Freedom." O'Neil's article on the 40th anniversary of *The New York Times v. Sullivan* appeared in a recent issue of

Communication Law & Policy, and his article on commercial speech appeared in the *Case-Western Reserve University Law Review*.

On June 12 in Washington, D.C., O'Neil gave a keynote speech at the annual meeting of the American Association of University Professors on Academic Freedom and National Security. On August 17, he was the speaker for the College of Fine and Performing Arts Fall Convocation at the University of Nebraska-Lincoln. On September 11, O'Neil spoke at the Center for the Study of Citizenship, a new entity at Wayne State University in Detroit, and on October 26, he will be giving the Catherine N. Stratton Lecture on Critical Issues at MIT, along with Georgetown's Viet Dinh.



In early April, **Dan Ortiz** argued the summary judgment motion in the Virginia wine and beer distribution case before the U.S. District Court. Virginia, like some other states, allowed Virginia

wineries and breweries, but not out-of-state wineries and breweries, to sell and ship directly to Virginia consumers. This was challenged in court and the state legislature changed the law to permit direct shipment from out-of-state, but under conditions that Ortiz claims unfairly discriminate. He said "we're now back in the district court attacking the burdensome new rules."

Ortiz is currently finishing a piece called "Got Theory?" for the *University of Pennsylvania Law Review*. The article is based on the role of democratic theory in election law cases. He is also finishing up a piece called "Nice Legal Studies" which criticizes the movement in some contemporary legal theory to submerge or avoid disagreement and conflict.



Mildred Robinson was a presenter at the 26th Annual Foulston & Siefkin Lecture. Her presentation “Fulfilling *Brown’s* Legacy: Bearing the Costs of Realizing Equality,” was delivered at Washburn

University School of Law, Topeka, KS, on February 20. Publication will be forthcoming in the *Washburn Law Journal*. On February 23, she was panelist and moderator on “Commemorating the 50th Anniversary of *Brown v. Board of Education* at Clemons Library at the University of Virginia. On February 24, she moderated a panel on “Desegregation of UVA Law: The Alumni Experience” at the Law School.

On March 26, Robinson gave a Keynote Address entitled “To You Who Are The Keepers of the *Brown* Dream ...” at a University of Kentucky Commemoration of the 50th Anniversary of *Brown v. Board of Education* in Lexington, KY. (The speech will be published as part of the proceedings.)

On April 2, Robinson gave a symposium presentation entitled “Voices of the *Brown* Generation: Description of a Project” at the University of Arkansas in Little Rock. The presentation described the project and discussed how the realities confronted by the responders were handled by the courts of that period. *The Journal of Appellate Practice and Process* plans to publish the presentation. Also during April, Robinson gave a Keynote Address entitled “*Brown*: Why We Must Remember” at Marquette University as well as at the Law School, discussing the comparative experiences of the *Brown* generation, Wisconsin’s *Amos* generation, and of present-day high schoolers from the standpoint of students in a Washington, D.C. area high school. (Publication forthcoming, *Marquette Law Review*). At the end of April, Robinson gave a presentation entitled “Voices of the *Brown* Generation” at the Stillwater Institute for Social Justice in Charlottesville.



James Ryan '92 gave a talk entitled “*Brown*, School Choice, and the Suburban Veto” at the *Brown* Conference held at the Law School in February, and an essay of the same name will also be

published by the *Virginia Law Review* in the fall. An article by Ryan entitled “The Perverse Incentives of the “No Child Left Behind Act” was published in the *NYU Law Review* this summer. A chapter written by Ryan entitled “The Legal Boundaries of Educational Governance,” will be published in the fall by Brookings in a collection of essays on educational governance. Ryan has also written a chapter entitled “Federalism as Libertarian Fantasy,” which will be published in a book entitled *Redefining Federalism*, due out next winter, and has been writing an article tentatively entitled “A Constitutional Right to Preschool?” Ryan is also working with Dean **John Jeffries** on a book tentatively entitled *The Law and Politics of Church and State: The Making of a Constitutional Revolution*.

Ryan, who became Academic Associate Dean on July 1, has also been working on a pro bono case, representing a Tibetan Monk who is seeking political asylum.



Richard C. Schragger had an article published in April in the *Harvard Law Review* entitled “The Role of the Local in the Doctrine and Discourse of Religious Liberty.” In May, another article of his

appeared in the *Michigan Law Review* entitled “Consuming Government” (reviewing *William Fischel, The Homevoter Hypothesis: How Home Values Influence Local Government Taxation, School Finance, and Land Use Policies* (2001)).

Schragger’s other activities this year

included a presentation entitled “The Anti-Chain Store Movement and the Ideology of Localism” given at the January meeting of the Association of American Law Schools, State and Local Government Section. He was also a participant in the City Powers Project. Organized through Harvard Law School and sponsored by the Boston Foundation, the City Powers Project compares the economic, political, and legal structures of six major cities: Boston, Chicago, Atlanta, Portland, Denver, and New York. The final report should appear in the fall.

In addition, Schragger organized “The May Gathering,” an annual examination of the purpose and nature of legal scholarship for junior faculty. The event was held at the Georgetown Law Center on May 17, and attracted almost 20 participants from law schools around the country.



Elizabeth S. Scott '77 will be participating in a conference and symposium at Harvard in October on the ALI Domestic Partnership Principles.



At the end of March, **Robert E. Scott** delivered the Cecil A. Wright Memorial Lecture at the University of Toronto. The lecture, entitled “The Death of Contract Law,” will be published in

volume 54 of the *University of Toronto Law Journal*. In April, Scott presented a paper that he is co-authoring with George Triantis at faculty workshops at Columbia Law School and the University of Southern California Law School. The paper, entitled “Embedded Options and the Case Against Compensation in

Contract Law,” will be published in the October 2004 issue of the *Columbia Law Review*. On May 16, Scott delivered the graduation address at the University of Illinois Law School in Champaign, IL. His address was entitled “The Lawyer as a Public Citizen.”



In May, **Paul Stephen '77** presented a paper entitled “Process Values, International Law and Justice” to a conference on international organizations and regimes hosted by the Wharton School of the

University of Pennsylvania. He also presented this paper at a Law School faculty workshop this summer and plans to do the same at a conference organized by the Philosophy Department of Bowling Green University in the fall. In June, Stephan presented a paper on the legal aspects of energy development and distribution at a conference in St. Petersburg, Russia, organized by the Law School’s Center for Oceans Law and Policy. During July and August, Stephan taught a course on U.S. corporate and international taxation in the graduate program of Melbourne University, delivered a lecture on the Supreme Court decision in *Sosa v. Alvarez-Machain* at the Australian National University (Canberra), and talked about legal development in badly stressed societies, namely Russia and Iraq, at Sydney University. During the fall, Stephan will be a visiting professor at University of Paris 2–Pantheon-Assas. He will also give a course on international business regulation in the master’s program conducted by Science Po and Paris 1–Pantheon-Sorbonne.





April Triantis has co-authored two new case studies and a note on Early Stage Termsheets to be published by the Darden Case Collection at the Darden School. The case studies, *SecureNet*,

Inc. and *ConciergeClub.com*, help students explore the issues surrounding early stage venture financings. In addition, Triantis has also co-authored a Termsheet Exercise which covers an early stage venture financing term sheet and which is being formatted into both a web-enabled version and a CD-ROM version. These case studies and termsheets are the first designed specifically to be used in both law and business classrooms. Triantis expects to publish several more in the upcoming year.



This year, **George Triantis LL.M. '86** completed his term as co-editor of the *Journal of Law & Economics*. He was also elected to the board of directors of the American Law & Economics

Association. His article, "Organizations as Internal Capital Markets: The Boundaries of Firms, Collateral, and Trusts" was published in the February issue of the *Harvard Law Review*, and his co-authored work (with Robert Scott) entitled "Embedded Options and the Case Against Compensation in Contract Law" will appear in the October issue of the *Columbia Law Review*. Triantis presented the latter article at a faculty workshop at Yale Law School in late February, and at the annual meetings of the American Law & Economics Association in May. He and Scott are also completing a reader for Foundation Press entitled *Foundations of Commercial Law*.



Rip Verkerke was a visiting scholar at the University of Utrecht School of Economics in The Netherlands in April. He met with labor law faculty for a Dutch-American meeting on

labor and employment law and with economics faculty and graduate students to discuss issues connected to their research on the economics of labor law and contract law. In addition, Verkerke presented a paper on "Legal Ignorance and Information-Forcing Rules" at a workshop at the School of Economics.


From April 30 to May 2, working under the auspices of the National Academics Committee on National Statistics, Verkerke was appointed to the Oversight Committee for a Workshop on the Utilization of Women-Owned Small Businesses in Federal Contracting. He participated in a public session and a deliberation session in Los Angeles, CA. Verkerke is a contributor to a forthcoming report on methods of assessing utilization of women-owned small businesses by federal contractors. On May 7, Verkerke presented a paper on Legal Ignorance and Information-Forcing Rules at the American Law and Economics Association Annual Meeting in Chicago, IL. In June, he served as panel organizer and commentator for the Labor and Social Welfare panel of the 2004 Stanford-Yale Junior Faculty Forum in New Haven, CT.



G. Edward White's book on Alger Hiss entitled *Alger Hiss's Looking-Glass Wars: The Covert Life of a Soviet Spy*, published in March, received many favorable reviews. Among them, Michael Ybarra of *The Wall*

Street Journal says "with his portrait of the man himself — as well as supporters, for whom

almost no evidence was convincing — Mr. White has written the best book ever about Alger Hiss. Let us hope that it will be the last.” Terry Teachout of *The Baltimore Sun* says that “White ... can’t make Hiss more interesting than he was, but he can and does describe in rich and fascinating detail his half-century-long crusade for vindication.” John Monagan of *The*

Washington Times calls White’s book an “inclusive, impressive, deeply pondered and finely spun study.” *The New York Law Journal* calls it “an inspired portrayal of a man’s life and a dispassionate analysis of the forces that motivated that life.” Bruce Ramsey of the *Seattle Times* writes “White’s book retells the story of Hiss’ life with the ambiguity stripped away.” 



Professor Woodard in late 1981.

Professor Woodard Remembered


CALVIN WOODARD, PROFESSOR EMERITUS of the Law School, died August 29, at his home in Charlottesville after a long illness.

Born May 5, 1927, in Wilson, NC, he was the son of the late William W. Woodard and Grace Harper Woodard. He attended Virginia Military Institute and served in the U.S. Navy before graduating from the University of North Carolina at Chapel Hill.

Professor Woodard graduated from Yale Law School in 1953. After practicing law in New York with Sullivan & Cromwell for several years, he embarked on a distinguished academic career, beginning with graduate study at Cambridge University where he received a Ph.D. in history in 1961. He joined the Law School faculty in 1965, teaching primarily legal history and legal philosophy and was appointed the Henry L. and Grace Doherty Charitable Foundation Professor of Law, a position he held until his retirement in 1994.

Professor Woodard held visiting professorships at the law schools of Stanford University, Washington and Lee University, The College of William and Mary, the University of Hanover in Germany, Fudan University in Shanghai, and National Chengchi University in Taipei. He was awarded fellowships from the Fulbright Program, the Guggenheim Foundation, and the National Endowment for the Humanities for post-doctoral study in England and Germany and at Yale University.

During the latter part of his career, Professor Woodard helped develop the Law School’s Graduate Program for Judges, and was a frequent lecturer for the American Bar Foundation Conferences of Appellate Judges and at seminars for judges. He was an avid hiker, jogger, and skier.

Professor Woodard is survived by his wife of 31 years, Elizabeth Henneman Woodard '73; three children, and four grandchildren. He was preceded in death by his first wife, Brooks Parkman Woodard, and a brother, William W. Woodard, Jr. 



Initiative Has Promising First Year

Center Sparks Dialogue on *Race and Law*

■ Denise Forster

MEMBERS OF THE LAW SCHOOL COMMUNITY WERE taken by surprise in November when the new Center for the Study of Race and Law invited a self-proclaimed “liberal against racial preferences” as its inaugural speaker. But the Center’s director and student board members understand that the study of diversity and race-related issues warrant dialogue from many perspectives.

The inaugural speaker, University of Michigan Philosophy Professor Carl Cohen, presented “The Liberal Case Against Racial Preferences” — not what one might expect from an intellectual with solid liberal credentials. His presentation spurred much discussion. Mission accomplished.

The Center, active since fall of 2003, provides opportunities for students, faculty, community members, and practitioners to engage and exchange ideas related to race and law. It coordinates and promotes the substantial array of existing Law School programs on race and law, and its members work toward enhancing offerings on pertinent issues through faculty presentations, panel discussions, and guest speakers. The Center also aims to promote research and scholarship through faculty workshops, scholarly symposia, and student research projects under faculty supervision.

“The Center invites students to pursue their initiatives and creativity,” said Center Director and Law Professor Kim Forde-Mazrui. Appointed director before visiting at Michigan for the 2003–2004 year, Forde-Mazrui also holds the newly created Thurgood Marshall Research Professorship (see related story, page 12). While Forde-Mazrui serves as director, he deflects laudatory comments about the Center to its student members, Law Professor Anne Coughlin, who directed the Center in his absence, and to Dean John C. Jeffries, Jr. ’73, for his guidance and support.

“The students played a crucial role in bringing this effort about. They also bring their ideas, facilitating intellectual programs about race,” said Forde-Mazrui.

The Center developed rapidly in response to an assault with racial overtones against an undergraduate on Grounds in early 2003. Students, professors, and community members came together to found the Committee for Progress on Race.

A few months later, Law School students approached Dean Jeffries with a proposal for an initiative on the study of race and law. Dean Jeffries expanded on the concept and founded the Law School’s Center for the Study of Race and Law. “In less than a year, our students made the Center into

a visible, significant institution in the Law School landscape,” Coughlin said. “And folks around the country are sitting up to take notice. When I interviewed applicants for teaching positions at a hiring conference in Washington, D.C., last fall, the one thing most of the candidates asked me was for more information about the work being done by our Center for the Study of Race and Law.”

While issues presented in Center events focus on race, they are generated by the differing perspectives around these societal touchpoints. “The Center is an academic enterprise, not an indoctrination center. There is no mission to reform thoughts, but rather to inform thoughts,” said Dean Jeffries.


“The Center is a new institution at the Law School, bringing new resources and fresh commitment to the study of race and social justice. But it also builds on our pre-existing strengths. Some of the stars on our faculty — for example, Mike Klarman, Kim Forde-Mazrui, and Risa Goluboff — are devoting their scholarly careers to the study of race and law. The Center aims to support work like theirs,” said Coughlin.

Plans abound for future events on affirmative action, racial profiling, employment discrimination, and other aspects of civil rights affecting the nation — and not just surrounding black/white relations, but other ethnicities as well.

The Center also facilitates a formal concentration on Race and Law in the Law School’s curriculum in core courses, including courses on race and law, employment discrimination, civil rights history and litigation, constitutional history, critical race theory, Indian law, school finance, and local government law.

Other offerings that involve race-related topics include Refugee Law, Family Law, Immigration Law, International Human Rights Law, Land Use Law, and War Crimes, Crimes Against Humanity, and Genocide.

“Race has been one of the most significant influences on the development of American public law, and should therefore figure prominently in any sound legal education. With the Center, the Law School seeks to strengthen its commitment to the study of race and law. The Center’s success this past year demonstrates that interest in this area among faculty and students runs deep and broad. The support for this enterprise from Dean Jeffries, the faculty, students, staff, and numerous alumni has been truly inspiring,” said Forde-Mazrui.

Find up-to-date information on the Center and its events at: www.law.virginia.edu/race 

A Sampling of News and Events

Goluboff Wins Law and Society Award for Scholarship on Civil Rights in the 1940s

When looking at the history of civil rights, scholars tend to zero in on one significant moment — *Brown v. Board of Education* (1954) — but the 1940s offer a rich foundation as well, as Law Professor Risa Goluboff discovered while writing her doctoral dissertation in history, “The Work of Civil Rights in the 1940s: The Department of Justice, the NAACP, and African-American Agricultural Labor.” Goluboff’s scholarship was recently awarded the Law and Society Association’s Annual Dissertation Prize.

Grutter Litigators Explain Strategies Used to Win Affirmative Action Case

Students and professors got a lesson in the anatomy of a Supreme Court case, as attorneys who worked on one of the most publicized cases before the Court in years, *Grutter v. Bollinger* — which upheld use of affirmative action in higher education admissions decisions — dissected their strategic approach in arguing the case. Latham & Watkins attorneys Maureen Mahoney and Scott Ballenger ’96 spoke at the event.

50 Years of *Brown v. Board of Education* Symposium

Brown v. Board of Education encouraged the Civil Rights Movement and paved the way for key civil rights legislation in the 1960s, forever weakening Southern politicians’ hold on Congress, according to former NAACP lawyer and director-counsel Jack Greenberg in his keynote address at a symposium honoring *Brown*. Greenberg, who was just shy of his 28th birthday when he argued before the Supreme Court in *Brown*, worked for the NAACP Legal and Educational Defense Fund (LDF) for over 30 years and headed the organization when Thurgood Marshall left to join the Supreme Court. He discussed the questions he most frequently faces about the strategy of the LDF and the consequences of *Brown* at the event.

Brown, Lawrence Prove Justices Weigh Their Own Beliefs, Public Opinion

One case struck at the heart of the segregated South by proclaiming schools could not be separate but equal, while the other offered a mild opening feint at state laws targeting homosexuals — but *Brown v. Board of Education* and last year’s *Lawrence v. Texas* reveal how Supreme Court justices weigh their own beliefs in controversial cases that are not necessarily supported by conventional legal sources, according to Law Professor Michael Klarman, who compared the two cases at an

Promoted by the Center for the Study of Race and Law, 2003–2004

event co-sponsored by the American Constitution Society and Lambda Law Alliance. Although the *Lawrence* decision avoided the issue of gay marriage — just as *Brown* avoided interracial marriage — Klarman predicted the Court eventually would deem classifications by sexual orientation unconstitutional, as public support for gay rights continues to increase.

“The Effects of the Federal Income Tax Marriage Penalty on Women of Color”

Federal tax laws that hurt dual-income married couples disproportionately hurt African-American households, said visiting Law Professor **Dorothy Brown**, noting that married black women account for 40 percent of their household’s income, while married white women’s income accounts for only 29 percent. Although tax laws are written to be neutral, they can have varying impacts on households of different races, Brown explained at a luncheon sponsored by **Women of Color**. The discrepancy may result in part because African-American employees don’t earn wages equal to whites, which may encourage black women to work in support of the family income.

“Race, Identity & Self-Segregation at UVA Law: A Student Panel”

Panelists included Tim Clinton ’05, Adrian Guy ’04, Berin Szoka ’04 and Eric Wang ’06. Moderated by Professor **Anne Coughlin**, interim director of the Center for the Study of Race and Law. Sponsored by the **Student Bar Association Diversity Committee, American Constitution Society, Virginia Law Republicans, National Lawyers Guild** and the **Student Legal Forum**.

“The Liberal Case Against Racial Preferences” with University of Michigan Professor Carl Cohen

Affirmative action programs corrode minorities’ long-term aspirations and should be abandoned because they violate basic American democratic values of equality and merit, according to University of Michigan Philosophy Professor Carl Cohen. That point of view is not novel, but it is unusual in an intellectual with a solid liberal background, and that was one reason Cohen was asked by students and Law Professor **Kim Forde-Mazrui** to deliver the inaugural lecture of the Law School’s Center for the Study of Race and Law. Cohen presented “The Liberal Case Against Affirmative Action,” in Caplin Pavilion to a large audience.

“Blackface and the First Amendment”

Panelists included **Robert O’Neil**, Professor of Law, Director of the Thomas Jefferson Center for the Protection of Free Expression; and Stephen Railton, UVA Professor of American Literature and author of “Uncle Tom’s Cabin and American Culture: A Multi-Media Archive.” The panel discussed two conflicting cases involving blackface: *Iota Xi v. George Mason* and *Tindle v. Caudell*.

How to Achieve a Colorblind Society: A Debate

Roger Clegg, VP & General Counsel of the Center for Equal Opportunity; and visiting Marquette Law Professor Gordon Hylton, Senior Research Fellow of the Carter G. Woodson Institute for Afro-American and African Studies at UVA, debated issues such as affirmative action in education and the workplace, legislative redistricting on the basis of race, and the collection of racial data by the Census Bureau.


“Professional Lives of Black Lawyers in Post-Civil War Virginia”

The number of black lawyers in Virginia rose steadily during Reconstruction, when there were virtually no criteria for admission to the bar, but stagnated once the state passed its Jim Crow constitution in 1902, visiting Law Professor **J. Gordon Hylton** told a small group on hand for a student/faculty workshop.

The Future of Latinos and the Legal Community

Law School student organization, **Voz Latina**, presented Robert Raben, the President of the Hispanic Bar Association of D.C., who discussed the future of Latinos and the law.

Law School Diversity: The Students’ Perspective

A panel and audience of students debated the meaning of diversity and its role at the Law School, while documenting their own struggles and successes in finding a place in the community during an event sponsored by the **Student Bar Association**. Panelists expressed the perceptions they had about the school’s diversity before starting law school. “I saw that there were a lot of viewpoints and political diversity at this school — more than a lot of other law schools at this level,” said **Lillian Omand ’04**, president of the Federalist Society, in explaining why she chose Virginia. She said she would include life experiences in her definition of diversity, as well as social situations such as being married, and having a variety of viewpoints. 

*For a full listing of the news and events of the Center for the Study of Race and Law visit: www.law.virginia.edu/race.



E. Barrett Prettyman, Jr. '53
Sensed History in the Making

Behind the Scenes of *Brown*

■ Cullen Couch

THE WASHINGTON MONUMENT LOOMS just outside his window. The walls of his office at Hogan & Hartson are festooned with photographs of him with some of the century's most renowned jurists, authors, and politicians. Soft-spoken, and as articulate as one would expect of a man who has argued 19 cases in front of the U.S. Supreme Court, E. Barrett Prettyman, Jr. '53, is surrounded by the images of his episodic life.

Born in the District and son of a former Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, Prettyman cut his teeth on the

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city and its politics. A partner in Hogan & Hartson since 1964, Prettyman also served as Special Assistant to Attorney General Robert F. Kennedy '51 helping to free the prisoners of the Bay of Pigs invasion, and special Counsel to the House of Representatives during the ABSCAM investigation twenty years later. He also served as the first president of the D.C. Bar, which now numbers almost 80,000 members.

He has chatted with Fidel Castro at Ernest Hemingway's house in Cuba, teamed with Truman Capote in a documentary critical of the death penalty, and won the Mystery Writers of America Edgar Allan Poe award in 1961 for his book *Death and the Supreme Court*. He represented *Ship of Fools* novelist Katherine Anne Porter during the last 20 years of her life and, in an act of extreme literary courage, befriended at the same time Gore Vidal and Norman Mailer. As a former president of the PEN/Faulkner Foundation, he calls as friends many of the best writers of our day.

After graduating from the Law School, Prettyman began his remarkable career as the only person to have clerked for three separate U.S. Supreme Court Justices during a single term: Justice Robert H. Jackson during the reargument of *Brown v. Board of Education*, then Frankfurter after Jackson's death, and Harlan when he replaced Jackson. The *Brown* case was already in the news, so Prettyman knew before he arrived that he was going to be at the epicenter of the Court's most important opinion of the 20th century.

Warren Brings a New Dynamic

Fred M. Vinson was still Chief Justice and by all accounts a vote for *Plessy*. When Vinson died in September 1953 and Earl Warren took his place, Prettyman and his fellow clerks sensed that everything was about to change. "We knew very

early on that Warren was a vote to overturn *Plessy* and we knew that he was going to take on the initial job of drafting the opinion. We did not know how the vote was going to go, but all of a sudden it began to look more as if this was going to be unanimous."

Prettyman saw how Warren brought new drive and direction to the Court. Though Vinson was a "very likable, easy-going fellow," Prettyman believes he was not "intellectually among the very top justices" and didn't have the inclination to lead the Court in any discernible way. By contrast, Warren was "a politician, quite dynamic and forceful, knew everyone's name in the building, and had a great deal of magnetism about him. He was also tough. He meant business. The atmosphere changed. You had a feeling that things were going to come together now."

Prettyman watched Thurgood Marshall and John W. Davis present oral arguments. Davis was an "old hand" having argued more cases in the Supreme Court than any lawyer of his day. Marshall used a more informal approach.

"I thought for what Davis was attempting he was really quite good. He stayed away from anything that

PRETTYMAN KNEW BEFORE HE ARRIVED *that he was going to be at the epicenter of the Court's most important opinion of the 20th century.*



Left: From the rough draft of a memo Prettyman wrote for Justice Robert H. Jackson, critiquing his concurring opinion in *Brown*. Neither the memo nor Justice Jackson's opinion were ever published.

sounded like racism and put most of his emphasis on state's rights which he thought would appeal, perhaps not to enough members of the Court, but certainly to some of them. Marshall was folksier and talked in terms of the silliness, if you will, of forcing children apart just to go to school when they would get back together again to play after school. I personally did not think the oral arguments ended up changing much, but for what they were trying to do, I thought they were both good."

As Michael Klarman describes in his book, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (see page xx), the case presented Jackson with a dilemma. Jackson believed strongly that judges should shed their own personal views and render decisions based solely on a neutral and thorough analysis of legal authority. But in his reading of precedent and the intent of the framers of the 14th Amendment, Jackson saw that path forcing him in this case to support "Hitler's creed," his scornful description of segregation. He had to find a middle way.

"Jackson was concerned that the Court was going to base its opinion strictly on sociology and not on law," explains Prettyman. "But he pushed sociology aside by finding that African-Americans had made such astounding progress since the Civil War in every area that even if there had been grounds then for separating black children from white children, as a matter of law you could no longer distinguish between them. What Jackson was trying to do was to divine what the framers meant by equal protection in the light of today's events. He concluded that equal protection meant that you could not, without some basis in fact, distinguish between two separate people and treat them differently solely on the basis of race."

According to Prettyman, Jackson completed the first draft of his unpublished concurring opinion on December 7, 1953, the day before the second oral argument. Even though Prettyman thought that Jackson wrote it "rather defensively" and found a good deal to criticize in the opinion, "still, Jackson was concurring in overruling Plessy. My own guess is that he knew from the beginning that he was going to go along. To the extent that he was reluctant it wasn't with the end result, but what he thought the court might do in reaching that result."

Meanwhile, Prettyman and the other clerks labored on cert petitions and memos and speculated much like the rest of the country on how the Court would decide. Depending on the personality of their justice, some clerks

had a clearer view into what was shaping up behind closed doors, but security was very tight. Everyone knew that either way, the result would have a profound impact on the country's future.

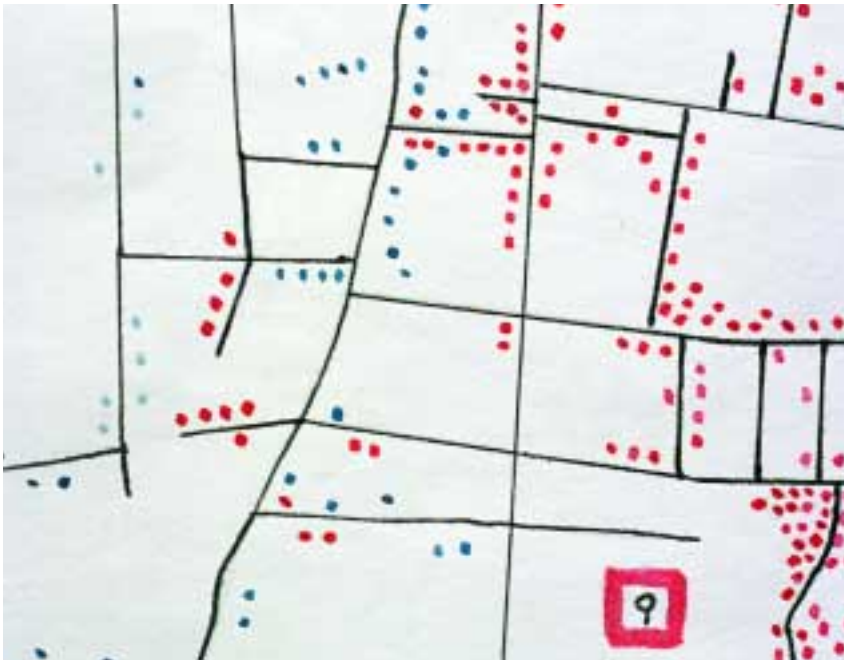
Warren was working on achieving a unanimous decision. Meeting one-on-one with his justices over lunch, during walks, or in his office, he used his political skills to put together a consensus opinion that would bridge the gap between the legal ambiguity and political reality that the case presented. After he had persuaded Justice Reed, the last holdout, Warren knew he had won.

An Opinion Written for the "Man on the Street"

Prettyman was visiting Jackson in the hospital where he was recovering from a heart attack when the Chief Justice arrived with his draft opinion in hand. Prettyman excused himself from the room and went down the hall to wait. After Warren left, Jackson summoned Prettyman back into his room and handed him the opinion to read.

"When he asked for my reaction I said I thought it could use a little more law and he did, too. But now I think that is exactly what Warren intended. There was a genius to his opinion. It had a flow to it. Anybody could understand it. Its themes were simple and direct. The man on the street could understand the point. And it didn't have a lot of the things that Jackson had worried about: that they were going to excoriate the South or the school districts or the district judges. Even though he didn't agree with the basic theme of it — distinguishing between the races made black children feel inferior — he felt that it was good at accomplishing what it was intended to do, and didn't do things he was afraid it would do. The opinion was like a speech Warren would give as a governor trying to get across some basic concept to the state legislature. He made it non-controversial, easily understood, persuasive, and avoided areas that might do him in."

Though Jackson signed on to Warren's opinion, Prettyman says that Jackson did not agree with Warren's position that the history of the intent of the framers of the 14th Amendment was equivocal. "Jackson didn't think it was equivocal at all: he thought it was quite clear that the framers thought that segregation should continue. But Jackson said, in effect, that he couldn't care less what the framers thought. Jackson was not someone who thought that you had to divine what the various people who had approved the Constitution were thinking. He thought that was absurd. History develops, things change, and the



Left: From the map of Spartanburg, SC, that Prettyman created for the Court to use in preparing its “implementation” decision, *Brown II*. Each blue dot represents one white child; each red dot represents one “negro” child.

“I WAS OFF TO ONE SIDE, and when [Warren] reached the key point he inserted ‘unanimously’ — which was not in the opinion — ‘we unanimously hold,’ and the courtroom took in a breath. You could actually hear it because no one had expected that.”

framers obviously never even conceived of most of the things going on in the world in 1954. Therefore, you had to take the Constitution and interpret it as best you could when applying it to today’s events.”

A Nation Waits for the “Big One”

As the Court’s term entered the spring of 1954, reporters and interested observers began to show up every Monday, then the Court’s “opinion day,” to hear the justices render their decisions. With each passing week, the anticipation grew. Finally, on May 17, 1954, the justices convened to read that week’s decisions. In those days, each opinion would go down through a tube to the basement where the reporters were gathered so that they could grab it, read it, and place their calls to their offices. But the Court announced that the last opinion of that day would not go down through the chute, so all the reporters ran upstairs.

“The atmosphere was quite extraordinary,” Prettyman

recalls. “Jackson had left the hospital against doctor’s orders to be present and show unanimity. The courtroom was filled because we were getting near the end of the term and everyone was waiting for the big one. The Justices had read a couple of other opinions and made some new admissions. And then the Chief Justice began to read the opinion. I was off to one side, and when he reached the key point he inserted ‘unanimously’ — which was not in the opinion — ‘we unanimously hold,’ and the courtroom took in a breath. You could actually hear it because no one had expected that. It was very dramatic.”


After the *Brown* decision came down, Prettyman got a copy of the opinion signed by the court. When the decree implementing the decision came down, he got a copy of that as well. Owning the only two signed copies of both the opinion and the decree, Prettyman could have added a true piece of history to his collection of signed monographs and letters that he keeps at his office. Instead, he graciously donated them to the Law School library where they reside today.

Looking back, Prettyman believed that in the end the Court would overturn *Plessy*, and the country would be going through dramatic change. “It was unthinkable to many of us in 1954 that the court would rule that you could forcefully separate children into different schools based solely on the color of their skin,” he says. “I personally thought the die was cast as soon as they agreed to take these cases. But there was a sense of history in the making from the beginning, regardless of what the Court did. If they had reaffirmed *Plessy*, we realized that the country would go one way and if they were going to overrule it, we actually worried about blood in the streets. It was truly that momentous.” 🏠

Bakke Revisited

■ Dean John C. Jeffries, Jr. '73

Editor's Note — the following is from a retrospective on Bakke prompted by Gratz and Grutter, the Michigan affirmative action decisions of 2003. It was first published in The Supreme Court Review (2004).



IN 1978, LEWIS POWELL SAVED AFFIRMATIVE ACTION. By one vote — or perhaps only half a vote — he allowed the continued integration of elite institutions of higher education, despite persistent deficits in the academic qualifications of many minority applicants.

It is hard to imagine that integration could have had a more unlikely champion. A child of the Old South, Powell had lived most of his life, uncomplainingly, in racial segregation and educational apartheid. Like many southerners of his generation, Powell later found it incomprehensible that he had ever accepted the systematic subjugation of blacks, but accept it he had. Only after *Brown*, and the massive challenge to legality that *Brown* provoked, did the beliefs of his upbringing give way to the mandate of color-blindness before the law. Within a few years, he was asked to move beyond color-blindness, to which he had but newly been won, and embrace racial preference. This personal journey, which in some sense he never

Justice Lewis Powell in a painting by George Augusta, photographed by Vic Boswell.
Courtesy of the Supreme Court of the United States.



completed, led to Powell's opinion, for himself alone, in *Regents of the University of California v. Allan Bakke*.

That opinion was as conflicted as its author. On the one hand, Powell said that racial preferences in favor of minorities were constitutionally equivalent to discrimination against them and required the same judicial scrutiny. On the other hand, he denied the conclusion to which that doctrine led. He rejected the reasons for thinking "reverse" discrimination different from the traditional variety, yet he embraced that result. He dismissed the distinction between goals and quotas as "beside the point," but came to rest on precisely that ground. And throughout, his argument seemed devoid of any broad consistency that might be called principle. Indeed, the difference between the affirmative action plans that Powell found unconstitutional and those that he was prepared to uphold was not substantive, or even formalistic, but essentially aesthetic. Considered purely as a matter of craft — of consistency with precedent, coherency as doctrine, and clarity of result — Powell's *Bakke* opinion must be judged a failure.

RACIAL SET-ASIDES IN HIGHER EDUCATION ... would have been the most efficient way to achieve diversity in the classroom, but they would have proved corrosive.

Yet twenty-five years later, it carried the day. In *Grutter v. Bollinger*, the Supreme Court embraced not only Powell's result, but also his reasoning.... Despite years of strife and litigation, the constitutionality of affirmative action in higher education has now been determined, probably for a generation, along precisely the lines that Powell laid out in 1978.

The evolution of Powell's position from idiosyncratic outlier to received wisdom is one of the most interesting and unlikely stories in American constitutionalism. It tells us something about the risk of *a priori* reasoning in an imperfect world and about the Supreme Court's power to influence the course of public opinion to which, in the long run, the Court itself must respond. Ultimately, the history of Powell's opinion in *Bakke* also challenges the way many of us think about constitutional law....

[The Michigan decisions prompt] three comments.

All are personal, in the sense that they are matters of opinion, but the first is especially so.

I have come — slowly — to the view that Powell in *Bakke* was exactly right. He was right to allow racial preferences *and* also right to deploy the Constitution against their formalization and entrenchment.... If all consideration of race were squeezed out of admissions decisions, the prospects of white and Asian applicants would be marginally improved (owing to the impact of a few additional places on their greater numbers), but the prospects of African-American applicants (and certain other minorities) would be drastically reduced. A sharp cutback in African-American enrollment would hurt the law schools and hurt the nation. It would exacerbate a sense of grievance that already has more-than-adequate foundation. It would deprive the African-American community of a cadre of potential leaders. And it would make it that much harder for minorities to maintain a full commitment to our common future as Americans.

Additionally, rigorous color-blindness would deprive non-minority students of the personal, professional, and educational advantages of living and learning with minorities. This last point is sometimes dismissed by those who are far away from educational institutions, but I believe it is keenly felt by those who work and study in them. There are undoubtedly non-minority students eager for the "last" place in Michigan or Virginia and willing to accept that benefit under almost any circumstances, but there are many more students enrolled in those institutions who recognize that their experience would be impoverished by the absence of minorities. Under current conditions, strict color-blindness ... would impair the quality of the education of *all* law students.

Perhaps less obviously, I think we would also have come to rue the more generous approach advocated [in *Bakke*] by Brennan, White, Marshall, and Blackmun. Racial set-asides in higher education, which they were prepared to tolerate, would have been the most efficient way to achieve diversity in the classroom, but they would have proved corrosive. Any allocation of spaces on the basis of race or ethnicity would have been challenged as conditions changed, and those challenges would have been anything but edifying....

[Debates over changes in racial set-asides] could scarcely fail to divide and wound. Plausible arguments could and would be found to support different positions, which would then become the focus of coalitions organized around ethnic identity. Whatever allocations were made on day one would quickly come to feel like permanent entitlements to those who benefitted from them, and whatever adjustments were not made on day two would as quickly become sources of grievance to those who did not prosper. The prospect of perpetual competition over racial and ethnic allocations is one that none should welcome, yet it is hard to see how approval of [explicit quotas] could have led anywhere else....

A second observation prompted by the revivification of Powell's position in *Bakke* concerns the relationship between Court and country. History-minded scholars (and others) have challenged the notion that it is the business of the Supreme Court to lead the nation out of darkness. I think particularly of my colleague, Michael Klarman, who has argued that even *Brown v. Board of Education*, the most mythogenic and justifying of all modern decisions, was in fact more nearly a reflection of an emerging national consensus than an heroic attempt to uproot one. The broad tides of social change sweep the Court along with the country, and rarely do the Justices stand long in the way. There is much to be said for this perspective, not least as a corrective to the extravagant judiciocentrism that pervades constitutional law classrooms, but there are also small acts of individual judgment or personality that profoundly affect the course of events.... *Bakke's* failure to achieve intellectual clarity — or, as I would prefer, its sacrifice of cogency for wisdom — resulted chiefly from the participation of one intransigent moderate who occupied ground he could not adequately defend, save by insisting that it lay between two alternatives he would not accept. Powell's compromise was uniquely his own. With due allowance for the ultimate unknowability of historical "what-ifs," it is hard to believe that *Grutter* would have come to rest on the same ground absent Powell in *Bakke*....

Finally, it is startling to note how little either the insight or the impact of Powell's opinion in *Bakke*

depended on his abilities as a lawyer. That is not to say that he lacked those abilities. Powell was a good lawyer and an uncommonly successful one. But his achievement in *Bakke* came *despite*, not because of, the constraints of legal reasoning. To the extent that the law as an intellectual craft influenced Powell in *Bakke*, it would have pushed him toward one of the "clear answers" provided by his colleagues. Either the Constitution required color-

POWELL HIMSELF KNEW THE WEAKNESS *of his position, yet persisted in it. Yet if there was any special foresight in Powell's view, any gift of wisdom that justifies our later celebration of his position, it lies precisely in the analytic incongruity of "genuine" diversity.*

blindness, now and forever, as the Court itself had so often insisted, or racial preferences in favor of minorities were qualitatively different from discrimination against them and should be judged by a more tolerant constitutional standard. Neither argument is hard to write. What Powell did was to reject both arguments and to consign himself and his clerks to the frustrating and perhaps impossible task of finding an analytically presentable way of splitting the difference. The resulting opinion is well written, admirably clear, anything but slapdash. But beneath the skillful prose and careful exposition lie difficulties that no artful phrasing can resolve.... Powell himself knew the weakness of his position, yet persisted in it. Yet if there was any special foresight in Powell's view, any gift of wisdom that justifies our later celebration of his position, it lies precisely in the analytic incongruity of "genuine" diversity. Without his willingness to embrace that contradiction — and to live with the criticism it provoked — Powell's compromise would have failed....

The choice Powell faced [in *Bakke*] was not merely between two analytically coherent positions, but between analytical coherence on the one side and his hopes for the nation on the other. As a judge, his reputation will stand or fall on the choice he made. So far, the returns look good. 🏠

Social Currents then at Work Forced the Court's Hand

Klarman Offers New Argument on Origin and Effects of *Brown*

■ Cullen Couch

AS ONE OF THE COUNTRY'S PRE-EMINENT constitutional historians, Professor Michael Klarman, the James Monroe Distinguished Professor of Law and a faculty member since 1987, casts a large shadow in the academy, both in scholarship and in person. His stentorian voice and tall frame command attention, and he lectures much like he writes — in complete sentences describing in riveting detail some of the greatest actors and controversies in the history of our nation. Students routinely give him high reviews; “best- taught course I have taken” is a typical comment in students’ course evaluations. And Klarman’s colleagues throughout the nation cite his work frequently in their own papers; newspapers, television, and

The original *Brown* decision signed by each Supreme Court Justice and supporting documents were a gift to the Law School from E. Barrett Prettyman, Jr. '53. The documents are on display in the Arthur Morris Law Library.

radio often seek his commentary on current issues in constitutional law.

So it is no accident that his latest work, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*, released on the 50th anniversary of the landmark decision in *Brown v. Board of Education*, has found such a receptive audience in both academic and popular press. It is also no accident that in poring over the voluminous record of the history before and after *Brown*, Klarman has shed new light on its origins and the somewhat paradoxical consequences that followed it. In short, Klarman says *Brown* was a pivotal moment in American history, but not for the reasons many people believe.

He describes the real reasons in this monumental work begun more than ten years ago (655 pages; 157 pages of which are notes and bibliography). The book tracks the history of segregation in the south from the *Plessy* era on and shows how American racial attitudes and practices were changing dramatically in the late 1940s and early 1950s as a result of various forces deriving from World War II.

***Brown* “Backlash” Was Civil Rights Catalyst**

Today, it is conventional wisdom that the *Brown* decision created the civil rights movement. Klarman argues that the reverse is true: *Brown* could not have happened unless a nascent civil rights movement was already underway. “The justices in *Brown* appreciated that they were riding the crest of a wave, not inaugurating a social movement,” says Klarman.

Clearly though, *Brown* was a turning point in American race relations. Klarman shows with penetrating scholarship that although the Court’s legal decision was but a reflection of national trends already set into motion, *Brown* nevertheless sparked a political inferno in the south that accelerated the pace of civil rights. The book paints a chilling picture of the violence at the core of the white supremacy movement which, according to Klarman, was both the reason for its fearsome success and for its ultimate demise. In newspapers and television, the entire nation saw the evils of segregation.

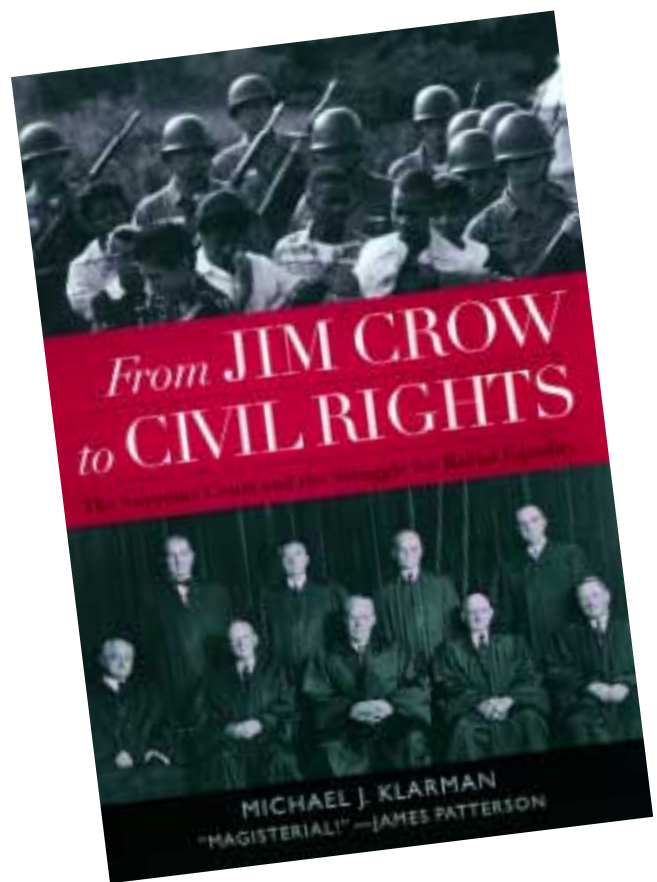
“There is no way that you would have had a federal law barring school segregation ten years later had it not been for *Brown*. Though gradual change was going on in the south and probably would have continued, white southerners, especially in the Deep South, would not have

given up school segregation for many decades longer had it not been for this violent display that led northerners to demand federal intervention.”

Critics Hail Book as “Magisterial Accomplishment”

Both the mainstream and academic press give the book rave reviews. *The New Yorker* calls it “magnificent.” *The Wilson Quarterly* says it is a “luminous study” that is “sweeping, erudite, and powerfully argued.” *The Los Angeles Times*, which calls Klarman one of the “leading academics writing about the law of race,” says his book “not only illuminates the social and political forces that have shaped the Court’s historical approach to race discrimination, he also gives us a powerful reminder of the limits of law.” James T. Patterson, a noted historian, says Klarman’s book is a “magisterial accomplishment.”

Klarman also contributed an article in *The Nation’s* special issue on *Brown* in April, op-ed pieces in *The New York Times* and *The San Jose Mercury News*, and articles in the *Judges Journal* and *Humanities Magazine*. He has also lectured and conducted workshops on *Brown* throughout the country, and has



appeared as a guest on radio and network television programs covering its 50th anniversary.

Warren Leads a Troubled Court to Unanimity

Brown was not the easy case that its unanimity might lead one to suppose. Klarman's research reveals that in the initial conference, the justices were divided roughly down the middle about whether to reaffirm the "separate but equal" doctrine established by *Plessy*. Indeed, *Plessy* in its time was grounded in "plausible interpretations of conventional legal sources: text, original intent, precedent, and custom," says Klarman.

As the 1896 Court in *Plessy* had to rely on its interpretation of the 14th Amendment, so did the 1954 Court in *Brown*. The result illustrates one of Klarman's central points: judges read their own values into the constitution. The drafters of the 14th amendment almost certainly did not mean to bar school segregation. In fact, dozens of court rulings had sustained its constitutionality. Further, the justices who were destined to decide this issue had been appointed by Presidents Roosevelt and Truman primarily because they condemned the sort of judicial activism that characterized the preceding era when the Court invalidated a wide array of protective labor legislation on a thin constitutional basis. "Several of these justices were not sure that invalidating school segregation was all that different from invalidating a minimum wage law, and they had condemned their predecessors for doing that."

Several of the justices weren't sure there was a strong legal theory for striking down segregation. The most compelling argument against segregation was that it was evil — morally indefensible — but most of the justices did not believe their moral views were relevant to constitutional interpretation. Several of them experienced *Brown* as a conflict between law and politics. "They



TODAY, IT IS CONVENTIONAL WISDOM *that the Brown decision created the civil rights movement. Klarman argues that the reverse is true: Brown could not have happened unless a nascent civil rights movement was already underway.*

believed that segregation probably was legally justified, but they could not bring themselves to stomach that result."

And ultimately, they didn't. In *Brown*, the Court concluded that *Plessy* was wrongly decided; separate was inherently unequal and thus violated the 14th Amendment. Earl Warren, the Republican Governor of California appointed by President Eisenhower to succeed Fred Vinson as Chief Justice, used his political skills to convince those justices most reluctant to invalidate school segregation to shelve their concerns and join their brethren in presenting a united Court.

A Court Emboldened

As *Brown* surely acted as a catalyst for dramatic social change, it also laid bare the struggle between originalists and those who favor a "living" Constitution. According to Klarman, virtually everyone today regards the decision in

Brown as correct; no one would argue that state-mandated school segregation is constitutional. This has forced modern-day proponents of originalism to struggle to come up with a justification of *Brown*.

“There is a powerful dynamic today leading originalists to offer arguments defending *Brown* as a matter of original understanding because one of the most powerful challenges to originalism is, ‘what about *Brown*?’ *Brown* is almost universally regarded as right and important. Today, every constitutional theory has to be able to accommodate the result in *Brown* or risk not being taken seriously,” says Klarman.

“TODAY, EVERY CONSTITUTIONAL THEORY *has to be able to accommodate the result in Brown or risk not being taken seriously.*”

Though the Court in *Brown* was not pushing far ahead of an emerging social consensus against racial segregation, the praise the justices received in the decade to follow likely pushed them to be more aggressive in the 1960s, says Klarman. “[The Court] was regarded as having been obviously right on what soon came to be regarded as the most important moral issue of the 20th century. I think the Court was then emboldened to do a lot of other things in the 1960s, such as reapportioning legislatures, revolutionizing criminal procedure, and striking down prayer in schools. I think those outcomes are hard to imagine without the *Brown* decision being regarded as such a huge victory for the Court.”

***Brown* as Creation Myth**

In establishing the linkage between *Brown* and the civil rights movement, Klarman had to delve into the darker corners of our collective past. “It’s hard to study the Jim Crow South without feeling both disbelief and outrage,” he says. “The barbarity of some of these episodes — Bull Connor and the police dogs, the murder of the young schoolgirls in the Birmingham Baptist Church, the assassination of NAACP leader Medgar Evers in Mississippi — is very hard to fathom today. But one also comes across stories of extraordinary courage and dignity by those who challenged the system, often at significant personal risk, and it is really quite inspiring.”


All teachers of Constitutional Law ultimately have to make peace with *Brown*, says Klarman. But in trying to tell what he believes is the real story, Klarman knew he was taking some risks. The legal academy tends to treat *Brown* as sacrosanct, Klarman believes — beyond criticism or even questioning. “Some people are prone to assume that if one questions the importance of *Brown* then one lacks commitment to racial equality. This has always struck me as odd: Why should questioning the relative importance of litigation in changing American race relations say anything about one’s commitment to racial equality?”

Extending the Hypothesis

With this book now behind him, Klarman plans to write an article extending the point he makes about *Brown*’s unpredictable backlash effect and applying it to a series of other landmark Court rulings involving abortion, criminal procedure, the death penalty, and state court decisions protecting same-sex marriages. He will argue in all of these areas that perhaps the most important consequence of Court decisions is to mobilize political opposition and then will propose a general theory about why some Court decisions produce that effect and others don’t.

“That’s a big project and ties into a constitutional theory book I’ll probably write over the next five years. I’ll call it something like “Constitutional Skepticism” or “Constitutional Cynicism” and it will generalize from some of the points I make about the race context in this first book. My main claim is that judicial decisions stem from a judge’s values which broadly reflect the currents of the time, and so we should never expect a Court to get that far out of touch with public opinion. The other main point in the book will be to talk about some of the unpredictable consequences of Court decisions.”

For the immediate moment, Klarman will take a breather from the hectic pace he has set for the past couple of years. But only a short one.

“I’m kind of compulsive about this,” he says with a smile. “Scholarship is what I do. It’s fun. It gives me pleasure.” Given the accolades he continues to receive from his students, his colleagues, and his readers, it does the same for them. 

Class Notes

Send Us Your News

Tell us the important things that happen in your life! We welcome submissions for inclusion in *Class Notes*. **Online**, submit them at www.law.virginia.edu/alumni; **E-mail** them to lawalum@virginia.edu; **mail** them to *UVA Lawyer*, University of Virginia School of Law, 580 Massie Road, Charlottesville, VA 22903; or **fax** them to 434/296-4838. Please send your submissions by February 1, 2005, for inclusion in the next issue.

1934

The Class of 1934 finished the 2003–2004 annual giving campaign with a participation rate of 100 percent! The annual giving effort for the class was chaired for many years by **Frank W. Olive**. Mr. Olive's good work has been continued by his widow, Mrs. Carolyn Olive.

1940

Mortimer Caplin has been busy writing about and responding to current tax issues. His article, "The State of IRS Administration and our Tax System in General," was published in *Tax Notes* on April 26. He presented his statement, "Tax Simplification," to the House Ways & Means Subcommittee on Oversight, on June 15. Read these on the web at: www.law.virginia.edu/caplin.

1946

Morton B. Spero retired on December 31, 2001 after more than 55 years of active practice. He lives in Petersburg, VA.

1948

Larsh Bindley Mewhinney is recuperating from knee replacement surgery. Please write to him via email at pbgates133@aol.com or at 1698 Rt 9D, Cold Spring, NY, 10516.

THE VIRGINIA BAR ASSOCIATION (VBA)

honored the following Law School alumni as Life Members during a July 16 banquet at the Association's 114th summer meeting. Life members have been members of the VBA for at least 40 consecutive years and have attained the age of 70.

John P. Ackerly III '60

John J. Adams '59

Charles B. Arrington, Jr. '61

Robert L. Bohannon '59

Randolph W. Church '60

Lee C. Kitchin '62

Thomas O. Lawson '59

G. Marshall Mundy '62

Hon. Nicholas E. Persin '62

Paul P. Raulet '63

C. Arthur Rutter, Jr. '59

Alexander P. Smith '61

Stephen C. Willard '59

Jesse B. Wilson III '63

A. Stuart Robertson, Jr., died of carcinoma of the esophagus in July 1983. He had practiced as a "country lawyer" for 35 years and was a partner at Shackelford and Robertson in Orange, VA. Robertson had three daughters, Gwyn, Ellis, and Lucy. He is survived by his wife of 41 years, Anne Russell Gwyn Robertson, and daughter Lucy. Mrs. Robertson continues to reside in Orange.

1949

John L. Arnold has been practicing bankruptcy law in Jacksonville, FL, for nearly half a century. He was recently featured in the January 9th edition of the *Business Journal of Jacksonville*.

1957

William A. Johnston retired in 2003 as board chair of Valley Health System in Winchester, VA, after 33 years of service. Valley Health System dedicated its new board room in Johnston's honor on March 9.

1958

Michael L. B. Kaplan retired as vice president and chief counsel of the Mutual Life Insurance Company of New York in October of 1991. He also retired as deputy general counsel and deputy secretary of Horizon Blue Cross Blue Shield of New Jersey on July 1.



Hobart McWhorter was recognized by *ChambersUSA* as being among Alabama's leading individual attorneys in the litigation category and his firm, Bradley Arant Rose & White LLP, was ranked as the top law firm in that state.

1959

James Colt continues his work as lawyer and treasurer, with a heavy emphasis on the latter. After 28 years he is out of elective local government, confining himself to financially supporting Massachusetts's Republican candidates whom he considers competent and conscientious.

Francis H. Hare, Jr., married Mary Hateley Sommerville on March 28. The couple lives in Alabama.

James H. Harvell III retired as a General District Court Judge on March 1, 2003, after more than 31 years on the bench. He still sits occasionally for local judges, but he writes that most of his time is spent taking care of his grandchildren.

1961

Clark Redick shares news of his prominent mention in the new book, *The Bell Women*, by Marjorie Stockford. The book is the story of the landmark AT&T sex and race discrimination case, which settled for \$38 million in 1973. The approving judge called the case "the largest and most impressive corporate civil rights settlement in the history of the Nation." Redick was 36-years-old and a labor and defense lawyer for The Ohio Bell Telephone Company when he was summoned to New York by AT&T and tapped to handle, on behalf of 23 companies and several unions, the legal complexities of the negotiations, the consent decree, and the accompanying opinion letters. Redick has been retired since 1994, and lives with his wife, Jeanne in Mission Hills, KS. The Redicks have two children and one granddaughter. Redick reports that his two brothers and one sister-in-law became lawyers. Clark, a one time Northern Ohio chairman of the Law School's annual giving campaign said, "I have been very proud to be a Virginia law graduate. My goal has been to do my best."

1964

Walter "Chip" Dickey writes with updates on his grandchildren. The newest, Jonathan, was born on September 26, 2003. Jonathan joins three-year-old Emily, and five-year old Alex. Dickey enjoys his time with them. He and his family reside in Prairie Village, KS.

After almost 20 years of service as editor of the Defense Research Institute's *For the Defense*, **Dave Ream** announced his retirement. Although the magazine featured the former editor on its March cover in honor of his years of service,

Ream assures all that he is only semi-retired. He continues to work part-time at DRI, developing new publication projects.

John Riggs has been based in the Rome office of White & Case since early 2003, and is in charge of restructuring the firm's Milan and Rome offices. He says Rome is a delight, but he is determined to retire by the end of the year.

1966

Glenn R. Adams's daughter, **Lise Bitler Adams**, graduated from the Law School in 2003. She is now a Law School Powell Fellow at the Washington, D.C. Legal Aid Office.

1968

Gail Starling Marshall has been elected to the board of Southern African Legal Services and Legal Education Project (SALSLEP), a charitable organization founded in the apartheid-era to provide legal resources for civil rights and legal aid to the poor, principally in South Africa, but also in Zimbabwe and Namibia.

Henry Rossbacher's daughter, **Drury**, is a first-year at the Law School this fall.



Julious P. Smith, Jr., chairman and chief executive officer of Williams Mullen in Richmond, VA, has been elected as a fellow of the Virginia Law Foundation.

This honor is conferred on lawyers who have distinguished themselves in the legal profession, not only by service to the bar but also to their communities, and is limited to one percent of the active and associate lawyers in Virginia. Smith was inducted at the January 15 meeting of the Virginia Bar Association in Williamsburg. Smith represents and advises business clients in corporate and business matters, including succession planning and mergers and acquisitions. He has particular

expertise in closely-held businesses, real estate, and income and estate taxation. His merger and acquisition experience ranges from small family businesses to major transactions involving publicly-traded companies.

The Washington State Bar Association (WSBA) announced that Port Angeles attorney **S. Brooke Taylor** has been elected to serve as WSBA president-elect in 2004–2005. Taylor will serve as the organization's 115th president in 2005–2006.

NBC Chairman and Chief Executive Officer **Bob Wright** was featured in *FORTUNE's* "FIRST question authority" column in the June 14th edition. Wright discussed NBC's deal to buy Vivendi Universal's movie and television businesses, doubling the company's estimated worth to \$42 billion.

1969

Gil Davis is chairman of the board at Yorktown University, as well as chairman for the Center of Law and Accountability. Davis is also a candidate for lieutenant governor of Virginia in 2005 on the GOP ticket.

Gordon D. Schreck is chair of the Faculty Affairs Committee of the Board of Trustees at Hampden-Sydney College. He has also been named again to the *Best Lawyers in America*.

Thomas Troy Zieman, Jr., was sorry to miss his 35th reunion this spring. He reports that Professor Peter Low was the faculty member who had the greatest influence on him, since he lives Low's procedure class "every day."

1971

John Finley was honored by Her Majesty Queen Elizabeth II, in recognition of his contribution to the promotion of British trade and investment, by being invested as an honorary Member of The Most Excellent Order of the British Empire in a ceremony presided over by Her Majesty's

Ambassador to the United States, Sir David Manning, at the Ambassador's official residence in Washington, D.C., on December 10, 2003. Finley is the past Chairman of BritishAmerican Business, Inc. (formerly the British-American Chamber of Commerce) with offices in London and New York, and is a director (and founder) of the British-American Chamber of Commerce Foundation, which donates funds to causes in the New York-area.

Sandra Horwitz sadly reports the passing away of her husband **Arthur H. Horwitz** on May 8, at the age of 57.

Ralph B. Robertson retired from the judgeship of the Richmond General District Court. He reports he has a practice restricted to Federal Courts.

1972

Steven Davis has become a partner in a new firm, Schiffman Berger Abraham Kaufman & Ritter, PC, in Hackensack, NJ.

R. Craig Hopson reports he is still happily married to his wife of 35 years, Sharon. Craig's law practice consists mainly of estate planning, elder law, and real estate. He is enjoying his practice more than ever (along with two grandsons, golf and antique toy/train collecting). Craig's oldest daughter Heather graduated with her bachelor's and master's degrees from UVA in 1997. His son Ryan is currently a third-year at the University's McIntire School of Commerce. Hopson has recently been elected to the following positions: trustee of Winfree Memorial Baptist Church in Midlothian, VA; member of board of directors of the Virginia Baptist Homes Foundation; member of advisory board of BB&T Bank-Richmond; and member of the citizens' advisory board of Bon Secours-St. Francis Hospital.

Robert Musick, Jr., has joined Palmer & Cay Consulting Group in Richmond, VA, as a principal and will help lead the qualified retirement plans and executive compensation practice.

James J. Tanous has been re-elected as chairman of the executive committee of Jaeckle Fleischmann & Mugel, LLP, a full-service firm with offices in Buffalo, Amherst, and Rochester, NY.

1973

Paul Hurdle has joined Akin, Gump, Strauss, Hauer & Feld as senior counsel in its Washington, D.C. office, specializing in securitization and structured finance.



Jonathan Kane, partner at Pepper Hamilton LLP, has been elected fellow of the College of Labor and Employment Lawyers. Kane is chairman of Pepper's labor and

employment group and works in the firm's Berwyn, PA, office.

In December of 2003, **Hugh McIntosh** became headmaster of the Keystone School in San Antonio, TX. After law school McIntosh practiced with Vinson & Elkins, LLP, in Houston. In 1986, he and his family moved to Washington, D.C., where McIntosh worked in corporate finance as public policy partner in Vinson & Elkins' office there. In 1998 he withdrew from partnership to pursue a degree in theology at Harvard Divinity School. After Harvard, McIntosh worked at Punahou School in Honolulu, and then as coach, religion teacher, and chaplain at the St. Albans School in Washington, D.C., before heading to Texas. He and Sara Bullock McIntosh have been married for more than 28 years, and have three children. Their oldest, Hadley, attends the University of Texas School of Law. Middle child Hugh Barnes has begun work on his Ph.D. in the human sciences at George Washington University. Jess, the youngest, is a junior at Wesleyan University in Middletown, CT. Mrs. McIntosh is a writer on First Lady Laura Bush's staff.

John Hardin Young has been elected for a four-year term as the Fourth Circuit Trustee of the American Inns of Court Foundation. He is a member of Sandler, Reiff & Young, PC, in Washington, D.C., in the areas of administrative and technology law, commercial litigation, and dispute resolution. Young is the president of the George Mason American Inn of Court and served as a founding member of that Inn, as well as its program chair and counselor. The American Inns of Court is a national legal association dedicated to promoting ethics, civility, and professionalism, and is comprised of more than 24,000 federal, state, and local judges, lawyers, law professors, and law students in some 350 chapters across the United States.

1974

Whittington W. Clement received the Virginia Bar Association Distinguished Service Award on January 16. He currently serves as the Virginia Secretary of Transportation and was a representative in the House of Delegates for 14 years. Clement retired from the Danville law firm of Clement & Wheatley and serves on the board of managers of the University Alumni Association.

Larry Fullerton recently completed his term as president of the Home Builders Association of Metropolitan Denver. He reports that he is proud of leading the 1,500-member professional organization to “higher standards of community building, improving access for people with disabilities, and offering a plan for workforce housing to the City of Denver.” He also served this fall on newly-elected Mayor John Hickenlooper’s transition team, as co-chair of the Public Works Committee. Fullerton is happy to return full-time to his real estate development company, and to be able to spend more time with his wife, four grown children, and grandson Alec.

1975

Tina Swent Byrd has been elected a fellow in the American College of Trial Lawyers. She and classmate **John Charles Thomas** were both faculty members at the May 2004 ABA Arbitration Training Institute.

John Eckstein is still a director at Fairfield and Woods in Denver. He also spends time serving on the board of the Colorado Bio Science Association, as well as several other boards, speaking on technology-based business financing at CLE events, playing charity golf tournaments, watching his kids grow up, and having a great time practicing law.

New York venture capital firm, Easton Capital, announced that **Charles B. Hughes III** has joined the firm’s New York office as managing director. Prior to joining Easton, Hughes was a senior partner specializing in venture capital and private equity transactions at Torys LLP. Before joining Torys in 1992, Hughes was a partner at the New York office of Richards & O’Neil.



1976

Christian & Barton, LLP is pleased to announce that partner **Peter E. Broadbent, Jr.**, has been elected as Virginia’s Republican 7th District Elector for the 2004 presidential election.

Daniel J. Hoffheimer has published “Professionalism in Estate Planning, Trust, and Probate Law,” in the *Probate Law Journal of Ohio*, March–April 2004.

Thomas L. Higginson, Jr., has embarked upon a project to fund the construction of a medical clinic in Kien Giang Province in southwestern Vietnam. Though the Vietnamese government will run it once completed, Higginson notes how far a dollar goes in the province — to operate a clinic with seven professionals treating 6,000 cases a year costs roughly \$3,000.

1977

E. Tazewell Ellett of Alexandria is president of the Virginia Bar Association for 2004, having served as VBA president-elect in 2003 and on the board of governors in 2002. Ellett is a partner at Hogan & Hartson, LLP, where he serves as administrator of the aviation group and as a member of the legislative group.

Gary Feulner writes from Dubai, United Arab Emirates, to provide the following clarification: "Your account of my natural history activities in the most recent *Class Notes* (Spring 2004) is likely to give many of my classmates the (envious?) impression that I have abandoned the practice of law. Nothing could be further from the truth. My natural history studies, although undertaken seriously, are strictly extra-curricular. I continue to be employed full time as general counsel of SHUAA Capital, a growing regional investment bank based in Dubai, itself an emerging financial center. Transactional work and corporate finance came easily after private practice. Legal supervision of asset management activities has been a learning experience." Gary invites classmates visiting or professionally involved in the Arabian Gulf region to contact him. Among others, **Caffey Norman** has joined Gary for a jaunt in the field — uphill at 100°F.

Virginia Emerson Hopkins was confirmed by the U.S. Senate on June 15 as a District Judge for the Northern District of Alabama.

Thomas Michael Melo still has great fondness for Bracewell & Patterson, his firm for 26 years, "but decided it would be fun to practice with a wonderful national labor and employment specialty firm — Ogletree, Deakins, Nash, Smoak & Stewart, P.C.," he writes. Melo still resides in Houston.



1978

Mitchell J. Kassoff has published his latest article on franchise law titled "Can a Choice of Forum Clause Force a Franchise to Litigate in the Franchisor's Home

State?" in the June issue of the *New York State Bar Association Journal*. Kassoff has been elected as vice president of the North East Academy of Legal Studies in Business. He practices franchise law nationwide (www.franatty.cnc.net), with offices in New Jersey and New York. His son Jonathan is currently attending the UVA Engineering School and enrolled in Naval ROTC. His daughter Sarah graduated from UVA in 2003. His wife Gwendolyn graduated from the College in 1975 and received her master's from the School of Education in 1976. "The entire family is devoted to the University of Virginia," says Kassoff.

George Meros, Jr., was named one of the American Tort Reform Association's (ATRA) "Legal Reform Champions," a group of high-profile lawyers dedicated "to restoring equal justice under law and reclaiming the civil justice system from the grip of plaintiffs' lawyers." ATRA's honorees have performed pro-bono work on behalf of civil justice reform organizations, supported pro-reform candidates, refused to accept cases that abuse tort law, and taken a public stand against abusive lawsuits. Meros, a partner in GrayRobinson's Tallahassee, FL, office is a frequent guest lecturer and author on legal reform issues. He played a central role in the passage of Florida's 2003 Medical Malpractice Act and the Worker's Compensation Reform Act. In addition, he drafted *The Personal Responsibility in Food Consumption Act* that was introduced in the 108th Congress.

Paul Schott Stevens was unanimously elected president of the Investment Company Institute (ICI). Washington, D.C.-based ICI is a national trade association representing mutual funds, unit investment trusts, and closed-end funds. The purpose of the Institute is to represent members

and their shareholders in matters of legislation, regulation, taxation, pension, international issues, public information, industry statistics, economic and market research.

1979

Andrew A. Guy is now working as a commercial litigator at Stoel Rives LLP in Seattle, WA.

Ron Manthey has joined Baker McKenzie in Dallas, TX, and chairs the labor and employment section. Manthey left Littler Mendelson with a group of six shareholders and others to join Baker McKenzie in April.

Capie A. Polk is posted to the U.S. Embassy at The Hague in the Netherlands with the Department of State.



1980

James May was ranked among Alabama's leading individual attorneys in the employment and labor law category and his firm Bradley Arant Rose & White

LLP was ranked as the state's top law firm by *ChambersUSA*.

George Somerville married Elizabeth "Betsy" Sale on June 19. Both are from Richmond, VA. Somerville is a partner with Troutman Sanders LLP, and the father of four sons. Betsy has two daughters.

F. Blair Wimbush has moved from Norfolk Southern Corporation's law department to the corporation's marketing division, where he heads the real estate department.

1981

Jim Browning, nominated by President George W. Bush as District Judge for the District of New Mexico, was sworn in August 6, 2003.

Warren David Harless, a partner with Christian & Barton, LLP in Richmond, VA, has been inducted as a Fellow of the American College of Trial Lawyers. The induction ceremony took place during the Spring Meeting of the College in Boca Raton, FL. The College strives to improve the standards of trial practice, the administration of justice, and the ethics, civility, and collegiality of the trial profession. Lawyers must have a minimum of 15 years trial experience before they can be considered for fellowship, and membership in the College cannot exceed one percent of the total lawyer population of any state or province. There are currently 5,200 Fellows of the College in the U. S. and Canada.

William R. Van Buren III was chosen to chair the Virginia Bar Association Board of Governors. He is a partner at Kaufman & Canoles in Norfolk, VA, practicing in the areas of commercial law, health care, mergers and acquisitions, and venture capital. Van Buren is a past president and fellow of the Virginia Law Foundation and is involved in numerous professional and civic organizations.

1982

Robert A. Harris of Zeldes, Needle & Cooper, PC, was presented the 2004 Honorable Robert C. Zampano Award for Excellence in Mediation in June. The award, named after the late U.S. District Court Judge Robert Zampano, a renowned mediator, recognizes leadership, initiative and creativity in the field of mediation in Connecticut. Harris currently serves as co-chair of the Connecticut Bar Association Section on Alternative Dispute Resolution.

This annual award ceremony, a benefit for Community Mediation, was sponsored by one local bank, one local foundation, one local university law school, and 20 state law firms, including Bai, Pollock, Blueweiss & Mulcahey, PC, Koskoff, Koskoff & Bieder, PC, NewAlliance Bank, Pullman & Comley, LLC, Tremont & Sheldon, PC, Zeldes, Needle & Cooper, PC.

Keith Hemmerling reports he has published his second book, *Whorehound*, and will publish a collection of screenplays under the title of *Walkin' on the Wild Side* this fall. Find these at *xlibris.com*. Hemmerling's films, *Any Witch Way*, *Mermaid from Malibu*, and *Manic Depression Interview* are being distributed worldwide. Hemmerling's nine CDs are available at *tower.com*. In addition, *West 47th St*, and *The Infinite Mind*, each in part underwritten by the Hemmerling Foundation, received Gracie Awards.

Finis "Fess" St. John was inducted as a fellow of the American College of Trial Lawyers in October of 2003. In 2002 he was elected to the board of trustees of the University of Alabama System, which is responsible for the management and control of three state universities. St. John practices in the firm of St. John & St. John in Cullman, AL, with his wife Gaynor. He also serves as chairman of the board of Southern Community Bankshares and First Federal Savings & Loan. In addition, he is chairman of Cullman Environmental, Inc. Son Finis V entered UVA in August as a first-year student in the College of Arts and Sciences, and Jack is a senior at Cullman High School.

1983

Brad Bailey joined Boston's Denner Associates as a partner in May. He specializes in white collar criminal defense and securities litigation.

Robert J. Conrad, Jr., joined the Charlotte office of Mayer, Brown, Rowe & Maw LLP as a partner, after serving as U.S. Attorney for the Western District of North Carolina from March 2001 to May 2004. Conrad's nomination by President Bush to the federal bench for the Western District of North Carolina is still pending Senate confirmation.

Julie Green's law firm, Salem & Green, in Sacramento, CA, celebrated its fifth anniversary in August. The firm has five attorneys and five staff

members and specializes in securities, business transactions, and health care regulatory matters.

James R. Hart has been appointed to a four-year term as an at-large member of the Fairfax County Planning Commission. He has served on the Fairfax County Board of Zoning Appeals since 2000, and is a former chair of the Construction Law and Public Contracts Section of the Virginia State Bar. Hart is a member of the Fairfax, VA, firm of Hart & Horan, PC, practicing in the areas of construction and real property litigation.

Christopher Knopik, Joseph Varner, and Robert Wilkins were recently selected by their peers and *Florida Trend Magazine* as members of "Florida's Legal Elite." In addition, Knopik was named the 2004 recipient of the Hillsborough County Bar Association's Michael Fogarty Award for Excellence and Integrity in Civil Trial Practice.

Neil Rose completed eight years of service on the Virginia Beach School Board, the last three as vice chair. After winning two city-wide elections, Rose chose not to run for a third term and will spend more time "billing hours and in other charity work."

1984



Jory Hingson Fisher is a charter faculty member of the Liberty University School of Law in Lynchburg, VA, which welcomes its inaugural class this fall. Fisher serves as director of the Center for Lawyering Skills and chair of the committee for student affairs. Before entering academia, Fisher's career included service in Northern Virginia as a county attorney, court interpreter, ministry director for troubled youth, and solo practitioner. After moving to Lynchburg in 1993, Fisher was appointed executive director of the regional Child Abuse Prevention Center. She later became a certified family mediator and guardian *ad litem*, senior

legal aid attorney, and assistant public defender. Fisher is a long-time member of the Virginia Bar Association's Commission on Needs of Children, and a current faculty member of the Virginia State Bar course on professionalism. Fisher relishes time with her family (husband Dave, three daughters, three stepdaughters, and one stepson), but remains committed to teaching street law to youths in Central Virginia's regional juvenile detention center and to singing in her church choir. For fun, Fisher takes ballroom dancing and jhembe drumming lessons and enjoys daily Frisbee matches with her three dogs.

Paul Hudnut received a special appointment to the College of Business at Colorado State University in August 2003. Hudnut spends half of his time teaching undergraduate entrepreneurship courses and the other half helping commercialize university-based technologies. As an example, he is a founder of EnviroFit International which is developing a technology to retrofit two-stroke motorcycles so they are fuel efficient and cleaner (www.envirofit.org). His wife Annie keeps busy tap dancing, playing the piano, and launching a new business as a professional organizer. Their eldest child, Peter, born while Hudnut was at the Law School, is now a junior at Colorado College. He reports that his next door neighbor is classmate **Gary Amato** — "small world!"

David B. Irvin continues to work as chief of the Virginia Attorney General's Antitrust and Consumer Litigation Section. He has been with the office for 15 years. Irvin lives in Richmond with his wife Ann Watson and two sons, Taylor (15) and Jack (12).

David Massey has released a CD featuring 13 original songs in the Americana vein. Available at cdbaby.com, the record features a who's who of Washington, D.C.-area musicians. David is contributing 50 percent of his proceeds to the National Council for the Traditional Arts (www.ncta.net) and Stars for Stripes (www.starsforstripes.com).

Walter D. Rabin is now President and CEO of All Points Capital, a New York-based specialty finance company with \$1 billion in assets. Rabin lives in Oceanside, NY, with his wife Debbie and children, Andrew (16) and Laurie (12).



David Rosenberg received an honorary life member award from the ChildCareGroup in Dallas, TX. The Thompson & Knight partner was selected for the award due to more than 12 years of service

to the agency. He served two consecutive terms on the group's board of trustees from 1990–2003 (with a one-year absence due to consecutive service limits) and was the chair in 2001.

Rosenberg assisted the ChildCareGroup with its search for a new CEO in 2000 and was active in fund-raising efforts. The ChildCareGroup, a nonprofit agency, was founded in 1901 to care for the children of women who worked in the cotton mills of Dallas.

On June 9, Harvard Law School Professor **William Stuntz** received the 2004 Sacks-Freund Teaching Award. Stuntz has been on the faculty of Harvard Law School since 2000. The award was established in 1992 in honor of the late Harvard Law School Professors Albert Sacks and Paul Freund.

1985

Jeffery M. Blumenthal is a director for Hartford Life's group life and specialty life claims operations. He lives in Simsbury, CT, with his wife Catherine and two children, Matthew and Scott.

Philip Goodpasture has joined the Richmond, VA, office of Williams Mullen as a partner in the business section. Goodpasture's work focuses on business issues related to music, entertainment, and Internet commerce businesses.

John H. “Chip” Grayson, Jr., is the head of investment banking at Morgan Keegan in Memphis, TN. Grayson oversees mergers and acquisitions, public equity financing, funds management, and private placements.



Charles Joseph is now general counsel and corporate secretary of Blue Cross and Blue Shield of Florida (BCBSF). In his new role, Joseph will provide executive leadership and

management of BCBSF’s Legal Affairs Department and the Corporate Audit, Risk Management and Compliance Division.

Joseph joined BCBSF in 1994 and has served as vice president and senior litigation counsel. He has been involved in numerous health litigation, managed care- and risk management-related matters. Joseph also has provided legal support to the BCBSF board of directors’ governance and nominating committee, and most recently, served on the board of directors of Incepture, Inc., a BCBSF subsidiary. Prior to joining BCBSF, Joseph was a commercial litigator for Fulbright & Jaworski LLP in New York City. Throughout his career, Joseph has been active in community and civic organizations. While living in New York City, he volunteered with the Make-A-Wish Foundation. In Jacksonville, Joseph is serving as a member of the board of the River Garden Hebrew Home. He also has worked with The Blue Foundation for a Healthy Florida and has been actively involved in coaching youth basketball for a number of years.

Rey Ramsey is the chief executive officer of One Economy Corporation, a national nonprofit organization in Washington, D.C., that helps bring technology into affordable housing, and the chairman of the board of Habitat for Humanity International. Ramsey is co-author, with Ben Hecht, of *Managing Nonprofits.org: Dynamic Management for the Digital Age*.

In November of 2002, **Bob Vance, Jr.**, was appointed a circuit court judge in Jefferson County, Al. Several weeks later, he and his wife, **Joyce White Vance**, had their fourth child, William Oliver, who joins Robert Smith III, Edward Rodman, and Eleanor Rainey.

1986

Robin Carnahan is campaigning to become Missouri’s next Secretary of State. In the 1990s Carnahan worked on efforts to promote democracy and free elections in six countries. She also served as a special assistant to the chairman of the Export-Import Bank of the United States. Currently Carnahan runs her own consulting business and manages her family’s 800-acre farm and angus cattle operation. Keep up with the race at: carnahanformissouri.com.

Tom Denison and his family are in Connecticut, where Denison continues his job as a managing director in the Greenwich office of First Reserve Corporation. He writes that he “really misses the big square states.”



John Hagefstration was ranked among Alabama’s leading individual attorneys in the real estate area and his firm Bradley Arant Rose & White LLP was ranked as the state’s top law firm by *ChambersUSA*.

Debbie Holloman is an attorney with the U.S. District Court for the Eastern District of Virginia in Richmond. She recently embarked on an adventure to help WetBird Productions create the documentary, *Thank You, Eddie Hart*, which has aired on public television stations since May. The documentary is the story of Debbie’s uncle, U.S. Army Private First Class Eddie Hart, who was killed in the final weeks of World War II.

Rod Hunter has been working at the National Security Council at the White House since August of 2003.

In May, **Brenda C. Karickhoff** was promoted to senior vice president and associate general counsel of Time Warner, Inc., in New York City.



William M. Ragland, Jr., was installed as the 2004–2005 President of the Atlanta Bar Association at its annual meeting. Ragland is a partner in Hunton & Williams' Atlanta office.

1987

Bryan T. Camp reports that after nine years of trying, (eight of them spent working in the IRS Chief Counsel's National Office in D.C.) he "finally" landed a teaching job at Texas Tech University School of Law. He and his family moved to Lubbock in the summer of 2001. In so doing Camp joined an impressive number — ten — of fellow '87 graduates in the halls of academe. He is happy to report that in the fall semester of 2003 the faculty voted to grant him tenure. "It was a long, but not particularly strange journey". He would be happy to share more details of his experience with anyone contemplating such a career move.

Phil Comerford, Jr., joined ING Capital LLC in New York, as managing director and head of U.S. mergers and acquisitions. Comerford is building a team focused on middle market transactions across a broad spectrum of industries, including food and beverage, packaging, auto parts, specialty chemicals, and others. His team supports both American and international clients, thus the majority of his activities involve cross-border transactions.

Craig Fishman is going on ten years of marriage to Shari D. Comins. The couple has a two-year-old son, Jamie. Fishman is an attorney at Orrick, Herrington & Sutcliffe LLP, practicing in Washington, D.C.

David C. Keesler was sworn in as U. S. Magistrate Judge for the Western District of North Carolina in Charlotte on April 30. Keesler had worked as both a state and federal prosecutor and as a partner at Moore & Van Allen. He and his wife Susan are proud parents of two daughters, ages six and three.



Michele A. Masucci has joined Nixon Peabody as counsel in its Health Services Law Practice, in Garden City, NY.



Tennessee attorney **Richard Spore** has just released the new edition of *Business Organizations in Tennessee*, a comprehensive resource guide for all business organizations and corporate lawyers in the state. Spore, a business lawyer with Bass Berry & Sims, has been actively involved in developing Tennessee business law legislation through the state bar and the State Tax Task Force. In addition to his practice and committee work, Spore has taught business law to undergraduate and graduate business students, and is a frequent speaker on business and commercial law topics for lawyers and other professionals throughout the state.

After serving as deputy commissioner for the Virginia Workers' Compensation Commission for two years, **Jim Szablewicz** was promoted to the office of chief deputy commissioner, supervising all judicial functions of the agency state-wide.



Kim Keenan '87 of Washington, D.C., and her father, Charles Keenan, during the 79th Annual Awards Banquet of the National Bar Association in Charlotte, NC. Kim was installed as President of the NBA at their August 13, 2004 banquet. Kim served as President-Elect for the past year and oversaw the planning of bar events for the 2004–2005 bar year.

1988

Peter Briton Busch, son of **Philip Busch** and **Carey E. Hagan**, was born May 27, 2003.

Glenn T. Reynolds works for BellSouth, handling their federal regulatory relations in Washington, D.C. Before BellSouth, Reynolds spent five years at the Federal Trade Commission in different positions, including deputy chief of the Common Carrier Bureau. During this period, Reynolds crossed paths with many Law School graduates, including **Bill Wiltshire**, **Maria Olsen**, and **Chris Olsen '89**. Reynolds reports that he and his wife Sarah have been fighting exhaustion trying to keep up with their two boys, Jack and Will.

Peter Fish has joined PEC Solutions, Inc., an information technology service company headquartered in Fairfax, VA, as vice president and general counsel. Fish lives in Oak Hill, with his wife Karen and their three children, Amanda (15), Kristen (13), and David (8).

John Storella serves as vice president of intellectual property at CIPHERGEN Biosystems, a biotechnology company in Fremont, CA. He and his wife, Lisa Aliferis, welcomed a second child, Dominic, on January 7.

Eric C. Taylor was elected president of the California Judges Association in the fall of 2003. He was installed by the state's Chief Justice on November 2.

1989

Patrick Capuano finished his second year as middle school teacher of religion in a Catholic school outside of Washington, D.C. He reports it to be the hardest job he has ever had. Capuano hopes to become an inner-city principal and build beneficial learning communities for kids in difficult circumstances.

Robert Hupe and his wife of 12 years, Susan, had a baby boy on April 24. Preston Robert joins three-year-old sister Emily Louise. The family lives in San Dimas, CA. Hupe works for Virco Manufacturing Corporation as associate corporate counsel. He handles all non-employee-related litigation, environmental and real estate matters, acquisitions, and intellectual property work. He has tried plaintiff and defense cases to successful verdicts in California and other states. Since graduation he has lived and practiced law in Southern California. Hupe says his family loves to travel both inside and outside the United States, and are involved with their local church in Glendora.

Steven P. Lynch was appointed a Commissioner with the Maricopa County Superior Court in Phoenix, AZ, in February. He becomes the third youngest commissioner to serve on the bench. His first assignment is in the initial appearance court of the criminal division.

Kimberly A. Newman announces her adoption of a baby boy from Russia on June 21. Her son's name is Beau Benjamin, and was born November 23, 2003. Newman is now a partner at O'Melveny & Meyers in Washington, D.C., and she and Beau reside in Alexandria, VA.

Atlanta, Jackson, and Birmingham Alumni Events



Clockwise from top:
Carlton Reeves '89 (left) and Joshua Metcalf '01 at the Jackson, MS, event on March 17. Left to right, Dennis Zakas '82, Tom Bever '82, and Glenn Patton '96 in Atlanta, GA, on March 16. Rob Masri '96 (left) and Mark Wiggs '84 in Jackson. Classmates John Hagefstration '86 (left) and Randall Nichols '86 catch up in Birmingham, AL, on March 16. Classmates Tom Jamerson '03 and Meredith Aden '03 in Jackson.



Scott Tilley is the general counsel of STIHL Incorporated in Virginia Beach. STIHL manufactures the world's largest-selling brand of chain saws and cut-off saws, as well as a full line of powerful, lightweight outdoor power equipment.

1990

Edward Burley is currently finishing two years of active duty with the U.S. Army Reserve. His tour included 15 months in Iraq investigating mass grave sites and genocide by the former Iraqi regime.

Steven E. Christoffersen and his wife Laura welcomed daughter Maria Ann into the world, on June 2, 2003. Christoffersen reports their older child, Erik (born December 11, 2001), "has been a great big brother most of the time."

John Clancy received the 2004 Leader in Law award from the *Wisconsin Law Journal* for his representation of the Forest County Potawatomi Community in its opposition to the proposed Crandon Mine. Efforts to site this 55-million ton underground zinc and copper mine in northern Wisconsin have been ongoing for more than three decades. The mine, which was proposed originally by Exxon, would have been located near the head waters of the Wolf River and within the traditional cultural lands of the Forest County Potawatomi Community and the Sokaogon Chippewa Community's Mole Lake Band. After the Forest County Potawatomi Community raised numerous environmental, cultural, and other impact-issues related to the mine, the applicant agreed to sell all of its interests, including its rights to the ore body and to more than 5,000 acres of forest land, to the tribes for a fraction of their expected value.

Annette Hughes, a former partner at Sedgwick, Detert, Maran & Arnold, moved to Australia in 1997, where she founded an office for Shook, Hardy & Bacon. In 2001, Hughes became a partner with Allens Arthur Robinson

(www.aar.com.au). Hughes recently accepted an invitation to join the International Association of Defense Counsel. She says she would love to hear from any alumni in Australia.

Ronald V. Minionis was promoted to managing attorney of the Alexandria office of Legal Services of Northern Virginia, and chair of the housing group. Minionis's daughter Gabriella is 2 years old. "She is talking up a storm and doing great." He proudly states that "she already wants to play softball!"

On December 19 **Joshua Prober** and his wife Melissa welcomed their son, Jonah Alexander Prober. He notes, "It was a wonderful end to 2003 for the family."

Charles Sullivan and Marc Benson (Boston University '90) "rushed to San Francisco's beautiful City Hall to get married on Friday, February 13, after 22 years together." Due to the lack of advanced planning, no Virginia friends were in attendance — but the couple was surrounded by a few of Sullivan's friends from work (Charles works in City Hall as a deputy city attorney) and "lots of friendly strangers."

1991

Jennifer Slye Aniskovich was appointed executive director of the Connecticut Commission on Culture and Tourism by then-Governor John G. Rowland. Aniskovich is responsible for overseeing all state cultural activities and for developing and implementing Connecticut's strategic tourism plan.

After completing her clerkship at the Superior Court of Guam in 1993, **Dr. Robin Douglas** remained on the island for a period, became involved in animal welfare and humane society work, and decided to become a veterinarian. Douglas graduated from the University of Wisconsin School of Veterinary Medicine in 2003, receiving several leadership and animal

welfare awards. She resides in Madison, WI, specializing in spay/neuter surgeries and rescue work.

David J. Duquette, Jr., has joined Greenberg Traurig, LLP as counsel in the corporate and securities department of the firm's New Jersey office. Prior to joining Greenberg Traurig, Duquette was a partner in the securities transactions group, the technology, emerging companies, and capital group, and the life sciences group at Saul Ewing LLP. Duquette has extensive experience representing domestic and international corporations in on- and off- shore mergers and acquisitions, leveraged buyouts, and securities and venture capital transactions, with a special emphasis on catalyzing the growth of private, technology intensive businesses.

Ann Bowman Hoover, her husband Chuck, and daughter Katie, (4), welcomed a son and baby brother named Joseph Evans, on March 4. Ann reports, "Everyone is sleep-deprived still, but thrilled to have Joseph around."

Mike Lincoln and his wife Wendy welcomed their fourth child, Sofia Walker, on October 28. Siblings are Wesley, Sarah, and William.

Steven R. Okun is vice president for public affairs for UPS in the Asia Pacific Region. Okun represents UPS to the 40 governments of that region. For the past three years, while working throughout Asia, Okun has focused his efforts extensively on China. In April 2004, he was a distinguished speaker at Peking University on the subject of the emerging role of government affairs in China. In further recognition of his work on Chinese matters, Okun was named as one of 24 inaugural delegates to the National Committee on U.S.-China Relation's Young Leaders' Forum in 2002. Steve, his wife Paige, and their sons Bennett and Mason reside in Singapore.

1992

D. Forrest Brumbaugh has joined Fulbright & Jaworski LLP as partner in the firm's Corporate Section in Dallas, TX.

Dana Clark has just published *Demanding Accountability: Civil-Society Claims and the World Bank Inspection Panel*. The role of the inspection panel is to investigate and resolve complaints brought by indigenous groups who are adversely affected by World Bank projects. (See *In Print*.)

Holly Blewer Farmer and husband Jeff welcomed their first child, Avery-Estelle Allison on November 3.

The Boston Bar Association has named **Paul G. Lannon, Jr.**, co-chair of its college & university law section. Lannon is a partner in the litigation department of the Boston office of Holland & Knight LLP, representing public and private companies in complex civil litigation and management in employment disputes, and counseling management on employment and personnel issues. He devotes a large part of his practice to advising private educational institutions.

Jeffrey Naness's CD of original progressive electronic rock is available, with samples of each piece, at www.cdbaby.com/naness.

Carrie McIntyre was married to Jim Panetta in September of 2003. Guests included UVA Law School alumni **Cathy (Yates) Carlson, Frank Golding '93, Jim Moore, Conrad Rippy, Brian Seward, Andrew Shoemaker, Mitch Zamoff** and **Erin Mulhollan '96**.

Jonathan Perkel is vice president & associate general counsel of Travelocity. Perkel joined Travelocity when it acquired Site59 (the last-minute travel site) in March of 2002. He says that since that time "the Site59 management team has risen to the top leadership positions at Travelocity and has been having a blast helping reinvent the

Reunions

LAW ALUMNI WEEKEND 2004 was a weekend to remember for the more than 800 alumni and their families who came to Charlottesville. From CLE courses, to softball & barbeque, to dinner & dancing with classmates and friends, the weekend's activities made for good times. Alumni from the Classes of 1949, 1954, 1959, 1964, 1969, 1974, 1979, 1984, 1989, 1994, and 1999 returned for LAW 2004.



company from within.” Perkel also remains vice president and general counsel of Site59. He can be contacted at <http://www.jonathanperkel.com>.

Brandon Peters has been named managing partner of the Goldwater firm in Scottsdale, AZ. He practices exclusively in the areas of nursing home abuse, medical negligence, and personal injury.

Melissa Robertson welcomes her daughter Emma Caroline Robertson, born June 13, 2003.

Kendal and Natasha Perdew Silas continue to work together at the Atlanta Federal Defender’s Office. On July 5, 2003, they welcomed a new addition to their family, daughter Nina Nikole. She was born premature at 3 pounds, 9 ounces, on July 5, 2003, and is now doing well. She was also welcomed by big brother, Korey, (6).

Tracy Stein reports that her husband **Marco Masotti** (LL.M. ’92) was profiled by the *New York Observer* on December 15, in the section devoted to 50 of New York’s “Power Punks” (entitled “50 Baby Bigshots Who Run the City”). According to the report, “the only reason Marco Masotti decided to head to the U.S. in 1991 was to study at the University of Virginia School of Law, learn the secrets of Thomas Jefferson and James Madison, and then bring them back to South Africa. But after a year on a Fulbright scholarship, he fell in love with a New York-bound J.D., now his wife, Tracy, and followed her to New York, where he took a job at Paul Weiss.”

1993

Christopher R. Bowen is working for the Contra Costa County Alternate Defender Office in Martinez, CA.

Patrick Crawford has decided to return to practice in Southern California. He says all is well and he would love to hear from classmates.

William A. “Biff” Pusey, Jr., has joined the private wealth management firm of Michael Joyce & Associates, PC in the Richmond, VA, office. Pusey leads the family office advisory practice, working with families on wealth enhancement, estate and tax planning, and preparation of subsequent generations for inheritance. Pusey and wife Sonya welcomed the arrival of Jonathan Edward in April 2003, which brings the child count to six. They still enjoy their home in horse country, outside of Richmond, but miss living in Charlottesville.

1994

On October 30, Fiona and **Gavin Corn** had their first child, Liam Robert. Corn continues to work as a prosecutor in the criminal division of the Department of Justice, handling mostly international cases. Fiona closed her antique shop to pursue her art career full time.



Malcolm Henderson was appointed partner at Foley Hoag LLP in Boston, MA. As a member of the firm’s business department, Henderson concentrates in the areas of corporate

finance, mergers and acquisitions, and high technology, with a special focus on bank debt financings.

Dave Higley and his wife Bridget are proud to announce the birth of Jack Strong. Jack joins big brother Owen (18 months) and big sister Bronwen (3). Dave is a managing director in the technology investment banking group of UBS Securities LLC, in Los Angeles, CA.

James V. Kelsh is a solo practitioner in Charleston, WV, focusing on representing public utilities and local governments. He and his wife Linda have three children, Katie (11), Shannon (8), and Jody (3). They are working on restoring their 1912 home in Charleston’s east end historic district. Jim returns to Charlottesville every

summer to participate in the Multiple Sclerosis-150 bike ride, for which he raised more than \$3,000 last year.

Brian C. Purcell and his wife Stacy announce the birth of their first child, Connor Ross, on December 1. The couple reside in Virginia Beach, where Purcell is a partner with Williams Mullen, focusing on mergers, acquisitions, and divestitures, as well as federal tax matters.

1995

Shanti (Fishman) Ariker gave birth to twins Alex and Kyra on April 2. The family currently resides in Tokyo, Japan. Shanti can be reached at shanti100@yahoo.com.



Jonathan Blank has been elected to partner in McGuire Woods' Baltimore office.

Paul Caron moved to the West Coast to work for Microsoft Corporation's law & corporate affairs department.

Katherine Harman-Stokes received special honors during the annual meeting of the Virginia Bar Association for her outstanding contributions to the work of the VBA Young Lawyers Division. She is assistant general counsel of the Graduate Management Admission Council.

Andrea Bailey Macgill and her husband Gordon welcomed their first child, Zoë Grace, on August 24, 2003. Andrea is with the law firm of Wright, Robinson, Osthimer and Tatum in Richmond, VA, where she practices medical malpractice defense litigation.

Julia and Jim Morse celebrated the birth of their third daughter, Clara Reagan, in May.

Christopher D. Ray and his wife Kathy welcomed their first child, Donovan, on January 27. Mom and baby are doing well. The family lives in Dallas, TX, where Chris is a principal in the private equity firm Natural Gas Partners.



P. Kevin Trautner was elected partner at Bracewell & Patterson LLP. Trautner represents clients in debt and equity securities offerings and other corporate and securities matters in Houston, TX.

Peter S. Vincent is an assistant chief counsel with the U.S. Department of Homeland Security in San Francisco, where he concentrates on national security cases. He was previously in the legal department of Bechtel Corporation.

1996

Bianca Bennett will marry Michael Alexander in Los Angeles in October. She reports her new firm, Bennett Entertainment, is booming. She represents producers, directors, actors, and production companies. She also does production counsel work, "which is a fun way to be a legal eagle — on set," she says. Bennett has jumped in front of the camera to host her own makeover show, "Kick Off Your Shoes Across America," airing on Lifetime since July.

John Chapas II wrote "The Art of Business Acquisitions: Know Exactly What You Are Buying," for the *Pittsburgh Business Times* May 14–20 edition.

Charles Frankenhoff reports that although law is not the career field for him, he still feels loyalty to the Law School and hopes it continues to maintain its traditions of treating students kindly and with a gentle hand. Virginia's competitive advantage, to his mind, "is that it doesn't (or at least didn't) try to grind its students down." Also,

he thinks the Law School's success thus far, and the success of those it sends out, shows that this strategy works.

Don Haddock has started his own law firm in Old Town Alexandria, VA. Donald M. Haddock, Jr., PLLC is a general practice firm with an emphasis on real estate and civil litigation.

Michael C. Kerrigan was elected to partnership at Hunton & Williams, where he has a financial institutions practice. He and wife **Devin Schaumburg Kerrigan** live in Charlotte, NC, with their two children, Joe (3) and Molly (18 months).

Eric and Chrissie Perkins of Richmond, VA, proudly announce the birth of their daughter, Alexandra Marie, who was born on January 1, 2004.

After almost seven years, **Mary Rackmales** left Legal Services of Northern Virginia and retired to Northport, ME, with her husband. She expects to do pro bono work for children with special education needs there. She hopes classmates who are in the mid-coastal area of Maine will give her a call. She says it would be fun to see them again.

1997

Amy Hackney Blackwell has been writing actively. Blackwell has published three books: *The Essential Dictionary of Law*; *The Everything Irish History and Heritage Book*; and *Mythology for Dummies*, and is soon to publish a fourth: *LSAT for Dummies*, which will appear in bookstores in November. She and her husband, Christopher, chair of the department of classics at Furman University, also keep busy raising Will (5) and Zoe (3).

Benkai Bouey has joined Los Angeles-based Triton Pacific Capital Partners as director. In addition he has been selected to sit on the finance advisory board to the city council in Rancho Palos Verdes, CA.

Katharine Lawrence Calderazzi and husband **Anthony** welcome their second daughter, **Charlotte Grace**. Big sister **Zoe** is three years old now.

Yost Conner received an award from Mi Casa for supporting affordable housing in the District of Columbia through pro bono legal services.

Eric Easley completed his Ph.D. from the London School of Economics. His thesis, "*The War Over Immanuel Kant's Perpetual Peace: An Exploration into the History of a Foundational International Relations Text*," will be published by Palgrave-MacMillan in the fall. He currently works in the Foreign Service for the U.S. State Department.

Laryn Ivy married **Alan Gardner** on September 13, 2003 in Newport, RI. The couple lives in Boston, MA.

Jamie Leary and husband **Brendan** announce the arrival of their second child and first son, **Owen Tolson**, on February 7. Jamie is continuing her ERISA and employee benefits practice with **Step toe & Johnson PLLC** in its Martinsburg, WV office.

Christine Gregorski Rolph and her husband **Harold** welcomed their first child on April 23 — a girl named **Michaela Catherine**.

Salmon A. Shomade and his wife of almost 7 years, **Beretta**, had a "loving and handsome baby boy on March 3." **Salmon Leopaul Smith-Shomade** was born weighing 7 pounds, 9 ounces and weighed almost 15 pounds at 3-1/2 months. Shomade continues to pursue his Ph.D. in management at the Eller College of Management at the University of Arizona.

In January, **Lori D. Thompson** was elected secretary-treasurer of the Virginia Bar Association Young Lawyers Division. She is an associate at **Gentry Locke Rakes & Moore LLP** in Roanoke. Thompson, husband **Mark**, and their 4-year-old

daughter Sidney Madison, welcomed their son and baby brother Caleb William, born March 5.

1998

Chris Gregory Baugher and his wife Dorothy welcomed Charlotte Nance to the world on October 9, 2003.

In January, **Beth Frackleton Colling** was elected to the executive committee of the Virginia Bar Association Young Lawyers Division. She is an associate at Petty Livingston Dawson and Richards in Lynchburg.

James Jones and his wife are proud to announce the birth of their second child, Julie, on May 24. The family has moved to Evansville, IN, where Jones will work as an associate at Fine & Hatfield.

Craig Morgan has been a police officer in Portland, OR, for four years. He says he "particularly enjoys criminals who think they are Perry Mason!"

Greg Phillips recently joined Calfee, Halter & Griswold LLP as a litigator in the Cleveland office. Phillips, a resident of Shaker Heights, Ohio, focuses on complex commercial litigation. He has represented and advised public and private companies, and their officers and directors, in class actions, corporate governance, securities, accounting fraud, products liability, real estate, antitrust, environmental crimes and civil RICO. Before attending the Law School, he participated for two years in the antitrust investigation of Microsoft Corporation at the U.S. Department of Justice. Prior to joining Calfee, Phillips was with the law firm of Shaw Pittman LLP in Washington, D.C., and before that served as a law clerk to U.S. District Judge Albert V. Bryan, Jr., of the Eastern District of Virginia.

Curtis J. Romig and **Jennifer Murphy Romig** live in Decatur, GA, with their 14-month-old daughter, Laura. Curtis is a member of the

business litigation and arbitration practice group at Powell, Goldstein, Frazer and Murphy LLP and focuses his practice on construction and energy law. Jennifer teaches legal research and writing at Emory University School of Law.

Holly Angela Royce has left her job at Nabors Industries and is moving to Wichita, KS, with her fiancé Brad Cole, who has taken a job there with Koch Industries.

Michael Solecki and his wife Katherine welcomed their second daughter, Lauren Elizabeth, on September 4, 2003.

James Wilson III married Michele Benoit on May 14. **David S. Chung** was one of his groomsmen. The couple resides in Cherry Hill, NJ.

1999

Sara L. Berg has joined the Virginia Beach office of Williams Mullen as an associate in the Labor & Employment Section. Her practice focuses on labor and employment law, including the representation of management in wrongful termination litigation.

Kristen Cain and her husband David Baldwin announce the birth of their daughter Evelyn Paige Cain Baldwin on November 3, 2003.

Darren Dragovich and **Parker Whitfield Dragovich** welcomed their first child, Reese Helena, in July of 2003. Darren is associate counsel at First Data Corporation, and Parker continues to practice ERISA and employment litigation at Holland & Hart LLP. The family resides in Denver, CO.

Laura Webb Khatcheressian and her husband Jim celebrated the birth of their son, Jake Krikor, on February 25. Khatcheressian has returned to work part-time with the business immigration group of Reed Smith LLP, in Richmond, VA.

Michael Rakower and Sali Qaragholi Rakower, both Class of 1999, sent an extended class note on their varied and vast experiences over the past few years. In September of 2000 the couple married and six months later embarked on a year-long journey through Southern and East Africa. They lived on the proverbial shoestring budget, but were able to travel through South Africa, Lesotho, Zimbabwe,



Zambia, Malawi, Mozambique, Tanzania and Rwanda, confronting language and cultural barriers and enduring oppressive heat and the scarcity of all resources. Rakower says life is so different over there that it is difficult to describe the conditions without being overwhelmed with thoughts. "Simply put, most Africans are unimaginably poor, intensely kind and gentle. The extremes of life are difficult for Westerners to fathom. Disease and famine reek havoc on populations, yet joy and enthusiasm is everywhere. Land is plentiful and all things grow in it, yet creatures, large and small, fight for every resource." In the final three months of their trip, the couple worked in the prosecutor's office of the International Criminal Tribunal for Rwanda ("ICTR"), where they assisted in the prosecution of the perpetrators of the Rwandan genocide and learned first-hand of the horrors that befell Rwanda in 1994.

They returned to the States in March of 2003. Sali returned to her job at White & Case with re-defined goals. Michael chose to leave the corporate world and enter the realm of litigation. While searching for an opportunity, he obtained a prisoner's rights case from The Legal Aid Society and threw himself into it with passion and fury. In December of 2003, he was mentioned on the front page of the *New York Law Journal* for obtaining a \$20,000 sanctions award against the City of New York. Later, the case was settled for \$105,000. In Mid-December, he began a clerkship with Second Circuit Judge Richard Wesley.

After their return, Rakower embraced the tragic story of Rwanda's people and teamed up with an organization called the American Friends for the Kigali Public Library. Their goal is to build Rwanda's first public library. Information about their efforts can be found on <http://kigalilibrary.com> and an article he wrote about Rwanda can be found at www.globetrotters.co.uk/newsletter/2003/august2003.php#_Toc50297945.

Rakower is always encountering former classmates in his journey. While in Dar Es Salaam, Tanzania, he eagerly read **Klinton Alexander's** election results. After setting up an exchange program for U.S. attorneys to work at the ICTR, he consulted with **Kristen Cain** about the candidacy of one of her fellow co-workers. Judge Wesley recently published his opinion in *Swedenburg*, a case involving the shipment of wine into New York, bringing to mind **Vijay Shanker's** journal article.

Eric Merriam currently is a captain in the U.S. Air Force. He is the chief of military justice at Spangdahlem Air Base, Germany.

David Patton left Sullivan & Cromwell to become a staff attorney in the Federal Defender's Office in the Southern District of New York. He is also teaching a federal defender clinic and seminar at NYU Law School.

John Russell has joined the Richmond, VA office of Williams Mullen as an associate in the real estate practice, focusing on business and real estate law.



Jessica Aldock Tave and **Steve Tave '00** are delighted to introduce their daughter, **Samantha Danielle**, born October 19, 2003. Samantha weighed 8 pounds, 7 ounces, and was 21.5 inches long at birth, and has been growing steadily ever since. She is a happy, loving baby, and her parents are thoroughly enjoying her and her constant smiles.

2000

Jason Wood reports that wife Julie recently gave birth to their second child, **Annabeth Mary**, on February 4. Their first child, **Carter Thomas**, will turn three in October. The family lives in Raleigh, NC, where Wood is an associate with **Wyrick Robbins Yates & Ponton LLP**, specializing in transactional work for biotechnology and pharmaceutical companies.

2001

Matt Crawford and his wife **Kim** are proud to announce the birth of **Benjamin Darwin**, born May 11. Matt is practicing as a litigation associate with **Dow, Lohnes and Albertson**, in Atlanta, GA.

Roby Hackney and **Stacy Landis** were married July 3. They are living in Norfolk, VA. Stacy is working in-house with Dollar Tree and Roby is still working in the corporate and real estate sections of Williams Mullen.

Melanie Santos married **Thomas William Grant** (Darden '01) on October 5, 2002, in Philadelphia. The couple was blessed with the arrival of their daughter, **Jacqueline Lucia** on April 13 (Thomas Jefferson's birthday). **Jacqueline** weighed 6 pounds, 15 ounces, and was 19.25 inches.

Lisa Pierce Laughon, formerly associated with the law firm of **Johnson, Ayers & Matthews**, has established a solo practice in Roanoke, VA. Laughon's practice focuses on representing children as a *guardian ad litem* and mediating in a variety of cases. She served as a judicial clerk for the Hon. **Cynthia D. Kinser**, Justice of the Supreme Court of Virginia, before entering private practice.

Jason Wu Trujillo joined the Law School's **Mortimer Caplin Public Service Center** in December of 2003, as the **Director of Public Service and Career Counselor**. He counsels students and graduates regarding clerkships, opportunities in federal, state, and local government, and opportunities in the military. He also administers the **Virginia Loan Forgiveness Program**. **Trujillo** and his wife **Lauren** reside in **Charlottesville**. He can be reached at Trujillo@virginia.edu.

2002



Ian C. Jones has joined **Adams and Reese LLP** in **Jackson, MS**, as an associate and member of the litigation practice group with special interest in education and labor and employment. Before joining the firm, Jones served a clerkship with the Hon. **Clarence A. Brimmer**, U.S. District Court for the District of Wyoming in **Cheyenne**.



Captain Eric Magnell and Stephanie Bettina on their wedding day.

On May 29 several Law School alumni celebrated the marriage of **Captain Eric Magnell** and **Stephanie Bettina '03** at the National Cathedral in Washington, D.C. Classmates **Thomas Jeon** and **Jim Sytsma**, and **Ian Bryan '03** attended the ceremony. Captain Magnell is stationed in Tikrit, Iraq, with the U.S. Army's JAG Corps and Stephanie is an associate at Allen & Overy's London office.

Genevieve McCormack reports she is starting at Drinker & Reath LLP in Philadelphia this fall.

2003

Becky Brown is an attorney with U.S. Customs & Border Protection Office of Chief Counsel, enforcement division, in Washington, D.C.

Carli Conklin is an assistant professor of history at John Brown University in Siloam Springs, AR.

Adam Green reports that after graduating UVA Law, he passed the New York and New Jersey bars and has been serving as communications director for the New Jersey Democratic Party. Green is a spokesperson for the party, writes speeches for the Democratic governor, Jim McGreevey, and state democratic chair assemblywoman, Bonnie Watson

Coleman, and handles other media affairs. He reports that he is active in 2004 elections.

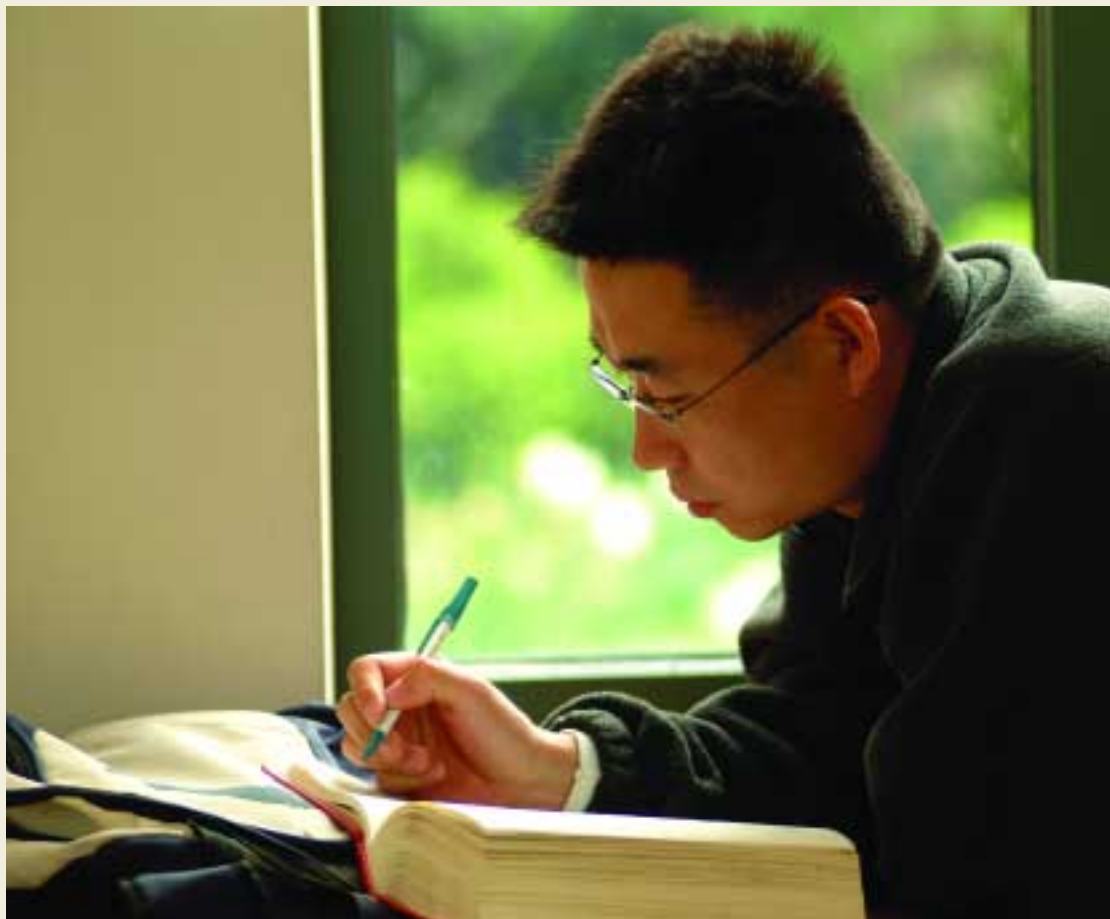
Blase Iaconelli is an associate in the finance & real estate department at Dechert LLP in New York. Iaconelli also recently became engaged to Danielle Avallone. They are planning an April 2005 wedding.

Dan Lissner and **Adrienne Penta** are pleased to announce their engagement. The wedding will take place in Boston in the fall of 2005.

On May 29 several Law School alumni celebrated the marriage of **Captain Eric Magnell '02** and **Stephanie Bettina** at the National Cathedral in Washington, D.C. Classmates **Ian Bryan**, **Thomas Jeon '02**, and **Jim Sytsma '02** attended the ceremony. Captain Magnell is stationed in Tikrit, Iraq with the U.S. Army's JAG Corps and Stephanie is an associate at Allen & Overy's London office.

M. Scott Stevens married Michael Kay Mabe (A&S '01) in the UVA Chapel on June 12. They currently reside in McLean, VA, where Scott works for Hogan & Hartson and Michael Kay is studying for the bar.

Crystal G. Lovett-Tibbs is clerking for Senior U.S. District Judge Henry Coke Morgan, Jr., in the Eastern District of Virginia, in Norfolk. She married Aaron Tibbs on September 20, 2003 (the weekend of Hurricane Isabel) in Fredericksburg, VA. **Larissa Cooper**, **Nathan Campbell**, **Jessica Zeller**, **Michael Speaker**, **Grace Im**, **Emily Fan**, and **Maggie Vining** were in attendance for the wedding. Crystal and Aaron's nephew was born five days after their wedding and they are expecting a niece in June. They plan to return to the St. Louis area in September.



LL.M.

1972

Asher D. Grunis was recently appointed to the Supreme Court of Israel. Another alumnus, the Hon. **Yaacov Zemach** JD '72, has sat on the Jerusalem District Court for several years.

1987

Barry Keith Simmons has retired from the U.S. Air Force after 20 years of active duty, most spent as a member of the USAF Judge Advocate General's Department. In September 2002, Simmons joined the U.S. Foreign Service, and since February 2003, has been assigned to the U.S. Embassy in Manila, Republic of the Philippines, where he lives with his wife Jossie and their two sons, James (5) and Joey (2).

1990



Alex Sanders received the South Carolina Bar Foundation's Highest Award. Sanders is a former senior partner at Sanders & Quackenbush (now Berry, Quackenbush & Stuart). He is the 24th recipient of the DuRant Distinguished Public Service Award. Sanders was admitted to the South Carolina Bar in 1962 and has served as president of the South Carolina Trial Lawyers Association, and officer in the Richland County Bar Association. From 1983 to 1992 he served as chief judge of the South Carolina Court of Appeals. He

also was chair of the American Bar Association's Council of Chief Judges of Courts of Appeal and vice chair of the Judicial Administration Division. His public service career also includes two terms in the SC Senate and four terms in the SC House of Representatives. In 2002 Sanders was a Democratic nominee for the U.S. Senate. In the academic arena, Sanders served as president of the College of Charleston from 1992 to 2001. Currently he is chair of the board of the National Judicial College and a teaching fellow in the John F. Kennedy School of Government at Harvard University. In addition, Sanders is chair of the board of trustees for the Huntington Society, a member of the board of trustees for the Nature Conservancy, and a member of the board of directors of the National Bank of South Carolina.

1992

Tracy Stein (J.D. '92) reports that her husband **Marco Masotti** was profiled in the New York Observer on December 15, 2003, in the section devoted to 50 of New York's "Power Punks" (entitled "50 Baby Bigshots Who Run the City"). According to the report, "the only reason Marco Masotti decided to head to the U.S. in 1991 was to study at the University of Virginia School of Law, learn the secrets of Thomas Jefferson and James Madison, and then bring them back to South Africa. But after a year on a Fulbright scholarship, he fell in love with a New York-bound J.D., now his wife, Tracy, and followed her to New York, where he took a job at Paul Weiss."

1995

Alberto Rebaza has been named to the list of Top 20 Lawyers Under 40 in Peru, published by *Latin Lawyer* magazine. He is partner at Rodrigo, Elias & Medrano Abogados.

1999

Eduardo Barboza, an associate at Estudio Ehecopar, has been named to the list of Top 20 Lawyers Under 40 in Peru, published by *Latin Lawyer* magazine.


2000

Markus Schrader and **Megan Cox** were married on December 30, 2003, in New Zealand. The couple is living in Frankfurt, Germany. Markus is working in the legal department at Deutsche Bank, and Megan is working at Clifford Chance.

2003

Brian O'Donnell is currently the deputy staff judge advocate to the U.S. Central Command, deployed to the Middle East for Operations Enduring Freedom and Iraqi Freedom.

2004

Judge **John M. Tyson** has announced his candidacy for the North Carolina Supreme Court. Having served on the state's Court of Appeals since 2000, Tyson's "report card" shows he has ruled on more than 1,000 cases and written over 350 judicial opinions. Keep up with his campaign at www.tysonforcourt.com. 

In Memoriam

Buckner Clay (A&S '42)

Charleston, WV
August 24, 2003

W. Hunter Robbins, Jr. '37

Greensburg, IN
January 28, 2004

William Louis Zimmer III '37

Richmond, VA
February 28, 2004

A. C. Epps '38

Richmond, VA
March 17, 2004

**The Honorable George H.
Feldman '39**

Boca Raton, FL
December 10, 2002

**The Honorable Joseph Martin
Handlan '40**

Wilmington, NC
April 1, 2004

Benjamin T. Kinsey, Jr. '40

Petersburg, VA
March 16, 2004

Giovanni Previtali '40

Santa Rosa, CA
January 6, 2000

A. Richard Cushman '41

New Port Richey, FL
May 10, 2004

J. Rupert Fulton '41

Grottoes, VA
February 5, 2004

**The Honorable Robert S.
Wahab, Jr. '41**

Virginia Beach, VA
September 6, 2000

Homer Crawford '42

Old Lyme, CT
May 4, 2004

Thomas B. Larkin, Jr. '42

San Diego, CA
March 6, 2004

W. Gibbs McKenney '42

Lutherville Timonium, MD
August 14, 2003

C. Roach Thomas, Jr. '42

Lynchburg, VA
September 28, 2002

**The Honorable James L.
Latchum '43**

Wilmington, DE
January 31, 2004

**The Honorable J. Calvitt
Clarke, Jr. '45**

Norfolk, VA
May 6, 2004

Anne Poindexter Lewis '46

Falls Church, VA
June 12, 2004

Robert L. Robertson '47

Signal Mountain, TN
March 26, 2004

Alan F. Rothschild '47

Columbus, GA
May 8, 2004

Harry H. Rumble II '47

Hopkinton, NH
May 26, 2004

W. Carlton White '47

Chatham, VA
March 26, 2004

William R. Frothingham '48

South Dartmouth, MA
February 2, 2004

Emmett V. Hall, Jr. '48

Irving, TX
October 5, 1994

**The Honorable Robert M.
McRae, Jr. '48**

Memphis, TN
June 25, 2004

Edward M. Myers '48

Miami, FL
October 30, 2002

**The Honorable H. Warrington
Sharp '48**

Conyers, GA
November 12, 2001

Flavel B. Beattie, Jr. '49

Bellevue, WA
August 9, 2003

Archibald A. Campbell '49

Wytheville, VA
June 1, 2004

L. Franklin Davis '49

Accomac, VA
June 17, 2004

George E. Grimball, Jr. '49

Charleston, SC
April 1, 2004

James H. Lee '49

Asheville, NC
May 17, 2004

William M. MacKenzie, Jr. '49

Palm Harbor, FL
July 9, 2004

Samuel W. McGann, Jr. '49

Norfolk, VA
June 2, 2004

**The Honorable Oscar Dallas
Smith, Jr. '49**

Columbus, GA
December 17, 2003

James G. Gidding '50

Chevy Chase, MD
July 7, 2004

George W. DeVoe '52

Highland Park, NJ
January 11, 2004

Thomas H. McBryde '52

Gainesville, FL
August 31, 2002

James H. Davis III '53

Charleston, WV
March 4, 2004

Thomas Claybrook Elder '53

Staunton, VA
April 1, 2004

Robert E. Manuel '53

Southport, NC
April 16, 1995

James L. Moorefield '53

Naples, FL
June 11, 2004

Philip R. von Stade '53

Locust Valley, NY
March 16, 2004

Marshall L. Gerber '54

Memphis, TN
May 26, 2004

Evans B. Jessee '54

Roanoke, VA
March 4, 2004

Sam D. Eggleston, Jr. '58

Lovingston, VA
June 27, 2004

Joseph H. Heard '58

Cary, NC
April 26, 2004

John L. Holcombe, Jr. '58

Vienna, VA
July 3, 2000

Robert B. Preston '59

New York, NY
December 1, 1998

James M. Winfield '64

Naples, FL
July 4, 2004

Elmer A. Simpson, Jr. '66

Atlanta, GA
March 13, 2004

Carroll P. Freeman '71

Lynchburg, VA
December 23, 2003

Arthur H. Horwitz '71

Richmond, VA
May 8, 2004

George W. Johnston III '71

Winchester, VA
May 2, 2002

Michael T. Leibig '71

Annandale, VA
July 17, 2004

**Holcombe Tucker Marshall III
'72**

Decatur, GA
December 23, 2003

**The Honorable James Duke
Cameron LL.M. '82**

Phoenix, AZ
May 23, 2003

**The Honorable William R.
Moser LL.M. '82**

South Milwaukee, WI
April 11, 2003

Edward McKinley Stowe '85

Danville, VA
August 13, 2003

**The Honorable Robert J.
Lewis, Jr., LL.M. '98**

Topeka, KS
May 3, 2004



In Print

LAW SCHOOL ALUMNI WRITE AND PUBLISH books on a wide variety of topics. If you have written a new book and want to tell us about it, please send all pertinent information to: UVA Lawyer, 580 Massie Road, Charlottesville, VA 22903; or lawalum@virginia.edu.

Fiction



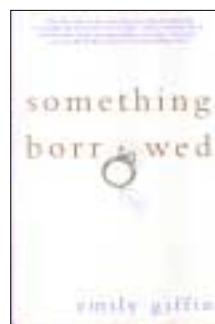
Plain Heathen Mischief
Martin Clark '84
Alfred A. Knopf

Martin Clark used his own experiences as a Virginia Circuit Court judge to write his second novel, *Plain Heathen Mischief*, about well-intentioned individuals who “stumble or slip or backslide or break a promise on the way to better things” — just like some of the people who have passed through Clark’s life on the bench. *Plain Heathen Mischief* ups the existential ante of the protagonist in his highly successful first novel, *The Many Aspects of Mobile Home Living*, as Joel King, a defrocked Baptist minister, finds life even more bedeviling once he’s served six months for a career-ending crime he might not even have committed. Now his incommunicado wife wants a divorce, the teenage vixen of his disgrace is suing him for a cool \$5 million, a fresh start in Montana offers no hope for ex-cons of any religious persuasion, and the refuge provided by his sister turns as nasty as his parole officer.

Talk about a crisis of faith. On the upside, a solicitous member of Joel’s former congregation invites him into a scam that could yield some

desperately needed cash, and soon the down-on-his-luck preacher is involved with a flock of charming con men, crooked lawyers, and conniving youths.

Kirkus Reviews says, “Big, boisterous and hugely enjoyable ... Don’t miss it.”

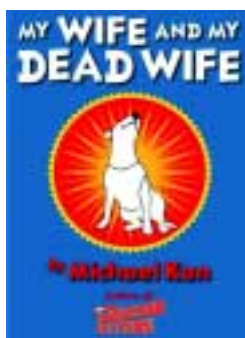


Something Borrowed
Emily Giffin '97
St. Martin’s Press

Emily Giffin’s debut novel is about 30-year-old attorney, Rachel, who decides her life needs a change. Her best friend, Darcy, seems to have everything: skinny, sexy, lucky, and a little bit wild, she is a model of perfection. When Rachel drinks too much tequila at her birthday party, she ends up sleeping with Darcy’s fiancée. From then on, Rachel’s life turns upside down and inside out. She is forced to decide what she really wants — then to fight for it. Rachel realizes that “perfection isn’t what matters. In fact, it’s the very thing that can destroy you if you let it.” A surprise twist at the end seamlessly wraps up this fast-paced, enjoyable read. Recommended for

most popular fiction collections, according to *Library Journal's* review.

Before moving to London to pursue her dream of becoming a writer, Griffin practiced law at Winston & Strawn's New York firm. She now lives in Atlanta with husband Hartley Blaha and her twin sons Edward and George, born on New Year's Eve.



My Wife and My Dead Wife

Michael Kun '88
MacAdam/Cage

Michael Kun's third novel (after *A Thousand Benjamins* and *The Locklear Letters*) is the story of a relationship

from the perspective of a divorced man. The protagonist Hamilton "Ham" Ashe is a likeable but puzzled man whose domestic life takes a sudden turn for the worse when his live-in girlfriend Renee loses her job and makes him struggle financially to support her dream of becoming a country music star (despite her lack of talent). Renee has been with Ham for so long that she refers to herself as his wife, though Ham doesn't agree and states

vigorously that they are not married. Ham starts struggling with the financial burden of Renée's ambitions and his discomfort with her new friends and interests. He takes it all in silent resentment, occasionally flashing back to memories of his ex-wife Shellie who grew up with him in the same small town. Other memories of a kid from Ham's high school who was cruelly murdered, also come floating back to an important development in the story — a murder subplot involving Ashe's ex-wife. Additionally, Ham has a crush on a former co-worker, which offers an emotional payoff. *Kirkus Reviews* calls *My Wife and My Dead Wife* an "endearing, bittersweet romance that reads like a comedy."

Non Fiction

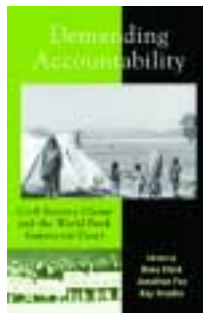


Creating a Coaching Culture
Allen Saville '73

Saville Consulting Service

With this book, Allen Saville shows how much people and organizations can improve performance by creating a coaching culture. Among other concepts, the

book gives the guidelines for coaches' behavior and also links individual and organizational performances. It explains why one's company should have a coaching culture and the characteristics of such a culture. It also provides a solid coaching process model and gives the attributes of a good coach.



Demanding Accountability
Dana Clark '92, Jonathan A. Fox, and Kay Treakle
Rowman & Littlefield Publishers, Inc.

Dana Clark co-authored the book *Demanding Accountability: Civil Society Claims and the World Bank*

Inspection Panel, a compilation of nine unique case studies that present insights into how local, national, and international civil society factors gather together to hold the World Bank accountable for its financed projects. It is an important resource for people who need to understand today's emerging transnational civil society efforts to challenge potent international institutions. Dana Clark has been working as international human rights and environmental lawyer, and as president of the International Accountability Project in Berkeley, CA.



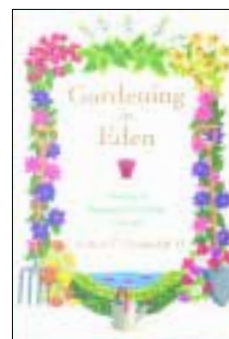
The Elements of Performance
Allen Saville '73
Saville Consulting Service

According to this book, performance is the secret of success and Allen Saville demonstrates how the performance of each person determines their value to the company. On the other hand, the company's performance

establishes its position in the market and the satisfaction of its shareholders and investors. This is why the author suggests there should be a culture of high performance in the work environment. The book explains the elements of performance, assists leaders and managers in understanding and using the team approach, and teaches the relationship between performance and competencies. It can also be used to support particular performance improvement initiatives.

Environmental Law of New Zealand
Simon Reeves LL.M '69
Kluwer Law International

Reeves' *New Zealand Environmental Law* is a monograph in the International Encyclopaedia of Laws, published by Kluwer Law International. He recently published the 2nd edition, including chapters on such topics as basic principles of environmental law, the historic background to environmental protection, the role of government institutions in the shaping and administration of environmental law and policy, and the Resource Management Act 1991.

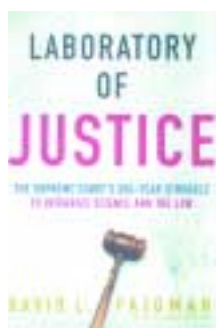


Gardening in Eden
Arthur T. Vanderbilt II '75
Simon & Schuster

After publishing several books, including *Fortune's Children*, *Golden Days*, and *The Making of a Bestseller*, and winning a Pulitzer Prize

nomination, Vanderbilt proves he is not only a well respected lawyer and writer, but also a very experienced gardener. He has gardened for more than twenty years at his home in northern New Jersey, where he found the extraordinary and experienced delights, joys, and occasional disappointments. *Gardening in Eden* is a

celebration of life and a journey through the four seasons of the gardening year. The book is rich in the details of a gardeners' life, describing "the oppressiveness of endless winter days, the magic of an old-fashioned snow day, the heady, healing qualities of wandering through a greenhouse on a frozen February afternoons, the restlessness of a gardener waiting for spring." With a touch of doubt and humor on each page, Vanderbilt shows that for those who are patient, attentive, and energetic enough to work in a garden, life happens right outside the window.



Laboratory of Justice
David L. Faigman '86
Times Books

Suppose that scientists identify a gene sequence that predicts the likelihood that a person will commit a serious

crime in the future. In the wake of the discovery, laws are passed making genetic tests mandatory, and anyone displaying the genes is sent to a treatment facility. Would the laws be constitutional? In this illuminating history, legal scholar David Faigman reveals the tension between the conservative nature of the law and the swift evolution of scientific knowledge. The Supreme Court works by precedent, embedding the science of an earlier time into our laws today. In the nineteenth century, the biology of the day helped decide the "race question" in the *Dred Scott* and *Plessy v. Ferguson* cases; not until a century later would cutting-edge sociological data lead to the end of segregation with *Brown v. Board of Education*. *Roe v. Wade* set a standard for the viability of a fetus that, just thirty years

later, is outdated by the tools of modern medicine. And how does the Fourth Amendment apply in a world filled with high-tech surveillance devices? To ensure our liberties, Faigman argues, the Court must embrace science rather than resist it, turning to the lab as well as to precedent. — *Forbes Book Club*



Make the Rules or Your Rivals Will
G. Richard Shell '81
Crown Business

The magazine *CIO Insight* summarizes Wharton School Professor Shell's argument in a nutshell: He who makes the rules wins.

And the best way to make the rules is to literally help write the law. In typical discussions of business strategy, it is unusual to hear the law mentioned. That's a mistake, Shell argues. "Law is perhaps the most hidden of competitive strategy tools. Many in business fear getting tangled up with lawyers, lobbyists and bureaucrats, so they keep their distance from legal matters. But it is just this aversion that makes legal knowledge such a rich source of competitive advantage. Someone, after all, is going to make the rules. The only question is who." 🏠

Corporate Diversity is Invaluable and Incomplete

■ Charles Tribbett III '80



AS THE ECONOMIC RECOVERY CONTINUES, and the corporate sector returns to a state of growth, one thing has become evident: diversity has again come to the fore, existing as a perplexing and prevailing issue that impacts the most senior leadership and management teams of the country's largest corporations.

That this is true should not come as much of a surprise, especially to those who have followed the actions taken by the SEC and the leading stock indexes in the wake of recent corporate scandals. The new rules have increased the demands being faced by companies' leaders, most notably their boards of directors, calling on them to not only be more attentive but also to be more knowledgeable of what is going on within the industries they serve. Sarbanes-Oxley and the regulatory actions of the past two years have diminished many CEOs' desire to serve on multiple boards. Enter diversity, which as a result of these changes that were meant to curb scandal and promote greater corporate governance, is on a slight rise.

Interesting, however, that the degree to which diversity can penetrate a company's board

is directly correlated to the number of women and minorities serving in executive positions at Fortune 500 companies. When women and minorities accelerate through the ranks of corporate America, when they continue to pierce the veil in academia to become presidents and deans of major academic institutions, we will begin to see diversity make gains at the “C” levels of corporate America. One success leads to another, so before we can address the issue of whether diversity has become accepted at the most senior levels of corporate America, we must ask if America has embraced the value and benefits a diverse management team can bring to a company?

Indicators over the past 15 years suggest that the answer is yes. Companies are increasingly turning to diverse senior management teams to build their shares in markets that were either previously ignored or nonexistent. IBM, for example, has done well by targeting women and minorities for key positions. When Lou Gerstner arrived in 1993 the company was in noticeable decline. Gerstner felt a new corporate culture was needed if the company was going to rebound. He founded the transformation on diversity. His reasoning was that the markets in which IBM competed were so diverse, it was necessary for the company to employ a diverse workforce so that it could better connect with its customer base. The results speak for themselves. IBM is far healthier today than it was just prior to Gerstner’s arrival. In markets it was not competitive in 20 years ago the company is now a leader. For example, IBM is incredibly popular with businesses that are either owned or managed by women. By increasing the responsibilities given to female employees, it has been able to gain new insights into a customer base that it had not fully leveraged in the past.

What companies are gaining from variegated management teams goes far beyond the reaping of benefits from alternative markets. A byproduct of the best diversity programs is inclusivity, which strengthens organizations by allowing

people of different opinions to look at a situation. When people of various talents, perspectives and backgrounds work together, they are able to look at problems from a myriad of different angles, and are able to arrive at solutions that a team representing only one point of view would have difficulty seeing. In short, a diverse management team is one that is less likely to fall victim to myopia and more likely to think outside of the box. This type of thinking is necessary given the complexities and global nature of today’s business environment.

Finally, and perhaps most importantly from a sociological perspective, companies have begun to see diversity as a way to enlarge the pool from which future leaders can be found. Women and minorities whose perspectives and talents have been historically undervalued are now given greater responsibilities and more opportunities to prove they are champions of an organization. As a result, more companies are promoting them to


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the most senior management positions. Kenneth Chenault, for example, took the top job of American Express after he was tasked to reposition the company’s largest business unit, the credit card group. Stanley O’Neal became the CEO and Chairman of Merrill Lynch only after successful stints as the firm’s COO and as President of Merrill’s U.S. Private Client Group.

It pleases me to see that companies are beginning to see diversity as something of value. However, I remain disappointed at the slow rate of this change. Barriers exist in today’s largest corporations that hinder the advancement of women and minorities. I agree with David Thomas of Harvard Business School when he writes that these groups have to continue to fight against prejudice in order to prove that they are

not inferior; that they are still placed at a disadvantage as a result of their majority peers not feeling comfortable around them; and that they are handicapped as a result of their companies not being able to effectively identify who among them has high potential.

In light of this, in order for the benefits of diversity to be fully realized, and for a diverse workforce to be fully accepted, companies need to have certain processes in place. First, executives need to commit themselves to the task of bringing more women and minorities into an organization; a tolerant and inclusive environment can only be effectively created if the ones at the top of an organization are in full support of it. Second, minority groups both in and outside an organization must be active in promoting change. Inertia is a difficult force to overcome; people are not going to work against corporate history despite the added value a new model could bring. Third, diversity cannot be seen as merely the hiring and promoting of minorities. It must also entail functional

development and the making available of senior operating positions to minority candidates. The regulations relating to Sarbanes-Oxley have presented new opportunities for those who fit the diversity profile. If companies are going to grow and be well-governed in the future, it is necessary that they prepare those who are going to be asked to captain the ship. 

Charles Tribbett III is the Co-Area Manager for Russell Reynolds Associates' Chicago office as well as the Co-Leader of the firm's CEO and Board Services Practices. He specializes in board services assignments and also leads the firm's Diversity Practice. Tribbett has conducted CEO and board of director searches for leading international corporations as well as significant women and diversity assignments for companies across all industries.

In addition, Tribbett is the co-author of Business Evolves, Leadership Endures. Due to go on sale in the fall of 2004, the book examines key traits to being an effective leader.



Upcoming Alumni Events

October 5 D.C. and Northern Virginia Alumni Golf Tournament, Army/Navy Country Club, Arlington, VA

October 13 Capitol Hill Reception, Russell Senate Office Building, Washington, D.C.

October 27 New York City Young Alumni Event, the Princeton Club, NY

November 1 Virginia Admission to the Bar Ceremony, Convention Center, Richmond, VA

November 4–5 Law School Foundation Board of Trustees and Alumni Council meetings, Charlottesville, VA

Latest alumni event info:

www.law.virginia.edu/alumni

Law Alumni Weekend

April 29 – May 1 Reunions for the classes of
1950 • 1955 • 1960 • 1965 • 1970 • 1975
1980 • 1985 • 1990 • 1995 • 2000

www.law.virginia.edu/reunions



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