DICTA

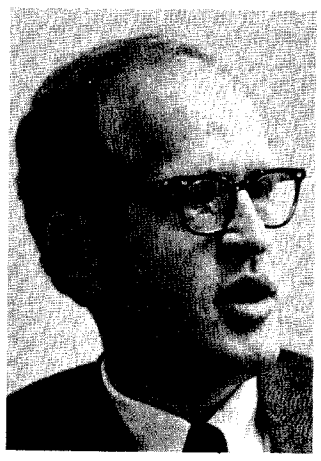
Twenty-Seventh Year of Publication

VIRGINIA LAW WEEKLY

Vol. XXVII, No. 9 | Charlottesville, Virginia, Friday, November 15, 1974 | Thirty-five Cents

• *Law and Psychiatry*

DANGEROUSNESS VIEWED AS UNPREDICTABLE TEST



Dr. Alan A. Stone currently holds the joint appointment of Professor of Law and Psychiatry in the Faculty of Law and the Faculty of Medicine, Harvard University.

Dr. Stone has served as Chairman of the Committee on Psychiatry and Law of the Group for the Advancement of Psychiatry and is now serving as Chairman of the Committee on Judicial Action of the American Psychiatric Association, as well as Trustee of the American Psychiatric Association. He is also a member of the Commission on the Mentally Disabled of the American Bar Association.

This article, written exclusively for DICTA, is an examination of the issues surrounding dangerousness.

by Alan A. Stone

The courts and state legislatures of the United States have embarked on a course of drastic reform of both the standards and the procedures applied in the involuntary confinement of the mentally disabled. I shall here consider only one of the standards, but the reader will recognize that such isolated consideration can only be misleading. It is therefore, at a minimum, imperative to emphasize both the general thrust of procedural reform and the standard of proof.

Described most broadly, the general pattern of procedural reform has been to transpose with little change the criminal procedures to the civil context. As to the standard of proof, jurisdictions vary as to whether it shall be clear and convincing, or beyond a reasonable doubt. I shall, for purposes of the discussion which follows, assign arbitrary numbers to these, the former 75 per cent certainty and the latter 90 per cent certainty.

The courts, in rejecting the doctrine of parens patriae and the medical model of mental disability, have suggested that a more objective legal standard for involuntary confinement of the mentally ill must be articulated, and without exception they have found that standard to be dangerousness. However, reflection suggests that dangerousness is an "objective" standard only in an abstract sense. It presents at least three separate kinds of problems. First, what kinds and degrees of harmful conduct are to be considered dangerous? Second, the dangerousness standard implies a prediction of future behavior. Can anyone or anything predict such a specified kind and degree of behavior with a certainty that will meet the 75 per cent or 90 per cent standard of proof? Third, if such a standard could be devised and applied, what would its yield be? What kinds of persons would be involuntarily confined and for what purposes?

What Is Dangerous?

The first question, what kinds and degrees of harm shall be considered dangerous, has been discussed in dicta by the Supreme Court. Justice Blackmun, writing for a unanimous court, indicated that the following alleged facts, presuming them to be true, did not constitute dangerous behavior. Jackson, a 27-year old mentally retarded deaf mute had twice been charged with robbing women of small amounts. Without considering the details, e.g., whether the situation involved purse snatching which some victims can attest is harmful, the Justice concluded such past behavior did not make Jackson dangerous enough to justify his present civil commitment under the applicable state statute.

One cannot know what went into Justice Blackmun's evaluation. Presumably it might have involved a host of considerations; e.g., (1) more than two years had intervened since the robberies in question, (2) the crime can be thought of as against property rather than the person, (3) no one is reported to have been physically hurt and the sums stolen were minimal, (4) such mentally retarded persons rarely commit violent crimes, etc.

This imaginary construction of Justice Blackmun's deliberations is meant to illustrate the global nature of judgments about what constitutes an adequate degree of harmful conduct. How will judges closer to the facts deal with some of the following kinds of cases? What about the alcoholic, wife beater or child abuser? How much or how often? What about the compulsive exhibitionist? What about the agitated depressed person who merely torments, humiliates and embarrasses his family? What about the manic businessman whose improvident behavior results in the collapse of his business, the loss of scores of jobs and the impoverishment of many families? What about the psychopathic corporate executive who evades pollution controls to advance his own career at the expense of the health of generations to come? What about the paranoid politician who promotes racial tension and violence?

Direct Violence

Dangerousness is put forward as an objective standard which transcends subjective value judgments. These examples are meant to suggest that it may not; rather it may be a legal appeal to an objective moral consensus which evaporates on reflection. It is a safe presumption that most courts will avoid such reflection and will consider only everyday direct interpersonal violence as within the standard of dangerousness.

Much has recently been written about the difficulty of predicting such dangerous interpersonal violence. That literature can be summed up as follows: Predicting any specific human behavior is extremely difficult. When the bit of behavior to be predicted is a rare event (put differently, where the base rate is low), the statistical problems of prediction are intractable. The nature of the problem is that any actuarial device that is applied will identify many more false positives than true positives. Clinical predictions, when tested empirically, prove to be no better; indeed, they may be worse. Violent behavior, i.e., assaults, suicides, and homicides, are rare among the mentally disabled despite the notoriety that attends individual cases. Retrospectively, it can be said that less than one in 10 of the mentally ill are dangerous either to themselves or others. Predicting in advance which one of the 10 will in fact within a given time perform one or more

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Lucey

Wisconsin Gov. Lucey Wants Fresh 'Whole Earth Catalog'

by Ronald Risdon

Calling on the Democratic Party to present a new face to the electorate between now and 1976, the Student Legal Forum's first speaker of the year, Wisconsin Governor Patrick J. Lucey, addressed a nearly capacity crowd in the Law School's Moot Courtroom, Thursday, November 7.

In an address entitled "The Morning After," the prominent Democrat examined his party's landslide victory in the November 5 elections and offered his suggestions on the critical problems facing American politics. "We cannot afford to mark time for the next two years," he noted, "while both parties jockey for position in the 1976 presidential sweepstakes."

He pointed to the low voter turnout on election day as indicative of the lack of choice which Americans faced at the polls. In his opinion, the problem was not one of apathy, but the result of the depressing alternative of "Tweedle-dumb and Tweedle-dumber."

Selling Politics

According to Lucey, politics have increasingly acquired the businessman's selling approach of emphasizing superficial qualities. In order to minimize the risks and ensure a share of the electorate, the candidates have pushed the "sizzle" rather than the steak.

Drawing from up-to-the-minute statistical data, the parties have reduced the electorate to the simplest dimensions of a consumer. Consequently, he claimed, they have narrowed the middle of the road so much as to leave the electorate with no choice but to register a protest vote. In his own eyes, the issues have been left to the courts or trimmed down to very basic terms.

The result, he noted, is that our national problems have grown to frightening proportions as politicians have sought to avoid alienating the voters. Pointing to the fear for the future among the American people, Lucey stated that "our most basic problem is simply our lack of confidence in ourselves."

Bold Steps Needed

Holding out the Democratic Party as the best vehicle for social change, Lucey called on his colleagues to take bold steps to restore credibility in our political leaders and confidence in our future. To do so, he noted, requires moving beyond short-run questions of reelection to the task of finding the "right thing to do." In the long run, the governor claimed that such an approach will pay political dividends.

Labelling the current strategic politics as static, Lucey emphasized the need for our institutions to catch up with the American people. He wants the Democratic Party to offer a "Whole Earth Catalog" of innovative alternatives for the nation's future.

In the question period that followed his address, Lucey elaborated on one such alternative to solve the problem of de facto school segrega-

(Please See Page 4, Col. 4)

LIFT STICKS HIP KIDS; CREW NEW 'BOOZE WHO'

A festive evening gave way to stark terror last Thursday when, for six revellers fresh from cheering their political find on to new heights, the world suddenly stopped.

Student Legal Forum Vice President W. Shaw McDermott sounded the alarm at 11:50 to let last-minute patrons of the law library know that he and five others had been trapped in the back elevator, their car arrested nearly midway in its dizzying descent from the third to second floors of the new Duke Tract structure.

Bolstered only by the confidence that comes from experience and a case and a half of liquor they were carrying at the time, the plucky band was heard to break into song, notably ballads of the Irish Republican Army, while Dean Monrad G. Paulsen accompanied the students with a rhythmic tuba obbligato from his alert position on the third floor. Assistant Dean H. Lane Kneedler III was also quickly summoned to the building to join the midnight vigil and shouted down the shaft to captive Glenn R. Croshaw the timely reminder that under no circumstances was the elevator's paint to be scratched in their self-help attempts, since the system was not yet paid for.

Shortly after a jocular University policeman instructed the six to stand back from the door because a Magnum round was to be placed through the center of the car, second-year politico Marland H. Whitman, Jr. hoisted McDermott to the roof of the floundering elevator to pass a brave note to the third floor rescue squad.

Help Wanted

The poignant message, edited by second-year student Charles S. McCandlish, read in its entirety: "Dear Outside World, We've got six minutes of air, but we are confident. We are breathing in rotation. If we die, we plan a beautiful death. Patricia Desmond is reading inspiring words from *United States v. Jorn*. We love you all." In a gesture taken by all as typically self-effacing, the note was unsigned.

Turning calamity to his advantage, Paulsen also attempted to conduct a brief review of the *mens rea* principle while the hapless students awaited rescue, but was drowned out by cries of "Help" and "No more," apparently a sign of the mounting fear among the future Senators as their captivity wore on.

Fears Allayed

Kneedler and two members of the night custodial crew tried to raise the flagging spirits of the six by assuring them that Professor Frances Farmer would undoubtedly be willing to waive the strict overdue penalties for any reserve books, but at least one of the imprisoned was reported to have become visibly agitated at the thought of dealing with the library's review system, in equity or not.

Quick action by the library's looseleaf specialist Kent L. Agness, a third-year student, brought the crisis to a close when he awakened an elevator repairman from his sleep to free the Law School Six. Less than an hour after the first impassioned appeal for aid went out, Law School Foundation employee Emily Von Thelen and her five co-captives were recounting their ordeal in the first floor lobby, while the unidentified repairman was explaining to reporters that the Virginia Elevator Company's hydraulic lift system had been chosen for the new building in place of the conventional electric winch system because of its extra reliability and relative freedom from service calls.

Duke Tract Phase II Study Begun By Law School Group

by Joe Ritenour

The Law School has initiated an inquiry in preparation for the completion of plans for the next addition to the Duke Tract complex.

Professor Walter J. Wadlington, current chairman of the Planning Committee for Phase II, is encouraging constructive criticism of the latest designing plans. A series of informal meetings is being held by members of the committee in an effort to solicit student and faculty response to the proposals.

The committee is composed of faculty members, Wadlington, Thomas R. White, who will chair the committee next semester, Frances Farmer, John A. C. Hetherington, H. Lane Kneedler, Daniel J. Meador and Charles K. Woltz. Students on the committee are third-year student and Law Council President Mark F. Evens and second-year student Richard E. Daley II.

56,000 Square Feet

The more than 56,000-square foot addition will be located just east of the present building and will be connected by two enclosed corridors. One corridor will run through what is now the bookstore while the other will be located north of the moot court room. The designs of the present structure anticipated the annex.

The top two floors of the three-story expansion will provide additional library space and 26 new offices. Seating will be increased from the present 600 to approximately 900 library reader points (carrells and table seats). This will more than satisfy the American Association of Law Schools' Library seating formula which we are presently crowding to an extent.

The new library addition also contains shelf space to boost the collection to approximately 500,000 hard cover volumes, a computer terminal room located in a position which could afford further expansion if need develops, a rare book room, additional general work space, four enclosed, soundproof conference rooms, and an enclosed soundproof typing room.

The 26 new offices in Phase II can be used for faculty, graduate students, or visiting scholars. They will allow the conversion of some of the present faculty offices into student activity rooms.

Multi-Purpose Room

The most imposing feature of the Phase II plans is certainly the multi-purpose classroom-auditorium. This will be located on the ground floor of Phase II and will be on the same level as present Tony's due to the topography of the area. Flanking the 412 seat auditorium will be two 40 seat classrooms which will be separated by soundproof, automatic folding walls. Thus, the multi-purpose room could easily be expanded to

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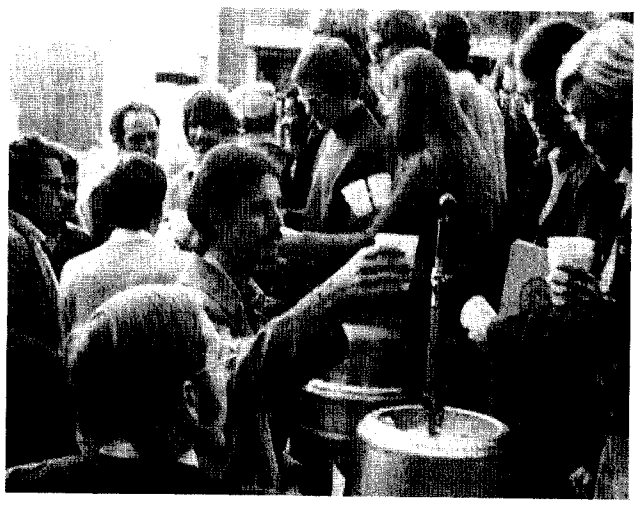

The Noble Experiment

Law Council staged a beer blast last Friday which featured tiny cups, insufficient beer and poorly placed kegs. Council President Mark F. Evens did not attend, saying the affair had "all the makings of a lousy party."

VIRGINIA LAW WEEKLY

EDITORIAL BOARD
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Editor

Published weekly on Fridays except during the holidays and examination periods, for twenty-four times each year in the interests of the Law School community of the University of Virginia. The VIRGINIA LAW WEEKLY is not an official publication of the University and does not necessarily express the views of the University.

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UNIVERSITY OF VIRGINIA PRINTING OFFICE CHARLOTTESVILLE, VA.

The Fixed Fees Disgrace . . .

The United States Supreme Court this week refused to dismiss a complaint against the Virginia State Bar Association, in which it was alleged that the minimum fee or "fixed fee" schedule established by the Bar Association is in violation of federal antitrust laws. Whether the fee schedule will be declared to be in violation of such laws, of course, remains in doubt. The consequences of the decision for the legal profession generally are significant.

Too often overlooked by members of the legal profession, however, are the consequences of the impending decision, and indeed of fee schedules themselves, for the public to whom those members are presumably responsible. Fee schedules are, in essence, market restrictive devices that work invidiously against the interests of large portions of the public, which has allowed the legal profession to flourish.

Minimum fee schedules, especially when rigorously enforced, effectively maintain the prevailing price for legal services at levels above what might otherwise be expected in a market without artificial price supports. Assuming a relatively high price elasticity of demand for legal services, assuming that demand for legal services will increase as its price declines, the elimination of a fee schedule from the legal services market would probably reduce the prevailing price of legal services and increase the quantity of legal services demanded. The effect of such an elimination, then, would be to increase the demand for lawyer time and, probably, for new lawyers and to redistribute a relatively constant total expenditure for legal services among greater numbers of lawyers. In short, the average income of lawyers would probably decline, and distribution of income among members of the legal profession would be less skewed. Of course, all of this assumes that more lawyers would be available to the public.

More importantly, however, is the point that under the present system of fixed fees, a substantial demand for legal services must go unfulfilled, since the cost of such services is beyond the ability of many to pay. Many members of the consuming public, therefore, are underrepresented or unrepresented by counsel. One must wonder whether the effect of such minimal consumer representation is to give to those institutions that can regularly afford more than adequate representation what may be considered unconscionable bargaining power. Certainly the lack of sufficient legal representation discriminates adversely against the public's economic and other social interests.

The fixed fee schedule is clearly an instrument by which members of the legal profession guarantee to themselves well above average incomes, at the expense of adequate representation of the larger public. Whatever other means there may be to provide legal services to those now unable to afford them, the fixed fee schedule is a disgrace to the legal profession and should be voluntarily abandoned.

D.C.O.

Discouraging Discrimination . . .

The problems of discrimination against women in the Law School are not new; however, in the past few years women have become less willing to accept such treatment quietly. The recent rash of complaints against employer interviews shows the changed temper of the women students more than anything else.

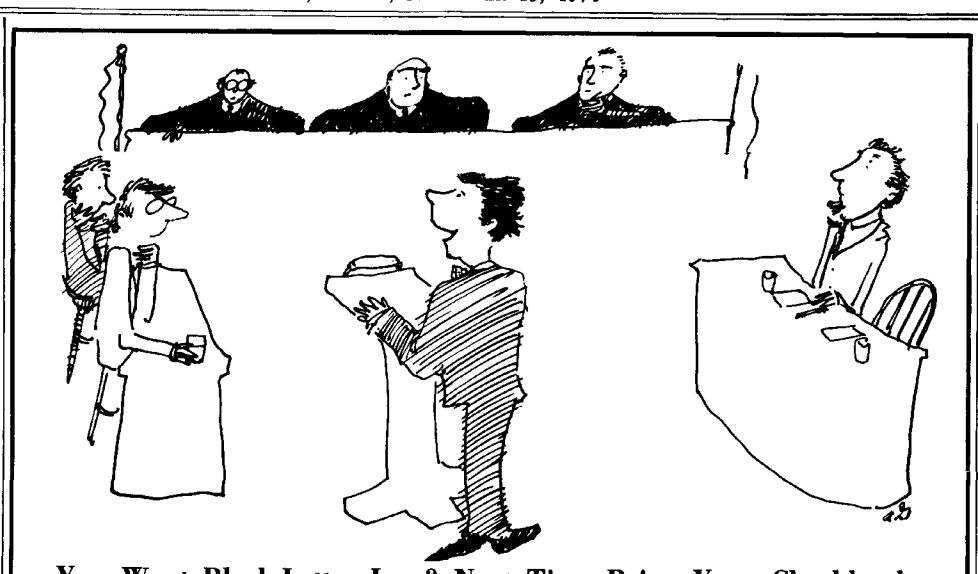
The Law School graduated its first woman lawyer in 1923, but in the next 50 years expanded alumnae rolls by less than 200, or about four per year. Graduation did not solve the problem, though. Even as late as 1968, women graduates were forced to work for the government because private firms would not hire them. Many of these women did superior work and are now sought after by law firms that previously would not consider them.

Individuals vary in the reactions they believe appropriate to discriminatory interviews and hiring. Some argue for restrictions on types of questions that interviewers should be allowed to ask. The problem with this approach is that it may make interviewing women even more tense and sensitive than it is now. By attempting to protect women, we may, in fact, be imposing additional liabilities. Nonetheless, the Placement Office has an obligation to its students not to blink at instances of harassing, irrelevant and embarrassing conduct by interviewers.

On the other hand, people argue that women should use the interview as an opportunity to educate the employer, to counter any fears they may have about hiring women. The theory is that by allowing questions on such topics as marital or family plans, the woman student can allay any doubts the employer may have. The problems with this approach is that a firm that has had a "bad experience" with a woman attorney in the past is not apt to change its biases by one student's claims that she, at least, is different. In addition, personal questions when asked insensitively may so shock or unnerve the student as to destroy any opportunity for rational response. In the end, the woman is left with an unfortunate experience, and no job in any case.

As evidenced by past alumnae, women can make good attorneys given the job opportunities. Discrimination not only maims its victims psychologically but is a waste of legal talent. We urge the Placement Office to do everything possible to discourage such conduct now and in the future.

C.W.S.



You Want Black-Letter Law? Next Time Bring Your Checkbook.

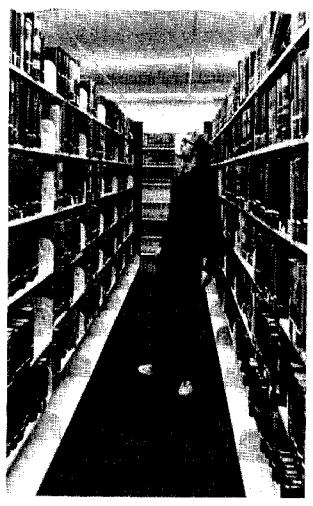
Third Floor Hides Law Library In Miniature; Door To Library II Open To Privileged Few

by Tom Walsh

Threading his way through the lilliputian laybrinth of the third floor, the innocent wanderer in a strange land finds some comfort in the passing in review of many a familiar name—the professor who persisted in calling on him when he was unprepared, the student organization that stamped him with an official sounding label to put on his resume, the Placement Office that insisted on giving him 5:30 interviews.

Then, hiding in a corner of the maze, something alien appears. It is a door marked with the mysterious appellation, "Library II." Summoning from within himself that human spark which lights the way to new worlds, he tries the knob. Locked. As a minion at the circulation desk would later remark straight-lipped, before turning quickly and nervously away, "Doors to Library II are always locked."

Far from being deterred, the modern-day Odysseus waits and watches. He discovers that Library II is not closed to everyone. Every so often, stealthily and without



warning, a creature slinks up to the door, slips a key in the lock, and slithers in, closing the door behind him.

The wanderer is finally rewarded one day when one of the cult's initiates forgets to seal the vault, leaving Library II exposed to the secular world. As our hero enters, he looks, rubs his eyes, and looks again. Is it a dream? Is the White Rabbit going to welcome him to Wonderland? In a spontaneous remark that, no doubt, explains the room's name, he exclaims, "Why, this is a *library, too!*"

Indeed, here is the law library in miniature, complete with regional reporters, law reviews, codes, Am Jur and C.J.S., and an assortment of dry, discolored tomes. A sign on the nearby shelf explains everything.

"Library II is a readily available research tool for use by those student activities engaged in research and by faculty members."

"Library II is a part of the Law School Library and will be administered by rules, standards, and policies established by the Law School Librarian." Let those who enter beware!

BALSA Promotes Black Interaction On Many Fronts

by Herbie Di Fonzo

Providing "some collective unification of black law students on a national basis", BALSA (Black American Law Students Association) is now in its seventh year.

The local chapter of BALSA was set up five years ago, according to Convenor Dennis L. Montgomery. He notes that the association attempts "to establish forms of communication and better solve the problems that confront black students on different but similar campuses."

The ultimate goal of the local chapter is to change the attitudes in the University of Virginia community with reference to black students. The chapter is active in the Southern Regional division of BALSA and within Virginia itself. Montgomery noted that one-quarter of the state's population was black, while black law students represented only about three per cent of all law students in the state.

Committee Structure

Arelia S. Langhorne is the secretary of the association, which has four committees: finance, public/community relations, education, and admissions.

The finance committee is chaired by Joel C. Cunningham, who is in effect the organization's treasurer. Funded by the University, BALSA also collects dues from members, although dues are not requisite for membership. The finance committee sponsors all fund-raising programs, including one to start this year aimed at the chapter's alumni, who number about forty-five.

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Virginia Law Women Protest Job Interviewers' Sex-Typing

by Alvin J. Lorman

When Professor Lillian R. Altree was seeking a job following her graduation from Stanford Law School in 1965, one interviewer told her he couldn't hire her because "we had a woman once and she didn't work out."

While such blatant sex-typing is probably on the decline, women still face peculiar problems during the job interviewing season at the Law School, according to Christine W. Swent, president of Virginia Law Women. "Employers are unduly concerned with a woman's family plans, whether or not she's going to get married and what she would do with children—to the point where the bulk of the interview is concerned with eliciting non-professional information," Swent said. "My concern is that these questions are not asked of men."

Also a problem, according to Swent, is the "harassing interviewer who asks embarrassing questions, who asks about sexual aspects of a woman's life, who comments about physical attributes." This year, for example, one woman was asked whether she entered law school in order to find a husband; another woman was forced to spend most of one interview discussing the fact that some women show up for interviews braless; and a third, a Californian interviewing a San Francisco firm, was asked whether she wouldn't rather get married and settle down in Culpeper. A Norfolk firm, in a letter explaining to a woman applicant that it could not offer her a job, nevertheless urged her to "keep the Tidewater area in mind as a possible place to practice law. We feel the area offers tremendous opportunities for the young man who wants a challenging legal career."

Complaints Increase

Perhaps as a result of increasing enrollment of women in the Law School and increased sensitivity to perceived bias, complaints by women about interviewers have increased. Women students have also been urged by a poster in the Law School to report incidents to Associate Dean Albert R. Turnbull.

The Law School's nondiscriminatory interview policy is "well and strongly stated" to visiting firms, according to Turnbull, "and we're prepared to do what we can to stop" discrimination. He said that a firm that discriminates would be barred from the use of the Placement Office's facilities, although this has never occurred. "The problems of proof are difficult," Turnbull said, "and we've never had a case where a female wanted to pursue the problem to that point." Turnbull noted that last year the Placement Office cooperated with the Virginia Law Women in distributing a questionnaire that was to be completed by women students after each interview to collect information on the way women were treated. The program, according to Turnbull, was a "dismal flop" because very few women filled out the forms.

Actual discrimination in hiring women is lessening, Turnbull said, especially in larger metropolitan areas. Nevertheless, "we've had a couple of cases of gross bad taste" on the part of interviewers. While Turnbull said he was "very concerned about the problem," he suggested that the increased enrollment of women in law schools will solve the problem. "We're in a kind of painful transition period now," he said, "but I think it will soon be over."

White Paper Planned

Much of the anxiety women experience may be due more to the interviewer than to a pattern of discrimination against women in hiring. "Empirically, our women are getting good jobs in good firms across the board," Turnbull said. To increase the awareness of inter-

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Perspective

Chamberlain's Bill Proposes Single Term For Presidents

Rep. Charles E. Chamberlain of East Lansing, Michigan, represents that State's Sixth District in the U. S. House of Representatives. He graduated from UVA in 1941 and from the Law School in 1949, and was admitted to the Virginia and Michigan bars that same year. He was an officer in the U. S. Coast Guard for four years in World War II. He was an I.R.S. Agent in 1946-47. In 1950, after having been in private law practice in Lansing, he became assistant prosecutor of Ingham County and prosecutor in 1955. In 1953-54 he was city attorney of East Lansing and legal counsel of the Michigan Senate Judiciary Committee. He was elected to the U. S. Congress in 1956 and reelected for every term since.

By Rep. Charles E. Chamberlain

"Power tends to corrupt; absolute power corrupts absolutely."

When Lord Acton voiced that dictum, in a letter of 1887 to Bishop Mandell Creighton, he said quite a bit. Such observations can be based only on the past, and yet it is testimony to their sagacity when they apply so well to the future.

We do not in the United States, of course, vest absolute power in our President. And yet our system and our Constitution give him an awesome amount of power. The growth of that power has kept pace with the growth of the nation and its technology.

I believe, and have believed for several years after considerable study, that some of that power should be returned to the people by limiting our Presidents to one term — perhaps of six years, or possibly of no more than four or five years if that is the only way that the necessary constitutional amendment could win a two-thirds vote in Congress and ratification by 38 state legislatures.

The proposal can accurately be labeled either bipartisan or nonpartisan. The question is not one of Democrats vs. Republicans vs. independents. Rather it is a question of whether to make a very modest redistribution of things in our system of checks and balances.

Single Six-Year Term Proposed

In the current 93rd Congress, I have a bill, House Joint Resolution 127, which would amend the Constitution to provide for a single six-year term. It was introduced on the opening day of this Congress, January 3, 1973. It is similar to another measure I had introduced earlier.

It is distasteful, but necessary, to think how much has happened to strengthen the argument for such a change since I first advanced it.

Had President Nixon been elected to a constitutionally mandated single term, it seems safe to say there would have been no Watergate. Certainly there would have been no CREEP (Committee for the Re-election of the President). There would have been no one raising campaign funds — legal or otherwise — for his reelection. And there would have been no "political adolescents" — to borrow the phraseology

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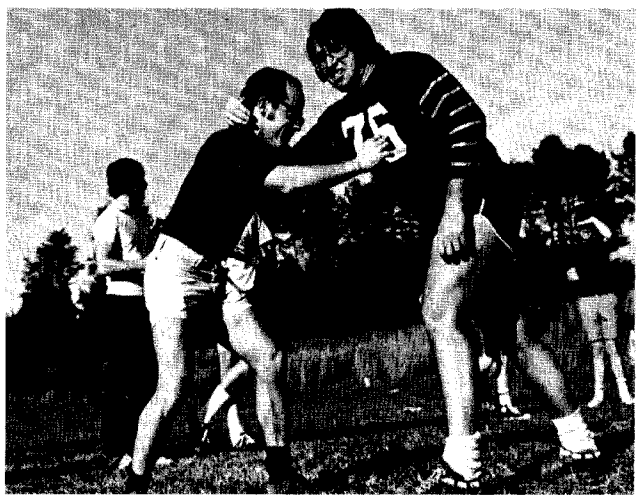


Law Weekly staffer Frank "Too Tall" April, left, gives a few pre-game pointers to Laura Vue's Paul Androgenous, the "Living Rotunda."

Law Weekly Machine Silences Laura Vue's Idle Boasts, 27-2

Several weeks of brave talk by the *Virginia Laura Vue* came to an end last Sunday at Copeley Field when the LAW WEAKLY Juggernaut proved itself the best football team at the Law School by drubbing the fulsome footnoters by a score of 27 to 2.

The clash had been preceded by a barrage of propaganda from *Laura's* yellow presses. The first was a challenge that was reprinted in the WEAKLY on October 4 which called for the game to be played by November 13.

Approximately three weeks later, the Law School was littered with mimeographed fliers declaring that the WEAKLY had forfeited the game because the "October deadline" had passed.

Somewhat surprised by the failure of the footnoters to check the accuracy of the date on their challenge, the WEAKLY prepared to do battle on November 10.

Fresh from a hard-fought triumph against the *VJIL*, the WEAKLY offense rolled. Quarterback Bill "The Mover" Pollock, having received a field promotion to Chief Petty Production Prosthetist during the *VJIL* game, fired four touchdown passes. Jim "The Jumping Flash" Mullendore snared two; Jack "The Eskimo" Quinn and Barry "Yogurt" Kogut one each.

The WEAKLY defense also played splendidly, intercepting three passes by *Vue* Quarterback Tom "T. C." Williams. Typical of the sparkling defensive play was when Frank "Too Tall" April ran over Paul "Living Rotunda" Androgenous and sacked the hapless Williams. In his usual bad-mouth fashion. Androgenous blamed the entire defeat on Halfback Ken "Foul" Oder.

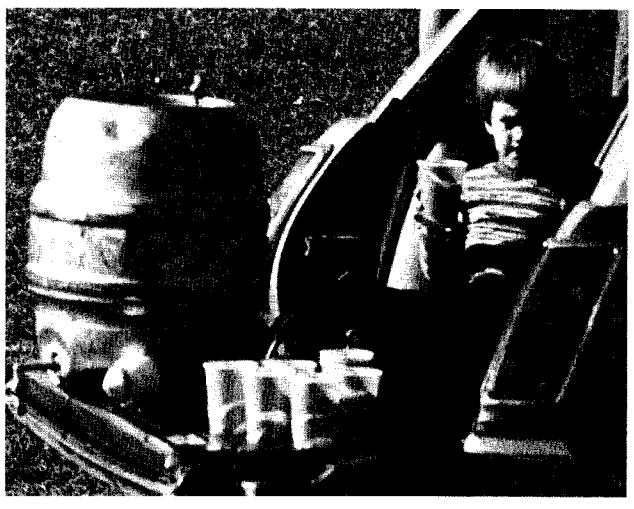
The WEAKLY offense accounted for all the scoring in the game, with the aid of referee Tom "Find The Line" Bergin. After the Juggernaut defensive squad intercepted a pass on the WEAKLY two-yard line early in the second half, Bergin, racked with sobs at seeing the *Vue* humiliated, seized the opportunity presented by a lucky one-handed tag to call a safety against Pollock and his fearless crusaders.

Despite this and numerous other indignities perpetrated by Bergin and his separate but equal colleague, Lane "What's It Worth?" Kneedler, the triumphant journalists remained cool and downright friendly.

His editorship, Terrence Cardinal Harders, was ecstatic. "Interviewers may ask whether you're on *Laura Vue*, but the scouts ask if you're a Juggernaut starter," he gushed.

"The scouts ask if you're on *Laura Vue*, too," mumbled Robert "Call Me Bob" Shanks, *Vue's* playbook editor and third-string center. "But it's only to avoid wasting their time."

The Law Weekly's triumphant horde kicks off again as an avid fan soaks up the sun, suds and scenery, below.



Perspective . . .

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of then Vice President Gerald Ford — to run a campaign and carry out illegal and unethical acts.

Going back one President to a Democrat, Lyndon B. Johnson, the need for change is just as apparent. Mr. Johnson, after winning election in his own right in 1964, promoted the "Great Society" as his major domestic program while the United States involvement in Vietnam steadily deepened. The resulting combination of federal spending generated tremendous economic pressures. But he refused, because of political considerations, to make a timely call for a tax increase to meet expenditures. We still suffer today from the inflationary spiral that began then and has since grown.

Historical Origins Of The Single Term

The idea of a single six-year term is far from new. It was debated at the Constitutional Convention of 1787, where considerable discussion of its merits took place. Significantly, well over 100 amendments to put it into effect have been offered since the Constitution became effective.

But the fact that it is an old proposition does not make it a bad one. Indeed, the frequency with which it is proposed at intervals in our history shows how it attracts the attention of succeeding generations. It refuses to die.

The single term has had support of some notable names in our history. President Jackson, President Polk, President William Henry Harrison, President Andrew Johnson, President Cleveland and President Taft all endorsed it at one time or another.

In 1912 a single six-year term was recommended by the House Judiciary Committee — a body much in the news of late. In its report it said:

"The President should be ineligible to a second term, because being ineligible there will be no temptation improperly to use the powers and patronage of that exalted office." The committee also commented:

"It will make the President the Chief Executive of the whole people and not the leader of a mere faction or the chief of a political party."

And in conclusion the committee said:

"This amendment, if submitted and ratified, will increase the efficiency of the administration of the President; will remove the temptation to build up a political machine by the abuse of patronage and power; and save the President from the humiliating necessity of going to the stump to repel assaults made upon him."

One year after that, in 1913, the Senate actually approved an amendment for a single six-year term, but it was objected to by President Woodrow Wilson, and died in the House.

Bipartisan Backing

In more recent times the idea has had the bipartisan backing of the Majority Leader of the Senate, Senator Mansfield, and the Republican dean of that body, Senator Aiken. In 1971 Senator Mansfield told a Senate subcommittee:

"It is just intolerable that a President of the United States — any President, whatever his party — is compelled to devote his time, energy and talents to what can be termed only as purely political tasks." He added later in his testimony:

"Surely this amendment does not represent a panacea for these ills which have grown up with our system of democracy. But it would go far, I think, in unsaddling the Presidency from many of these unnecessary political burdens that an incumbent bears."

Would the amendment affect merely our domestic institutions? Clearly, the answer is no. It could make significant contributions to the carrying out of our foreign policy.

Going back only to the horror and trauma of the Vietnam War, a strong case can be built that the strategy would have been different and the results better had Mr. Johnson not been plagued by political con-

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Sex-Typing . . .

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viewers, Turnbull said he plans to join with the Virginia Law Women and Altree to develop a white paper that goes beyond a statement of nondiscrimination and send this paper to all firms that visit the Law School.

Altree notes that not all of the seemingly irrelevant questions asked of women are motivated by bias. "I think some of the interviewers these days are just very curious," she said. "They've never seen so many women in the law schools before." Yet some of the questions women are asked are "so patently absurd that it's easy to understand why women get upset," Altree said. The questions motivated by curiosity she sees "as an opportunity for a woman to respond in a serious, responsible way." It can be difficult, however, to draw a line "between the questions prompted by curiosity and the questions that are stupid or insensitive."

Altree also believes that it is a mistake to judge the employability of women by their ability to convince an interviewer of the permanence of their commitment. Rather than merely giving women an equal chance in the traditional structure, Altree said she would "like to see the profession accept all kinds of flexibility for women and men."

DICTA . . .

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harmful acts of a given degree with a certainty that is clear and convincing (75 per cent) or beyond a reasonable doubt (90 per cent) is virtually out of the question. Even when dealing with persons who have a documented criminal history of violence, predictions have proved to be no better than 50/50; i.e., half of those predicted to be dangerous turn out not to be. This is not to mention the problem of false negatives.

Dangerousness Unpredictable

Of course, rare easily predictable cases may present themselves, but if asked to deal with a large sample with no prior history of violence and low base rates, and identify which ones are dangerous, the psychiatrist, the psychologist and the actuarialist should in honesty throw up their hands. It can be stated conclusively that predictions of dangerous behavior among the mentally disabled cannot be made with the degree of certainty that legal standards of proof require and thus an objective standard cannot be fulfilled. Most psychiatrists believe they are better at predicting dangerousness to self than dangerousness to others. They may be right, but no study exists which convincingly demonstrates that predictive capacity empirically. To meet the test of clear and

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Study . . .

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accommodate at least 492 persons. This room would also be fully equipped for audio-visual equipment. This auditorium would fulfill the critical need for a facility large enough to hold such functions as law day meetings, moot court finals, Student Legal Forum speeches, first-year convocation, and similar middle to large size groups.

No new eating facility is included in plans for Phase II. The University presently plans to construct such a facility in a separate building for which legislative permission to issue bonds is now being sought. When that facility is completed the space presently occupied by Tony's will be used for library storage as originally intended.

Phase II is being entirely privately financed and fund raising efforts are continuing. The earliest expected completion date is fall 1977.

Law School Elections

Law Students will be voting for Judiciary Committee and Student Council representatives next Wednesday and Thursday. Prospective candidates must submit petitions containing the signatures of 25 law students and pay a $30 deposit that is refundable after the election. Petitions should be given no later than Tuesday to Peter Bergman, who is running the election, Dan Hobbs, both at the Student Council offices in Newcomb Hall, or to the Law School's representatives, Charles L. Gravett or S. Waite Rawls.

Bullanbear To Meet

There will be a meeting of Bullanbear, Inc. on Thursday, November 21, 1974, at 4 p.m. in Room 112. John S. Darell, of Shields, Model, Roland & Co., a New York Stock Exchange brokerage house, will address the meeting on the economic outlook for the stock market. The public is invited to attend.

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DICTA . . .

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convincing proof one would assume that a psychiatrist would at least have to demonstrate that his predictions of suicide or serious suicidal acts are correct three quarters of the time; beyond a reasonable doubt suggests nine tenths of the time. No actuarial test or clinical examination has such predictive power of self-destructive behavior.

If, despite the problems of defining the standard, applying it, and predicting it, the courts could make it work, who would be the population confined? The salient characteristics would be *both* mentally ill and dangerous. I shall focus on those who are dangerous to others. We have already noted that relatively few of the mentally ill who have been traditionally subject to involuntary confinement are dangerous; thus the numbers would be sharply reduced at least as much as 90 per cent. Many of the sickest and most treatable patients would be deprived of treatment, while "hospitals" asked to cope only with the dangerous would inevitably be converted into prisons.

Dangerous Person Not Treatable?

Psychiatrists who have studied the kind of person who is both mentally ill and dangerous have come to the following general conclusions. First, such persons are among the most difficult to treat, they are not generally amenable to the radical new benefits of pharmacotherapy and they pose major obstacles to traditional individual or group psychotherapy. Second, from the medical model perspective, few of them are psychotic; their problems are long standing and chronic personality disorders. Many psychiatrists do not consider hospitalization the appropriate *treatment* modality for such persons; they believe such persons belong in prison. Some psychiatrists would argue that such persons, though dangerous, are not mentally ill and therefore are not committable.

Most of the psychiatrists who are optimistic about the treatment of such personality disorders are advocates of various types of behavior modification, a method now under considerable legislative and judicial scrutiny as being of dubious constitutionality.

I conclude then that dangerousness cannot be readily defined, that it cannot by any acceptable criminal law standard of proof be predicted and, if in spite of all that such a legal standard worked, the persons so confined could not be treated. Since both civil libertarians and the Justice Department have indicated an intention to challenge any state commitment laws not based on dangerousness, the problems I have identified should eventually present themselves in some form to every jurisdiction in the nation.

BALSA . . .

(Continued from Page 2)

John Charles Thomas is the chairman of the public/community relations committee, the publicity arm of BALSA. This committee also functions as liaison between black law students and other organizations in the community.

The education committee, headed by Bensonetta E. Tipton, is responsible for BALSA's speakers series. This program brings black lawyers in practice to speak to a small group on an informal basis. These talks are oriented to the particular problems or advantages of being a practicing black lawyer.

Monitoring Admissions

The committee engaged in trying to increase the Law School's black applicant pool so as to boost the number of black students is the admissions committee, chaired by Bruce A. Atkins. These members work with Associate Dean Albert R. Turnbull in monitoring the admissions process. This involves the Dean keeping them posted on how many black students have applied and have been accepted, so that the committee can establish contact with the individuals. BALSA has, at present, no input into the actual decision-making process. Although Montgomery points out, "I would like very much to have some yea or nay in the admissions process", he doubts that this will become an eventuality. BALSA's admissions committee also does some recruiting on its own.

Montgomery said that one of the prime purposes of the organization is to improve the visibility of black students. Faculty-student receptions are held to stimulate interaction between black students and the faculty, which is all-white.

White students are, of course, eligible for membership. The orientation of the activities is toward black students and the emphasis is in getting more black students into law school. This may be a limiting factor in white students' participation, Montgomery said.

Peer Counseling Program

There are 39 black students in the Law School, 16 of whom are in the first year. For their benefit, the peer counseling program is set up. This involves an orientation for the new law students at the beginning of the year, when they are assigned a peer counselor in a sort of buddy system. The purpose is to use the talents residing in the more experienced law students to help out the neophytes. Thus, expertise in getting around Charlottesville, borrowing fast cash, getting your phone hooked up, outlining "legad", or any academic, social, financial or other problem is shared.

When asked if black law students are encouraged to become involved in law school activities, Montgomery replied, "We encourage them to book—to study." He added that participation in activities is an individual thing.

Convenor Montgomery graduated from Hampton Institute and served in the armed forces. He is satisfied with the association's progress "compared with three or four years ago." But he considers the work done so far as a tiny contribution to the job remaining.

Lucey . . .

(Continued from Page 1)

tion. He suggested that special aid be offered to communities with a high percentage of disadvantaged students in their school systems, calling it "a federal carrot rather than a stick." If the plan were implemented, he believes that suburban areas will be competing with the cities to bring in black students, if necessary, by busing.

Wallace Opposed

Lucey took an opportunity in the questioning to register his opposition to a ticket in 1976 that included George Wallace. He stated firmly that he could not compaign for any Democratic duo involving the Alabama governor. The Wisconsin chief-of-state did point to the possibility of a Reagan-Wallace team in '76, perhaps heading up the Republican Party slate.

Lucey noted that he has no national political aspirations in the next two years, putting him, as he sees it, in the minority of Democrats not seeking higher office. The governor, a three-time candidate for that office, won reelection to his second term this month, carrying into power with him the first all-Democratic state legislature in Wisconsin since 1892. Lucey served as state chairman for John Kennedy's campaign in 1960 and was senior advisor to Robert Kennedy during the senator's brief tragic 1968 drive for the Democratic presidential nomination.

Perspective . . .

(Continued from Page 3)

siderations before finally deciding not to be a candidate again in 1968. The intransigence of Hanoi would not have been buoyed by many of the uncertainties that existed, including the question of whether there would be a change of United States leadership.

Had Mr. Nixon no 1972 campaign to be concerned with, he would have been in a far better position to follow up on the brilliant initiatives he made with China and the Soviet Union. Think of what might have been achieved had not our momentum in international relations been almost totally lost during the Watergate crisis!

Significantly, Mr. Johnson, after he was out of office, indicated that he had given much thought to a single term and that he leaned that way. In a 1972 television interview with Walter Cronkite of CBS News he said:

"I believe that if a man knew that he just had one term and he had to get everything through in six years, that he didn't have to play to any political group and he didn't have to satisfy any segment of our society and this was the only chance he was going to have and he couldn't put it off, I think it would probably – and I say probably – be in the best interest of the nation."

The 'Lame Duck' Argument

One argument frequently advanced against this proposition is the claim that it would make the President a "lame duck" – that is, a person on his way out and with supposedly no incentive to do a good job.

At the outset I reject such a use of the term "lame duck." By dictionary definition and general usage, a "lame duck" is an officeholder who has sought reelection and failed to win it. So the term is a misnomer in this context.

But to answer the argument, let's use the term loosely here. I believe that second-term Presidents are already "lame ducks." We made them into that when we adopted the 22nd Amendment limiting Presidents to two terms. So it seems to me that the very tangible national benefits of a single term would outweigh whatever we might lose by having so-called six-year "lame ducks" instead of four-year "lame ducks" among second-termers.

Another opposing argument is that a single six-year term would lengthen by two years the terms of poor Presidents, and deny reelection to outstanding Presidents.

That argument shows how vast the disparity can be between theory and real-life situations.

The fact of the matter, of course, is that the Presidency has evolved into a usual eight years. For more than 40 years – or about twice the life span to date of University of Virginia students of 1974 – every American President, save one, has served more than four years in office. The one exception was President Kennedy, who was assassinated in his third year, and who would have been almost impossible to defeat for a second term.

'Power Of The Incumbency'

What is called "the power of the incumbency" is well exemplified in our Presidency. Most Presidents want two terms and most Presidents get two terms. Their names become household words as their faces and their statements are beamed into tens of millions of homes via television. They are followed by a press corps from throughout the nation and the world.

In the nature of things, any President becomes almost unbeatable during his incumbency. A challenger has no such platform until mere weeks before the election date.

That is the de facto situation. The question at issue: Is that good for the nation? I think not.

Given the nature of things, no President will ever be totally unconcerned about politics, nor should he be. But with personal ambition minimized, a President will be far more likely to subordinate partisan considerations to the national interest.

Think of the advantages! The President would gain significantly in the time he could devote to his immeasurable and ever-growing duties – as Chief of State, as administrative head of the Executive Branch, as Commander-in-Chief of the Armed Forces, as the architect of our foreign policy, as the fashioner of domestic programs to assure the well-being of his people.

The world has been made more dangerous by intercontinental nuclear missiles. It has been radically shrunken by jet aircraft, fantastic communications and space exploits. It is essential to do all we can to minimize political demands on the time of the President so he can devote full attention to the affairs of state.

Improving The Constitution

We improved the Constitution, in my opinion, when we adopted the 22nd Amendment and limited our Presidents to two four-year terms.

We made a further improvement when we adopted the 25th Amendment which was exercised for the first time last December in filling the Vice Presidency. And in that amendment we also provided for the Vice President to become acting President should the need arise – as it did arise with President Wilson and President Eisenhower, among others.

That is progress. That is giving substance to the oft-heard statement that our Constitution is a living document that can be altered to meet the needs of the time.

But it is not as much progress as the Congress and the States are capable of providing, or as much as I believe the American people want and are ready to accept.

The time to move is now – while so much that is wrong under our present system is so apparent, and while the country is demanding real reform of our institutions of government.

There is room for a compromise as to how long a single term should be. I suggest six years because it itself is a compromise between four years and eight. But if such a change can be made only by adopting a single term of four years or five, then the Congress should work its will.

There is a principle here, however, on which there can be no compromise. That principle is that we bring to an end all reelection activity by all future Presidents of the United States.

The need is great and the time is right. We owe it to the Presidency, but more importantly, we owe it to the country.

The American Society of International Law

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Panel 1: The Economic, Technological and Industrial Problems

Charles Maechling, Jr., Professor of Law, National Science Foundation; Visiting Professor, University of Virginia School of Law.

Kenneth W. Clarkson, Assistant Professor of Economics, University of Virginia.

N. Bartlett Theberge, Research Associate, Virginia Institute of Marine Science.

J. D. Nyhart, Professor of Management, Department of Ocean Engineering, MIT.

Panel 2: Post Caracas: The Legal Implications of Deep Seabed Mining

Richard B. Bilder, Professor, University of Wisconsin School of Law; Visiting Professor, University of Virginia School of Law.

Marne A. Dubs, Director, Ocean Resources Department, Kennecott Copper Corporation.

Arvid Pardo, Senior Fellow, Woodrow Wilson International Center for Scholars; Delegate to the United Nations from Malta.

Jonathan I. Charney, U.S. Advisory Committee on Law of the Sea; former Chief, Marine Resources Section, Land and Natural Resources Division, Department of Justice.

Special Guest Speaker at our dinner banquet Saturday night:

John Norton Moore, Chairman, U.S. Task Force on the Law of the Sea; Legal Advisor, Department of State.

Please note that UVA students and faculty are admitted to all panels and speeches at no charge.

For further information contact Chris Joyner or Lee Unterman at 924-3087 or 924-3118.