

"Freedom of religion, freedom of the press; freedom of persons under the protection of the habeas corpus; and trial by juries impartially selected, — these principles form the bright constellation which has gone before us, and guided our steps through an age of revelation and reformation."

THOMAS JEFFERSON

Around North Grounds

ANNOUNCEMENTS

Student Funded Fellowships' annual pledge drive will begin next week. Continued student and faculty support is essential to the success of the SFF program, so we encourage everyone to stop by the SFF table next week to make a contribution to the fund and learn more about SFF grants!

The First Year Council will sponsor a food festival on Thursday March 30, in the main hall. Everyone is invited to bring a dish and partake of others' delicacies. There will be awards for the best dish in each of several categories. The event is free. Contact Salmon Shomade or Robyn Clark for further information.

The Smithsonian Institution encourages U.Va law students to attend an exciting seminar. On March 29 Derrick Bell, Harvard Law School's first tenured African American law professor, joins talk show host Derek McGinty for a conversation focusing on the experiences of African Americans and other minority persons who take uncompromising stands on controversial issues and who pay a price for their actions. Bell, author of the new *Confronting Authority: Reflections of an Ardent Protestor*, will recount his highly publicized 1990 protest at Harvard Law School, when he took a two-year unpaid leave of absence and refused to teach until a woman of color was awarded tenure. Two years later, in 1992, when Harvard remained without a minority woman professor, the university dismissed Bell when he refused to give up his protest.

The event will take place at the Smithsonian Institution, Baird Auditorium, Natural History Building. Student admission is \$8, and Bell will be signing books.

An informal luncheon, where students can explore careers with professional women from a variety of fields, including Montia Givens (English '89), attorney; Laura Dabinett (Med. '86), obstetrician/gynecologist; and Rebecca Massey-Lane (MA, Art History), Director of College Galleries and Arts Management, Sweet Briar College, will be held on March 31, from 12:30 - 2:00 pm in the Garden Room, Colonnade Hotel. To register, call the Women's Center (982-2361) or the Office of African-American Affairs (924-7923).

In This Issue:

America's Most Admired Lawyer

See Page 2

Law Women Travel to National Conference

See Page 3

Stellar Jessup Moot Court Team Advances to Final Round

By Susanna Fischer

For the first time in recorded history, a Virginia team has advanced to the International Round of the 35th annual Phillip C. Jessup International Moot Court Competition. Oralists Mark Carrié, Selena Linde, Liz Snodgrass, Tina Tyson, Bench Counsel Issa Matta, Co-Director/Coach Brigitte Suhr, and Co-Director Kathryn Ramey are all pleased and honored by their invitation to the event, which will be held in Philadelphia and New York on April 1 -9.

"We can't predict the outcome, but we're very happy to be there participating at that level. It's a very good experience to argue before such eminent judges and to meet different teams from all over the world," Suhr said.

She credited the team's success to its members. "All are very meticulous. Two of them, Linde and Snodgrass, are first years, which is incredible."

The team members have found themselves extremely compatible. The full team was formed only after the October tryouts, organized by Ramey and Suhr, where Matta individually won the Bench Counsel position and two pairs of oralists (Linde/Snodgrass and Tyson/Carrié) triumphed. "As a team we

really work together well," Linde commented. Snodgrass was impressed by her teammates' flexibility. "We compete as a team, not against each other," she said. Carrié described his teammates as "enthusiastic about doing the best."

No one could dispute that everyone on the team has worked hard for his or her success. Carrié described them as "neurotic." Since the tryout, they have held over 17 oral arguments. More toil is in store. They plan to have at least another eight practice sessions to polish their arguments and advocacy skills before going to Philadelphia.

They will face stiff competition at the international round. Teams from over 50 countries will participate. There are 15 U.S. teams, comprising one winner from each regional competition and four wild card teams, including U.Va. The wild card teams are chosen at large from the national pool of teams which scored highly at regional competitions.

Even though the Virginia team failed to win at the Mid-Atlantic regional competition held at Temple University in Philadelphia in February, their performance was highly commendable. They won three out of four of the preliminary rounds, and in each of these winning rounds

U.Va. Ranked Top Public Law School *Law School is Now Seventh Overall in the Nation*

by Greg Maurer

Virginia was ranked seventh among the nation's law schools by *U.S. News and World Report's* "America's Best Graduate Schools" annual survey, making Virginia the top public law school in the country. Virginia's return to the top ten is a significant jump from last year's overall ranking of fourteenth.

The *U.S. News* survey used five criteria to rank law schools: student selectivity, placement success, faculty resources, and two separate measures of institutional reputation.

According to Dean Scott, last year's aberration was the result of a calculation error. *U.S. News* mistakenly ranked the school sixtieth in faculty resources. Dean Scott contacted *U.S. News* about the error last year and noted that the magazine's ranking system "grossly disadvantages the University of Virginia because of our unique combination of state and private support." This year, using apparently accurate calculations under a different methodology,

Virginia finished 21st in the faculty resources category.

Still, the faculty resources category will likely continue to plague Virginia. While Virginia placed seventh overall, it outdistanced three schools that tied for eighth by only two-tenths of a percentage point. If Virginia cannot keep pace with these and other schools, it could easily slip to tenth next year.

However, academics, lawyers, and judges ranked Virginia between sixth and seventh in both the 1994 and 1995 surveys.

This year, only three schools surpassed Virginia in starting median salaries: Yale, Columbia, and NYU. Faculty experts ranked Virginia's international law program sixth and its tax law program fifth in the nation.

While some in the legal community question the value of the *U.S. News* ranking, it is one of the most widely-cited measurements of school quality and undoubtedly helps attract top-notch law students. If nothing else, the survey demonstrates how well Virginia performs with so few resources.



photo by Lori Thompson

U.Va.'s Phillip C. Jessup International Moot Court team has advanced into the International Round of the competition. The oralists will be arguing over what constitutes equitable use of shared natural resources. (Team members, front row: Tina Tyson, Mark Carrié, Elizabeth Snodgrass, Selena Linde; back row: Issa Matta, Brigitte Suhr, Kathryn Ramey.)

collected 100% of the possible round points. The U.Va. team also won an award for the second-best memorials, which are the written briefs submitted. The respondent's memorial received a perfect score for its form.

Success at Philadelphia will rest largely on the team's oral performance. Only a third of the score is based on the briefs; the remainder hinges on the quality of the oral arguments made in the 45 minutes given to each side. The team's oral performance at the regional competition bodes well for their success in the future. No official awards are made for a team's oral performance, but the U.Va. team members have calculated that a comparison of their oral scores with all the other participants resulted in a ranking of third place regionally.

The subject matter of the debate is a highly topical transboundary environmental law dispute: what constitutes equitable use of shared natural resources? The debate is

between two fictitious neighbouring countries with the tongue-twisting names of Agistanus and Behestoon. "Every team at the regionals pronounced them differently", Tyson remembered ruefully. Behestoon is an economically developed nation, and Agistanus a member of the developing world. The catalyst for the dispute occurs when a toxic plume from an Agistanusean mine flows downstream along the shared Ozoonia river to contaminate Behestoon's waterways. The question for resolution is to what extent Agistanus may, in the course of its development, contaminate its internal waterways if this results in the contamination of a neighbouring country's waterways.

The team is undaunted by this thorny problem. "One thing we feel very confident about is the amount of substantive work we've done on the problem. We feel strong about knowing the law on both sides of the issue," Snodgrass told the *Law*

see JESSUP, page 2

DICTA

THE UNIVERSITY OF VIRGINIA HONOR SYSTEM, DUE PROCESS, AND THE CHRISTOPHER LEGGETT TRIAL

BY JONATHAN T. BLANK



Jonathan Blank is a third-year law student who graduated from the University of Virginia in 1992 with a distinguished major in Government and Foreign Affairs and a major in Sociology. He is a member of the Journal of Law and Politics, a quarterfinalist in the William Minor Lile Moot Court Competition, an N.G.S.L. Commissioner, and current President of the Raven Society. He has accepted an associate position in the litigation department of McGuire, Woods, Battle & Boothe in Richmond, Virginia.

"'Individually, we might disagree with the wisdom of entrusting the Honor System's vital controls to the hands of University students—possibly sometimes more volatile than mature.'...In the judgment of the University's lawyers, including experienced university counsel, litigators with substantial experience in civil rights matters, and constitutional scholars, the proceedings against Mr. Leggett involved a clear denial of due process in his particular case."

— President John T. Casteen III in an open letter to the University community, September 2, 1994

As one who cares about be heard are required. However, a full-dress judicial hearing, with the right to cross examine witnesses, is not required. Such a hearing, with the unavoidable publicity and disturbances of college activities, might be detrimental to the college's educational atmosphere and impractical to carry out.³

see DICTA, page 2



Letters to the Editor

The Virginia Law Weekly publishes letters of interest to the Law School and the legal community at large. Views expressed in letters are those of the author(s) and not necessarily those of the Law Weekly or the Editorial Board. Letters from organizations must bear the name, signature, and title of the person authorizing the submission. All letters must bear a handwritten signature and be submitted by noon on the Monday before publication, in hardcopy and on disk, in accordance with the submission guidelines posted on the door to the Law Weekly office in Room 391. Letters over 500 words can not be accepted and will be returned to the author for resubmission at a later date. The Editorial Board reserves the right to edit all submissions for length, grammar, and clarity. Although every effort is made to publish all materials meeting our guidelines, we regret that not all letters received can be published.

A Response to VANGUARD

To the Editor:

Although I have been criticized in the Law Weekly before (and have for the most part appreciated the attention) I was stunned to read the recent item in the Vanguard that suggested I took a cavalier attitude toward grading last semester's exams. I cannot even guess what exchange the Vanguard was recounting. The Vanguard's account must have been the result of a misunderstood conversation or of a misunderstood report of a conversation. The story was particularly distressing in that its subject was grades for a semester in which I missed the grading deadline for one of my classes. This failure was a result, not of indifference, but of a miscalculation on my part of how long it would take me to grade more than 230 exams. I have sincerely apologized to numerous students for this delay. I hope any student who continues to be concerned despite this letter will feel free to come and see me.

BARRY ADLER
PROFESSOR OF LAW

SFF Needs Your Help

To the Editor:

It's spring again, and that means it's time for Student Funded Fellowships' annual pledge drive to begin. While many law students have already accepted summer job offers, several students are anxiously waiting to hear whether they will be able to accept important volunteer or low-paying positions in the public service sector. Whether or not these students can accept public service jobs often depends on whether SFF is able to give them a fellowship for their summer expenses.

While every year SFF disburses grants to students who demonstrate both a commitment to serving traditionally under-represented groups and a significant financial need, each year SFF must turn down many qualified applicants. Every time a qualified applicant is denied a fellowship, it is not only one student's summer which is affected, but all of the people that student would have served with his or her legal skills. In recent years SFF grant recipients have worked in legal aid and public defenders' offices, environmental law agencies, battered women's shelters, the Equal Employment Opportunity Commission, the United Nations High Commission on Refugees, and many other agencies which are traditionally underfunded and overburdened with clients in desperate need of legal assistance.

The number of SFF grants which are available each year is directly correlated to the amount of funds raised during that year. Since SFF grants are almost entirely funded by student and faculty contributions, the success of the program is largely dependent on student contributions made during the annual pledge drive. This year's pledge drive will begin next week. SFF will have a table set up in the law school throughout the week, where we will be accepting contributions and answering any questions you may have about SFF grants. SFF volunteers may also be calling students to request support for the fund. We encourage all students to make a contribution of one day's salary from their summer or permanent employment to help fellow students who will be accepting volunteer or low paying public interest jobs.

Contributions to SFF help to support your fellow law students, to enhance the reputation of the law school as a supporter of public interest law, and to assist hundreds of people throughout the country whose only source of legal assistance may be an SFF grant recipient. If you can't give a day's salary, please consider giving some lesser amount. Every contribution can make a big difference in the lives of many people. Thank you for your continued support of SFF and its grant recipients!

JILL WEISS
MAUREEN TOOHEY
SFF PLEDGE DRIVE CO-CHAIRS, 1994-1995

The Thunnnnn-der of F. Lee Bailey

On the cover of the second edition of *To Be a Trial Lawyer* stands a triumphant F. Lee Bailey. His head rests firmly on his torso uninterrupted by the presence of a neck. The pink and purple flowers adorning his tie and handkerchief stand out beautifully against his dark suit.

Mr. Bailey was voted America's most admired lawyer in a recent poll administered by *The National Law Journal*. The acquittal he won for accused murderer Dr. Sam Sheppard in 1964 made him a leading actor on the legal profession's national stage. As co-counsel in the defense of O.J. Simpson, he is once again in the national spotlight.

I watched Mr. Bailey cross-examine Detective Mark Fuhrman on the E! network over Spring Break. Though he did not pulverize the prosecution's star witness, as many in the media said that Mr. Bailey claimed he would, I was impressed with the speed of his cross, the authority in his voice, and the clarity and logic of his questioning. On his lectern rested no notebook, no paper, and no notes. Then again, it probably does not take much to impress me, given that I am at the larval stage of my career. But, as I understand it, I can render an opinion in my own column based on nothing.

In an interview with 20/20, Mr. Bailey unabashedly stated that having an attitude verging on



Yvonne Tran, a third-year law student, is a Law Weekly columnist.

brashness and arrogance was critical for an effective trial lawyer. Confidence in mind and appearance is a must, said Mr. Bailey. Indeed, he exhibited a lot of this in his cross of Detective Fuhrman. To show the jury that this witness had been very well prepared for trial by the prosecution, Mr. Bailey asked the detective if his pre-trial meetings with prosecutors were designed to "take away the thunnnnn-der of cross-examination." For a brief moment, the lights went out in the courtroom; then, a flash of light near the ceiling and the low rumble of thunnnnn-der ...

On the first page of the introduction to his book, Mr. Bailey makes note of his undergraduate work at Harvard. He was an English major and highly recommends this and related fields as majors to budding trial lawyers who have just reached voting age (I was a biochemistry major and wrote three papers in my four years at college—will this be a problem?). There is no mention of the law school Mr. Bailey attended in his book. How puzzling, I thought, for there to be such a conspicuous black hole with respect to information about

his legal education. Only fortuitously, while I was scanning the "Free For All" section of *The Washington Post* editorial page, did I come across a remark about Mr. Bailey's alma mater. He is a law graduate of Boston University. No longer was I so puzzled. (I do not mean to demean Boston University; I only mean to demean it jokingly. And I believe I can do this because U.Va. is ranked seventh among law schools in the nation, and BU is somewhere below that. We're #7! We're #7!).

As I learn more about Mr. Bailey, my fondness for him grows. There seem to be many facets to his personality. I see in him a young child, idolizing his Aunt Bertha (he admired her greatly growing up). I see in him a fun-loving sportsman, sailing his yacht and flying his plane. I see a fickle side to his personality as well—not once, not twice, not thrice, but four times was he a groom! Then there is the intellectual Mr. Bailey, the man who lives and breathes in the King's English. And finally, there is F. Lee Bailey, the philosopher. At the end of his book, he tells readers that being a trial lawyer can be an intellectually, emotionally and financially satisfying experience. But, he cautions, "don't, don't, whatever you do, wind up at the age of fifty with nothing but the money." Gotta love him!

DICTA

continued from page 1

A school is an academic institution, not a courtroom or administrative hearing room.⁴ A school disciplinary hearing is not a criminal trial; a student accused of cheating is not entitled to all the procedural safeguards afforded criminal defendants.⁵ While a university cannot ignore its duty to treat its students fairly, neither is it required to transform its classrooms into courtrooms.⁶

No formal hearing is needed to expel a student from a public university. Courts have held that it is not necessary that written charges be preferred; that evidence in support of the charges be introduced at the hearing;

that the hearing be public; or that the witnesses be heard under oath. It is not necessary that the student be represented by counsel; that the student be informed of his or her right not to testify; or that the student be confronted with the witnesses against him or her. It is unnecessary to permit the student the privilege of cross-examination or afford the student an opportunity to submit proofs in reference to a charge denied by him or her.⁷ In addition, courts have also held hearsay evidence as admissible.⁸

While there are two types of dismissals, academic and disciplinary, courts have clearly defined dismiss-

als for cheating as disciplinary in nature and not academic.⁹ In a disciplinary proceeding, fourteenth amendment due process is afforded if the following three requirements are met:

- 1) the student is given notice of the charges;
- 2) the student is given notice of the evidence to be used against him or her; and
- 3) the student is given a hearing.¹⁰

When a student is punished for disciplinary reasons, courts use a "slid-
see DICTA, page 3

JESSUP

continued from page 1
Weekly.

The team's legal knowledge will certainly be tested by some formidable judges at the final rounds. All of those sitting as judges, whether lawyers, judges, or academics, will have substantial expertise in international law. The two teams who reach the final of the international rounds will argue on the floor of the United Nations and may be judged by members of the International Court of Justice or Supreme Court Justices.

Faculty and students have provided invaluable assistance to the team's efforts to perfect their legal arguments and oral skills. A considerable number of professors and students interested in international law and/or oral advocacy have volunteered to assist as judges in practice rounds. Those on the faculty have included Professors Cohen, Dudley, Garrett, Goldsmith, Harrison, Mahoney, Martin, Moore, and Triantis as well as Neal Moore from the Oceans Center. "The faculty has been wonderful," Tyson said. "They have been very accessible to questions at all times." Student volunteers have included Eliza-

beth Bates, Wendy Bridges, Mark Bromley, John Gates, Tyler Giannini, Andrea Hanneman, Brian Holman, Jeff Mayes, and Anthony Picarello. LL.M. candidate Villiers Terblanche, a Jessup veteran who represented South Africa at the 1992-93 international round, gave the team the benefit of his experience.

The team has also had financial support. As in previous years, the J.B. Moore Society funded the tryouts and regional round. But perhaps because of the fact that past Virginia Jessup teams have not advanced to the international rounds, insufficient funds had been budgeted for the international round. Fortunately, help was forthcoming from Dean Scott, who provided \$1,000 from a discretionary student activities fund, and the Center for National Security Law directed by Professor Moore, which contributed approximately \$1,600. The J.B. Moore Society added \$500 and the SBA agreed to provide some financial assistance, although no amount has yet been set. The team is currently negotiating with other bodies for the additional money it

will require.

The success the team has had so far must, at least to some extent, be attributable to the team members' backgrounds and interests. Many of the participants have previous experience in international law. Suhr and Carrié both spent last summer working for United Nations' High Commissioner for Refugees. Prior to attending law school, Snodgrass was a foreign affairs major at college. Tyson has worked for the National Oceanic and Atmospheric Administration General Counsel of International Law. Their international experience is well balanced by Linde's passion for oral advocacy. "I came to law school with the intent of trying out for moot court. That's what I looked forward to in going to law school."

Whatever happens at the international round, the team's members are all happy to have participated in the Jessup Moot Court. Linde echoed the unanimous view of her teammates when she gave her opinion of the debate: "It is a wonderful experience. It has been a lot of work, but a lot of fun as well."

Virginia Law Weekly
Editorial Board

Kevin M. Drucker
Editor-in-Chief

Emily Holsinger
Executive Editor

Laurel Carter
Managing Editor

Lori Thompson
News Editor

Coke Morgan Stewart
Features Editor

Honza Jan Prchal
DICTA Editor

Benjamin T. King
Columns Editor

vacant
Photography Editor

vacant
Production Editor

Contributors

STAFF: John M. Reynolds, *Business Manager*; Gregory L. Maurer, *Production*; Elise Bryant, Suzanne Dans, Lawrence DeGraaf, Lorrie Giventer, Jeff Goss, David Marcus, William M. Merone, Christian E. Meyer, Jan Miles, Lynley Ogilvie, Greer Olsen, Jon Smollen, David Strauss.
COLUMNISTS: Adam Braff, The Raven, Yvonne Tran, VANGUARD, Glen D. Weinstein.

Published weekly on Friday except during holiday and examination periods, serving the Law School community at the University of Virginia, the *Virginia Law Weekly* (ISSN 0042-661X) is not an official publication of the University and does not necessarily express the views of the University.

Any article appearing herein may be reproduced provided that credit is given to both the *Virginia Law Weekly* and the author of the article, excepting *DICTA* articles, for which advanced written permission is required. Advanced written permission of the *Virginia Law Weekly* is also required for reproduction of any cartoon or illustration.

Entered as second class matter at the Post Office at Charlottesville, Virginia. One year subscriptions are available for \$25.00. Subscriptions are automatically renewed unless cancelled. Address all business communications to the Managing Editor. Subscribers are requested to inform the Managing Editor of change of address at least three weeks in advance to insure prompt delivery.

Mailing Address: *Virginia Law Weekly*, 580 Massie Rd., University of Virginia School of Law, Charlottesville, Virginia 22903-1789 Phone number: (804) 924-3070

Printed on recycled paper by the *Virginia Law Weekly* and the University of Virginia Printing Office.
© 1995 *Virginia Law Weekly*



Editorial Policy

The Virginia Law Weekly publishes columns of interest to the Law School and the legal community at large. Views expressed in columns are those of the author(s) and not necessarily those of the Law Weekly or the Editorial Board. All columns must bear the true name of the author(s) and their telephone number, include the author's signature, and be submitted by noon on the Monday before publication according to the submission guidelines posted on the door to the Law Weekly office in Room 391. Columns should be between 500 and 1,250 words in length. The Editorial Board reserves the right to edit all submissions for length, grammar, and clarity. Although every effort is made to publish all materials meeting our guidelines, we regret that not all columns received can be published. Submissions from Law Weekly staff writers are given priority during this process. Columns may be published under a pen name at the request of the author(s), however such works will be subject to much more stringent editorial standards relating to form and subject matter, and will be published at the discretion of the Editorial Board and only after all "signed columns" have been considered for publication.

Dicta

continued from page 2

ing scale" to determine the adequacy of the due process.¹¹ The harsher the punishment, the more due process the student is given.¹²

The University's Honor System

Under its current bylaws and constitution, the University's Honor System conforms more to the due process which is afforded criminal defendants than the due process required for student disciplinary hearings. Following the Honor Committee rules, the student is given notice of the charges, notice of the evidence to be used against him or her, and a hearing. In fact, the student is given many of the things which courts across the country do not demand of public universities.

Investigation and Indictment Process

In the University's Honor System, a student is given notice that he or she has been accused by what amounts to an indictment process. First, the student is confronted by an Honor Investigator who investigates the charge against the student. After the investigation, an Investigative Panel convenes. It consists of three Honor Committee members, the initiator and his or her advisor, the investigated student and his or her advisor, and the investigator.¹³

Among the many procedures for the Panel, the accused is allowed ten minutes to rebut any allegations by the initiator and the investigator. The Panel is allowed to ask the accused additional questions which the accused may refuse to answer; however, the choice to remain silent may be held against the accused. The Panel can then formally charge the accused or drop the charges.

Sufficiency of the Notice

If an Investigative Panel chooses to formally charge the accused, it must prepare a written and signed accusation stating the specific honor offenses involved. The accused must receive a copy of the charges and a written statement which informs him or her of the right to request a trial within 10 calendar days of the date of the accusation.

If the accused requests a trial, the Vice-Chair for Trials will assign a trial date and notify him or her by one certified letter and one conventional letter to an address which the accused provides. If the accused does not appear for the trial, such action will be deemed an admission of guilt.

Discovery of Evidence

The Honor System seeks to discover the truth. Before a trial is conducted, a conference is scheduled for

the Hearing Chair, the Honor Councils of both parties, and the parties at their option, to frame the issues of the upcoming hearing. The parties and their counsel have the right to interview all witnesses and to know the of higher learning.

Finally, President Casteen and the above-mentioned experienced litigators and constitutional scholars may have a differing opinion. As a student, I welcome their response. My only wish is that those to whom the students entrust their Honor System be given enough information to make educated decisions, because their decisions affect every person who has and will graduate from the University of Virginia.

¹ *Goss v. Lopez*, 419 U.S. 565, 576 n.8, 95 S.Ct. 729, 737 n.8 (1975).

² *Id.* at 577.

³ *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150, 158-159 (5th Cir. 1961).

⁴ *Board of Curators v. Horowitz*, 435 U.S. 78, 88, 98 S.Ct. 948, 954 (1978).

⁵ *Jenkins v. Louisiana State Board of Education*, 506 F.2d 992, 1000 (5th Cir. 1975).

⁶ *Jaska v. Regents of the University of Michigan*, 597 F.Supp. 1245, 1250 (E.D.Mich. 1984).

⁷ 15A Am. Jur. 2d 288.

⁸ 30 ALR4th 936.

⁹ *Univ. of Texas Medical School at Houston v. Than*, 874 S.W.2d 839, 844 (Tex.App.-Houston 1994).

¹⁰ *Estaban v. Central Missouri State College*, 415 F.2d 1077, 1089 (8th Cir. 1969).

¹¹ *Than II*, 834 S.W.2d 425, 430-431 (Tex.App.-Houston 1992).

¹² *Goss*, 419 U.S. at 584, 95 S.Ct. at 741.

¹³ The sections of this article from *The University Honor System* through *The Hearing* are cited generally to the Virginia Honor Code By-Laws and Constitution.

¹⁴ 719 F.2d 69 (4th Cir. 1983).

¹⁵ *Id.* at 73.

¹⁶ *Id.* at 73.

¹⁷ *Id.*

¹⁸ *Levitt v. University of Texas*, 759 F.2d 1224, 1230 (5th Cir. 1985).

¹⁹ 1994-95 Honor Chairman Jimmy Fang was instrumental in brokering the settlement with Christopher Leggett that granted the Accused a new trial. However, before he was named Chairman, Jimmy chaired one of the two appeal Panels which rejected Leggett's original appeals.

Virginia Law Women Take Roadtrip to Boston

by Diana L. Strauss

A handful of Virginia Law Women recently drove for fourteen hours to Boston to participate in a national conference of female law students, featuring a keynote address by feminist legal scholar Catharine A. MacKinnon.

The conference was hosted by the National Women Law Student's Association (NWLSA), an organization that was founded at the University of Virginia last year.

Three panels of speakers in addition to MacKinnon spoke at the three-day event, entitled "Women in Law: Rewriting the Rules." The conference was held March 3 - 5, at the Boston College School of Law.

MacKinnon, University of Michigan professor of law and author of numerous books including *Only Words* and *Toward a Feminist Theory of State*, offered advice as to how to "rewrite the rules" to the crowded auditorium of NWLSA members, including University of Virginia attendees Candace Blydenburgh, Devin Schaumberg, Mark Holliday-Vacha, Diana Strauss and recent graduate Stephanie Webster ('94).

According to MacKinnon, the first step is to reframe reality. "We

need to know what the real rules are before we can accomplish any change," she said. Drawing on the example of pornography, she said it is an issue that goes far beyond pictures of naked bodies. To MacKinnon, the real "rule" to be understood is that men can have "mass sexual access" to women whenever they desire.

MacKinnon exhorted those in the crowd not to accept the given frame of issues. "The facts are obscured, or people lie," she said. The second stage in MacKinnon's plan is to "re-forge and regasp" the tools for reframing reality. "We need to fight to win," she said. "Attorneys need to work to restore rights to those who have lost them."

The last step in "rewriting the rules," according to MacKinnon, is to reimagine your goals and strategize accordingly. "Once you figure out who the other side really is, you then as attorneys have to figure out what your client really wants." This, MacKinnon said, could include monetary damages, as remonstrations for suffering, or the client simply having the satisfaction and dignity of going through the judicial process with an attorney standing next to her in court.

MacKinnon's keynote address was greeted by a standing ovation, followed by a reception and banquet attended by NWLSA officers, including Blydenburgh and Schaumberg.

Other conference speakers included author Mona Harrington, Massachusetts State Senator Dianne Wilkerson, and Nancy Stagg, who successfully sued the Tailhook Association and Hilton Hotels in the Tailhook sexual harassment scandal.

The last day of the conference was spent on elections and other general business. NWLSA president-elect is Erica Hines of the University of Georgia. The group also elected to have the next NWLSA conference at the University of Wisconsin, Madison.

NWLSA's first conference was hosted by the University of Virginia last February. NWLSA is dedicated to empowering women and promoting gender equality in the law and the legal profession. The organization serves a functional purpose in linking students and alumnae, as well as disseminating information about local, regional, and national events pertinent to women and the law.

Professor Meador Advises on the Art of Advocacy

by Lori Thompson

Professor Dan Meador advised first-years to "have life, spirit, look alive, stand up straight, look the judges in the eye and talk to them as intellectual equals." With the combination of wit and wisdom for which he is well-known, Professor Meador introduced first-years to the finer points of oral advocacy on Tuesday, March 21. Meador, who has shared his love for the law with U.Va. students for almost forty years, is a nationally recognized expert on the judiciary and the appellate court system in particular.

According to Professor Meador, oral advocates have two essential tasks. As an advocate, one must persuade the court *how* to decide in his or her client's favor and then persuade the court that it *ought* to decide the case that way in the interest of fairness. The *how* is usually achieved by dissecting and analyzing relevant precedent in the brief. The *ought* comes across in oral argument.

As with most areas of the law, preparation is key to successful oral advocacy. Professor Meador believes that "oral argument is won in the library, in the study, and in the wee hours of the night..." He recommended using a two-page outline as a road map to the argument, as well as rereading the cases until the holdings are clear.

The appellant should begin by first addressing the bench and then immediately proceeding into the who, what, where, and when of the case by stating the type of case that is before the court, and giving a brief procedural history. Counsel should always be prepared to give a concise one or two-minute state-

ment of the facts, although this is usually unnecessary for hot benches that are prepared to go immediately to the argument. Meador stressed that the appellant should lead off with the strongest argument first.

Unlike the appellate brief which may be read and reread by judges, the spoken word must be quickly understood, making clear and straightforward language essential. Counsel should also utilize his or her creativity and imagination in presenting the theory of the case. He recalled how Professor Hardy Dillard once represented a farmer who had sprayed his trees with chemicals after they had begun to bloom, and his entire crop died. The farmer was suing the chemical company although the instructions on the bottle specifically stated to spray the trees before they bloom. Although the case seemed hopeless, Dillard's success was evident when he began his argument by stating, "When your medicine label says to take it before meals, and you take it after a meal, you may expect that the medicine won't work, but you don't expect it to kill you."

A fundamental rule of advocacy is to answer any question a judge poses immediately. Advocates should prepare to do this by anticipating questions and hypotheticals during preparation for argument. Oral argument requires the ability to "roll with the punches" in answering questions while not losing sight of the main points of the argument. Professor Meador believes one should look forward to questions because "they give you a window into the judges minds...and

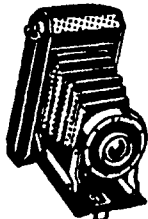
also let you know they're not asleep, which is reassuring."

Although Professor Meador suggested appellants reserve a few minutes for rebuttal, he does not believe the time should be used to restate arguments that have already been presented. The rebuttal is to address points raised by the appellee which weakened the appellant's argument or to clarify any misstatements which were made. By that time, the judges are ready to proceed to deciding the case, so they appreciate it when appellants offer to answer any questions and then sit down instead of rehashing their argument.

"Don't be like professors," Meador cautioned, "hanging onto the podium when you speak." He advised to have spirit and life when speaking, instead of a dull monotone. However, one should not speak as one would to a jury. He advised that the advocate approach the argument as a conversation among intellectual equals, without appearing subservient or patronizing. "A little edge is good," he stated. Nervousness may be kept under control with thorough preparation.

Professor Meador, who has addressed first-year classes on oral advocacy more than a dozen times, has served as Director of the highly acclaimed Graduate Program for Judges at the law school for fifteen years. He received his J.D. from the University of Alabama in 1951 and his LL.M. from Harvard in 1954. He joined the faculty of the Law School in 1957 and retired last year, although he continues to share his insight with U.Va. law students through courses and guest lectures.

THE LAW WEEKLY IS CURRENTLY
SEEKING A PHOTOGRAPHY EDITOR.



The Photography Editor will enjoy unlimited use of
our darkroom. If you are interested, please contact
Kevin Drucker at 961-2820 or leave a note in his box.

VANGUARD

OF DEMOCRACY

NGSL Ringers Head for the Majors; Cassino Signs 10-day Contract with Yanks

VANGUARD returns from Spring Break, well-tanned and rejuvenated for a stretch run at finals. NOT! VG is ready for something more intellectually stimulating – the resumption of softball season.

Even more exciting is the prospect of the upcoming U.Va. Invitational Softball Tourney, which will bring to Charlottesville over 70 teams from over 40 different law schools the weekend of April 8-9. By the time you are sitting in your Friday classes reading this, the tournament teams will have been chosen, and the team members posted on the NGSL board. VANGUARD will keep you posted on tournament preparations over the next few weeks, but for now, don't forget to pass on to VANGUARD, via the NGSL box, your very own Copeley stories about diving catches, towering drives, and umpires blowing the infield fly rule, so that all you people will have plenty of softball news to read each week.

U.Va. Gains Number Seven Ranking

VANGUARD has good news this week for those who only read *Time* and *Newsweek* (and for the majority - those who read *Sports Illustrated* or nothing at all). The *US News and World Report* law school rankings are out, and U.Va. has reached new heights with a rank of seventh, surpassing the University of Michigan to become the top-rated public law school in the nation.

VG ponders why we would plummet from eight to fourteen one year and then skyrocket to seven the following year. Because the ban on beer at Copeley would surely have dropped us to number fifteen in the ratings, herewith (herewith?) VANGUARD provides ten reasons why U.Va. improved to number seven in the past year.

1. Darden decided to move down the block, thus increasing our property value.

2. The new softball "Superfields" in Withers' backyard provide ample recreation space for everyone, especially the kids of non-traditional students.

3. The University's successful defoliation efforts around the Law School have made the Withers environment more closely resemble the inner-city environ-

ments of NYU, Columbia, Chicago and Harvard.

4. SBA broke even on the Barrister's Ball for the second year in a row. Maybe the *USN&WR* board decided that if law students could manage a \$10,000 budget, they should learn how to count, too.

5. Levmore chose U.Va. over Chicago.

6. Either an NGSL Commissioner now sits on the rankings committee, or Boomer kissed up to the evaluator who visited U.Va. for the magazine by guaranteeing him a permanent parking spot in front of the Law School (hence all the new D-8 spots in the horseshoe).

7. The arrival of the new manager at Cafe Death. Never before have Withers' students been able to enjoy such delicious treats as Dunkin' Donuts, Freshens frozen yogurt, egg rolls, a fresh salad bar and the new addition of pretzels with sandwiches instead of chips, for those fat-conscious kids out there. Maybe all that healthy food is making the students smarter.

8. NGSL ringers have been seen as replacement players in major league baseball camps. Who says a U.Va. law degree is not marketable?

9. The NGSL sent a keg to the Board's decision-making meeting.

10. The fact that no U.Va. team won the Tournament last year led the Board to believe that U.Va. students cannot possibly play softball and drink beer all of the time. (We really fooled them, didn't we?)

The Twelve Days of Spring Break

Always thinking creatively and resourcefully, VANGUARD noticed that there are exactly twelve days of spring break if you do it right. In order to provide the highlights of the "week" for you, VG offers a recap of the twelve days of spring break, U.Va. Law style.

Thursday - Anyone dumb enough to schedule Friday classes cuts class, ignored Bar Review (something new?), and headed out of town to get a start on things.

Friday - Several third-years were trapped in Charlottesville, taking the MPRE. A few, including Dawber and Sven, were

smart enough to take the test in North Carolina so they could make it to the evening session of the ACC Tournament. First years picked up their journal tryouts.

Saturday - The library closed at five. Third-year Kathy Harman couldn't think of an excuse to throw a party, so she decided to get married and get all her friends drunk at the reception instead. Second-year Commissioner Ed "Cocker" Spaniel spent some

MPRE last week, he kept tabs on the U.Va.-Georgia Tech game, providing the test-takers with halftime and final scores on the blackboard. Good work!

The Bottom Nine

9. *Smitty and Seale*. Third-year Smitty gets this week's "Rich Little" award for a practical joke he played on unwitting caller third-year Seale. During the height of the ISIS season, Smitty answered his phone by



Ashby Hackney, Matt Cohen, Steve Wilson, Jeff Sherman, and Dan Johnson display the charm that won them first place in the First Year Council Lipsync Contest.

quality time with himself painting a fence.

Sunday - The library remained closed. First-years unable to complete their journal tryouts were seen wandering around main grounds with dazed looks on their faces chanting "must find Cocke Hall ... must find Cocke Hall..."

Monday - For the first of seven consecutive nights, Head Umpire "Pink" Floyd snored loudly enough to shake the rafters and keep his entire hotel awake.

Tuesday - Third-year Dawber is seen doing the White Man's Overbite at the 8-Track Club at Pleasure Island in Orlando.

Wednesday - Third-year BR worked a rap on a stripper in Cancun who had just won a wet T-shirt contest by telling her that she was "well-proportioned."

Thursday - Third-year John Raleigh was sighted on the beach in Naples with a significant other.

Friday - Several first-years returned to C'ville to tackle part two of the journal tryout.

Saturday - MacDaddy and Cat called it an early night in the Bahamas. Wardo called for a press conference.

Sunday - A day of rest? Nope, last night out - Party Party. JD figured out a way to gain back his lost rap.

Monday - Several superior planners skipped class in order to conclude their spring break. The Head Commish retched on the flight home, as too much carousing finally caught up with him. Alas, he can no longer say, "Look MacDaddy, I don't puke." During a three-hour layover in Philadelphia, four Withers students took a cab into town to get authentic Philly cheesesteaks for themselves and their other four traveling companions.

Número Uno

Dean Hopson. Although the Angel of Death usually appears on the back page for purposes of retribution, he receives genius status this week. (OK, that's too strong, he gets the smart cookie award instead.) During the

doing an apparently flawless version of the ISIS greeting. Upon hearing "Welcome to ISIS, the University of Virginia's Integrated Student Information System..." Seale quickly hung up. A few minutes later, Seale called back, and when Smitty answered with a more traditional "hello," Seale blurted out, "Man, the weirdest thing just happened. I called your house and got ISIS instead."

8. *Pink Floyd*. When Learjet, Chapasquiddick and the Brazilian agreed to share a room with Pink Floyd on spring break, they had no idea they were subjecting themselves to a week of sleepless nights. It turns out that Pink Floyd bears an uncanny resemblance to a freight train for anyone within several rooms of the sleeping giant. VANGUARD suggests that the next time the three of you decide to spend a week in the same room with someone, you check with his roommates first — VG found out that Pink Floyd's roommate at Recoletta (third-year Tar Heel PH) has spent most of this year listening to Floyd's rumblings, even though PH's room is located on a different floor from Pink Floyd's.

7. *Boomer (in advance)*. - The students of Withers applaud your hard work, but last year you told us that ratings don't matter. VANGUARD can't wait to hear your analysis this year regarding the importance of ratings for everything from the placement process to continuing to garner the best and the brightest students from around the country.

6. *Lawrence Moten*. This Syracuse guard pulled "a Webber" last weekend, calling a timeout which his team did not have. Syracuse, which was leading at the time, eventually lost the game to Arkansas. VG would forgive you, except for the fact that you blew the chance to rid all of us of the Razorbacks and their ceaseless yapping.

5. *Billy Packer*. VANGUARD still considers you the best bas-

ketball color analyst in the business, but must reprimand you this week. First, if Randolph Childress were God, he would never miss a shot. Second, your job is to be impartial, so the next time you are singing Wake's praises, remind everyone that you are a Demon Deacon yourself. Finally, didn't you call Lawrence Moten, this week's bonehead, the smartest player in college basketball?

4. *Second-year PL*. Judging from the lack of bronzed skin on this second-year woman, VANGUARD figures that she probably spent her week of Spring Break here in C'ville paging through her T&E textbook. Further proof of this fact is that PL asked no fewer than five questions two days in a row in T&E during the first two days back from break. Settle down, will ya?

3. *The Law School Administration*. After forcing first-years who want to try out for more than one journal to stay in balmy C'ville for spring break, the Administration closed the law library on the first Saturday of the break at 5 p.m., and didn't reopen it until Monday morning. Apparently, many first-years were quite peeved and extremely stressed out, needing the library's facilities for computer lab purposes and printing facilities. See, VG told you that you should have gone to a tropical island instead!

2. *The Gang of Seven*. When one of VANGUARD's well-known informants approached Stew to see if he had any spring break stories to report, Stew told him that he and his six friends (Sven, DB, Gordo, the Gruppster, Tricky Dicky, and Buddy) had sworn to tell VANGUARD *nada*. First, when you laugh, the world laughs with you. Second, don't overestimate your capacity for craziness. Third, don't underestimate VANGUARD's ability to discover your dirty laundry and hang it out for the world to see.

1. *CBS Sports*. In the early moments of the Virginia-Miami (Ohio) game last weekend, CBS displayed some relevant information about U.Va. for all the basketball fans out there. After listing the relevant information about location and enrollment, etc., the screen read: "Famous Alumni: Thomas Jefferson, Ralph Sampson." (Who the hell is Ralph Sampson?) First, TJ was the founder, not an alum. Second, is Ralph Sampson really the only famous alumnus they could come up with? What about George Allen, Ted Kennedy, and Katie Couric?

This Week's Sign That the Apocalypse is Upon Us

Professor John Jeffries, the University's ambassador to the Supreme Court, was unable to comprehend and explain a passage from a Supreme Court opinion on Tuesday morning in Civil Rights Litigation. For the first time ever, he could find no words that "felt comfortable."

Vanguard of Democracy is an independent column of the NGSL and does not necessarily represent the views of the Editors of the Virginia Law Weekly.

Avanti
HAIRDESIGNS



Specializing in
Hairdesigns, Color,
Perms, Tanning, Facials,
Manicures, Pedicures,
Waxings & Cosmetic
Makeovers.

On the Island • Barracks Road Shopping Center • 296-6205