

THE UNIVERSITY OF VIRGINIA SCHOOL OF LAW

UVA LAWYER

SPRING 1999



Inside

Lottery Magic:
Business Advisory Council
Member Penny Kyle '79

Skadden Taps Two Public
Service Fellows

UVA LAWYER READER SURVEY
ENCLOSED!



THE IN-BOX

Dear Readers,

In each issue of *UVa Lawyer*, we include this forum for you to communicate with us -- and with each other. We welcome your letters about the magazine or other matters related to the Law School, and will publish those that we believe will be of interest to the greatest number of alumni. Please send your letters to the editor at 580 Massie Road, Charlottesville, VA 22903, or by e-mail at lawalum@virginia.edu.

Cathy L. Eberly
Editor

Dear *UVa Lawyer*,

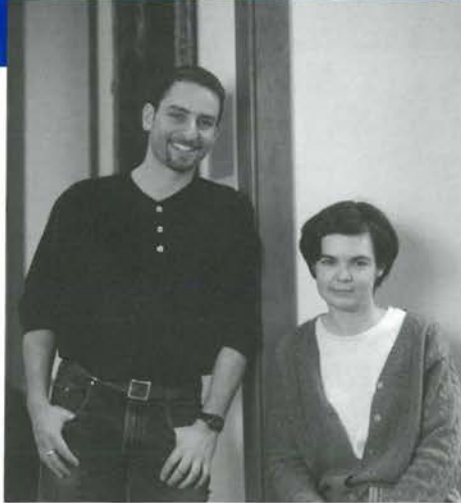
Bravo to Katie Redmond and Tyler Giannini for their valuable and courageous human rights work helping to build a democratic Burma and attempting to hold a large multinational corporation accountable for its conduct ("Alumni Update: Organization Expands Fight for Human Rights," *UVa Lawyer*, Fall 1998). Please let me know how fellow UVa alums can support their work and learn more about EarthRights International.

Mark E. Hoch (LL.M. '93)

Editor's Note: Katharine J. Redford '95 and her husband, Ka Hsaw Wa, returned to the U.S. from Thailand recently to attend the Reebok Human Rights Awards ceremony in New York. Ka Hsaw Wa was one of four recipients of the annual human rights award. Tyler R. Giannini '95 remains in Thailand. EarthRights International has opened an office in Washington, D.C.; the organization's phone number is 202 466-5188. You will find information about EarthRights International and their efforts to free Burma at their Web site: www.earthrights.org

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ALUMNI NEWS

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Editor: Cathy L. Eberly

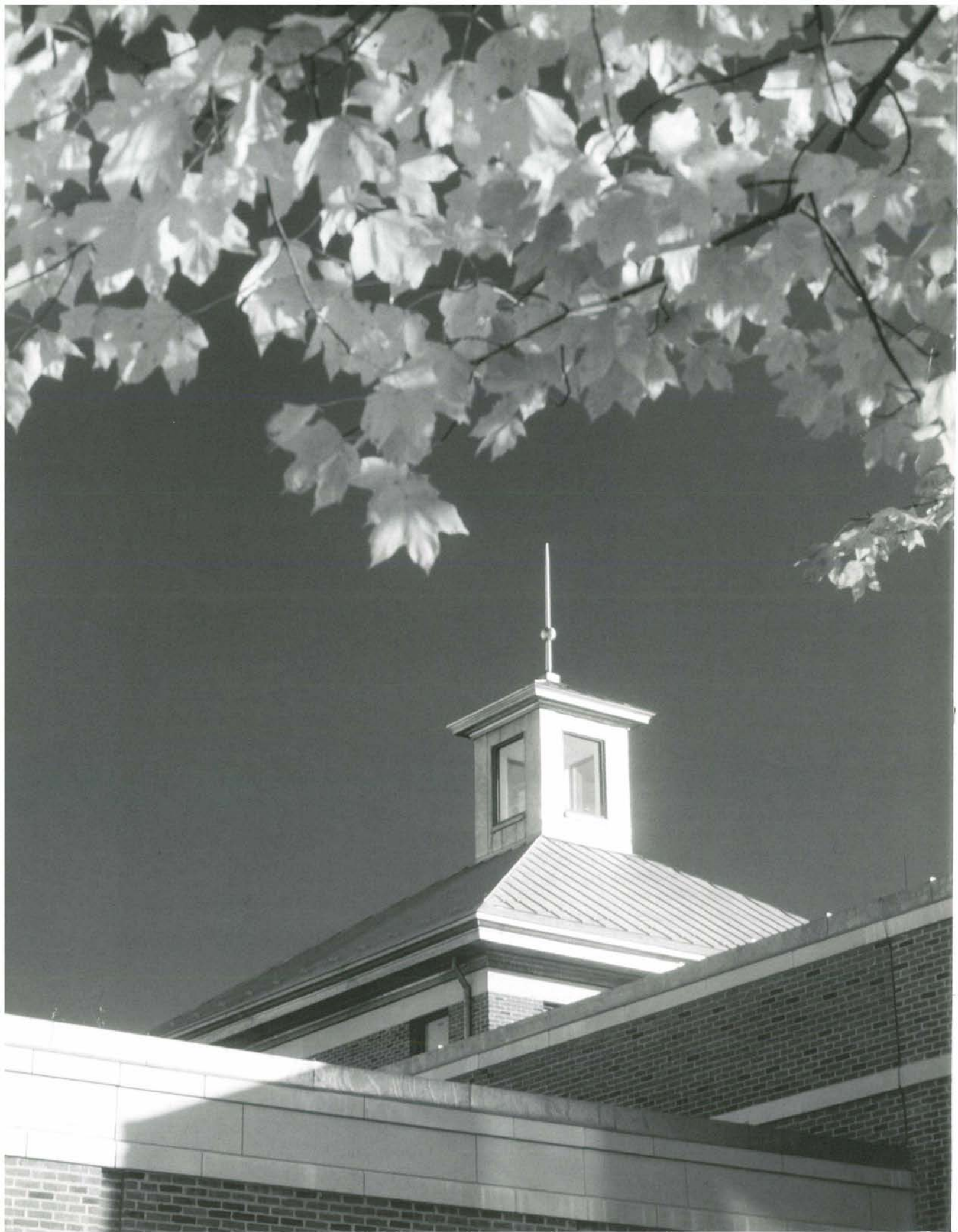
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On the Cover: Penny Kyle '79 in the "Winner's Room" at the Virginia Lottery



Planning for the New Millennium

As we near the end of the millennium and the conclusion of our five-year capital campaign, it is a good time to review our plans for the future of the Law School. We expect that the campaign will place significant new resources at our disposal, and it is in our best interest to plan now, and plan wisely, for the years ahead. To that end, I convened last fall the 2020 Planning Committee, a group of senior faculty and administrators, to help me set long-term resource allocation priorities for the Law School. The committee borrows its name from Virginia 2020, a long-range planning process that will direct the University's priorities as it approaches its 200-year anniversary in the year 2020. We believe that it is appropriate to share in this University-wide planning process as we initiate our own.

Our 2020 Planning Committee recommends that we direct additional resources to four broadly defined priorities in the Law School: the faculty, the students, the Law Grounds, and the academic community. A discussion of each follows.



Enhancing the Faculty: Distinguished Professorships

Our faculty has never been more vibrant. The quality of teaching and research taking place at the Law School today is the best in the nation, and we have in recent years welcomed a number of wonderful new scholars to the faculty. These new additions include extraordinarily talented young teachers and nationally celebrated scholars whom we have been able to attract from other schools.

But our work is far from done. Trends in legal education indicate that this is an era of “free agency” among law faculty nationwide. Law schools are much more aggressive in pursuing talent at other schools, and faculty are more willing to consider their offers. Virginia has not escaped this trend, and we have lost several exceedingly talented faculty members to other schools in recent years. It is essential that we have the resources available to support our best teachers

and researchers in these extremely challenging times.

Accordingly, the 2020 planning committee recommends that we allocate sufficient funds to establish at least five professorships of unique distinction. These chairs would be the most prestigious at the Law School and would enable us to retain our most talented and sought-after scholars and to compete for top candidates from other schools. By establishing five of these “super” chairs, we would be able to distribute existing funds for professorships among the resident faculty, keeping quality and satisfaction high at all levels.

Enhancing the Student Experience: Scholarships and Loan Forgiveness

Now more than ever, Virginia must compete with other top law schools for the best and the brightest students in the nation. Each year since 1984, the Dillard Scholar Program has offered up to 12 of our most outstanding applicants a full scholarship and a generous stipend to attend the Law School. Dillard Scholars bring great intellectual and leadership talents to Virginia, and the 2020 Planning Committee recommends that we make sufficient funds available to support 15 Dillard Scholars annually in each class. With this level of funding in place, Virginia’s most generous scholarship program will continue to flourish, honoring legendary teacher and former dean Hardy Cross Dillard.

Since 1988, the Public Service Loan Assistance Program has assisted graduates who accept public service jobs with their student loan debts. The program forgives all Law School debt for graduates who remain for 10 years in qualifying public service positions. The 2020 group recommends that we enrich the Loan Assistance Plan so that any Law School students desiring to pursue a career in public interest law should not be prevented from doing so by the debt burden they carry upon graduation. An influx of funding would ensure that Virginia has the most well-endowed loan forgiveness program in the nation.

Enhancing the Law Grounds: A Student-Faculty Center

By any estimation, the Harrison Law Grounds are outstanding facilities for the study of law, perhaps the finest in the nation. To ensure that the Law Grounds retain their reputation, the 2020 committee recommends that we improve our on-site dining facilities to encourage faculty, staff, and students to engage over lunch at the Law Grounds. They also recommend that we create a central commons space for activities like the weekly, Law School-wide coffee break.

The Law School Foundation Capital Campaign Executive Committee has approved in concept a building addition to the northern face of Hunton & Williams Hall. Tentatively called the Student-Faculty Center, the 20,000 square-foot project would expand and renovate Café North, the Law School's current snack bar located immediately north of Withers Hall, and connect it to Hunton & Williams Hall. The center would include a more formal dining area, additional kitchen and food preparation space, a renovated informal dining area, and a coffee bar. In addition to the large commons area, the plans include some new office space for student organizations and journals.

Enhancing the Academic Community

As anybody who attended the Law School knows, Virginia is a special place. Our institutional ethos encourages alumni, faculty, students, and staff to invest in each other and in the broader academic community. As members of that community, we have a responsibility to protect it and to enrich it for everyone. To that end, the 2020 Planning Group recommends that the Law School establish an Intellectual Life Fund to support classroom experimentation and provide research, travel, and technological assistance to teaching and administrative faculty. Another recommendation is the designation of funds to increase the number and frequency of foreign visitors to the Law School. Funding of this type would enhance our already well-regarded program in international law. Additional funding could also make available new practical opportunities for students, including clinical experiences, additional ethical values seminars and courses in the ever-popular Principles & Practice series, and externship possibilities for students seeking to gain real-world work experience with guidance from a mentor.

As we look back over another successful year and approach the new millennium, the excitement at the Law School is palpable and the possibilities seem limitless. A quick glance at this magazine tells more of the story. In the pages that follow, you will read about faculty, students, and alumni who are doing their part to enrich the academic community at Virginia. Thanks to their commitment to this wonderful place, and to new resources made possible by many alumni and friends, the new millennium will find the Law School a healthy and vibrant place.

Trends in legal education indicate that this is an era of "free agency" among law faculty nationwide. Law schools are much more aggressive in pursuing talent at other schools, and faculty are more willing to consider their offers. It is essential that we have the resources available to support our best teachers and researchers in these extremely challenging times.



U.S. News & World Report Names Virginia Top Public Law School

The Law School moved up a spot to seventh place in the 2000 *U.S. News & World Report* annual law school rankings, moving ahead of the law schools at Duke University and the University of Michigan, with whom it shared eighth place last year. Virginia's programs in tax and international law also were ranked in the top ten by law faculty who teach in the field.

As a result of ongoing concern expressed by law school officials about the methodology used by *U.S. News* to rank law schools, the survey's staff decided this year "to adjust our measure of instructional expenditures to account for regional differences in cost of living. We also asked respondents to our reputation survey, who include law school deans and faculty, to identify the attributes they think best measure the quality of the law schools' academic programs."

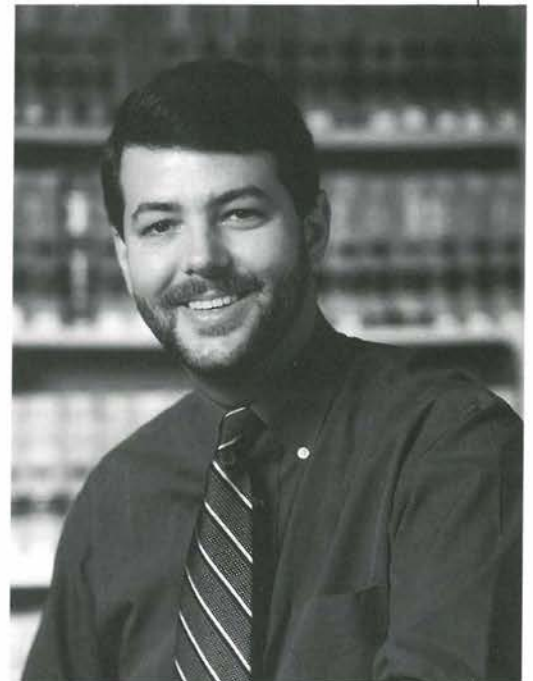
While pleased by Virginia's continued presence among the nation's top law schools, Dean Robert E. Scott cautioned people not to take the rankings too seriously. "Obviously, we are pleased to be recognized as the top public law school in the nation, but achieving success in rankings such as these has never been our top priority. Instead, we focus on building an outstanding academic community for our faculty and students to meet the changing needs of an increasingly complex world."

Cushman Wins American Historical Association Book Award

Barry Cushman is the winner of the American Historical Association's 1998 Littleton-Griswold Prize in American Law and Society for his book, *Rethinking the New Deal Court: The Structure of a Constitutional Revolution* (Oxford, 1998). The Littleton-Griswold Prize recognizes the best book published in legal history each year.

Cushman's book grew out of the dissertation he wrote for the Ph.D. in American history he earned from Virginia in 1995. What started as a study of the evolution of constitutional culture during the 1920s unexpectedly became something quite different.

"In perusing constitutional debates in the Congress of the 1920s, I found the legislators discussing commerce clause doctrine in ways that seemed odd and unfamiliar. It finally occurred to me that the debates in question seemed peculiar because they assumed relationships between commerce clause jurisprudence and substantive due process doctrine that had previously eluded my attention," he explained. "As I probed deeper into my study, I began to notice more interdoctrinal connections, and I came to the conclusion that the story of the formation, development, and



disintegration of these connections might help to explain some of the constitutional change of the New Deal period. That is the story I tell in the book I inadvertently wrote."

Cushman's doctorate is his third Virginia degree. He also earned his J.D. and an M.A. in history from the University in 1986, and returned to the Law School as a permanent member of the faculty last year.



World Trade Organization Official Visits Law School

When the Honorable James Bacchus went away to college in the late 1960s, he called home once every two weeks. When his son leaves for college with his laptop next fall, he will e-mail his father several times a day.

“Like it or not, the global economy is here,” said Bacchus, a member of the Appellate Body of the World Trade Organization, in his Feb. 24 talk at the Law School.

“We have a choice,” the former U.S. congressman said. “We can just let the global economy happen, through political whim, and ‘might makes right.’ Or we can make rules, and not let political advantage make rules.”

That is the task of the World Trade Organization (WTO) and its Appellate Body, the result of 10 years of GATT talks by 134 nations. Those talks created “the biggest tax cut in history—\$240 billion in tariff cuts,” Bacchus said. It vastly expanded the scope of the GATT (the General Agreement on Tax and Tariffs) to include textiles, agriculture, and intellectual property. The WTO now has jurisdiction over 90 percent of all international commerce.

The original GATT was meant to be the first step

towards an international trade organization, but the Cold War had started, and then-President Harry Truman could not get the idea passed through Congress. Not until the 1986-94 Uruguay Round, the eighth round of GATT talks, was the WTO finally established.

Called “essentially the Supreme Court of world trade” by the *New York Times*, the seven-member Appellate Body in Geneva, Switzerland, is the last court of appeal for WTO countries who think other signatory countries are instigating unfair trade practices. Current disputes involve commodities ranging from shrimp to super computers.

Bacchus, the body's youngest member and only U.S. representative, has been a lawyer, an international trade negotiator, and a U.S. representative to Congress from Orlando, FL. He received his 1978 law degree with high honors from the Florida State University College of Law.

Law schools have traditionally not paid much attention to the GATT, Bacchus said. “What this means is you have an opportunity,” he told students gathered for the first in a series of international law talks sponsored by the J.B. Moore Society and the Program in International Law. Not only will lawyers well-versed in WTO agreements be needed in the future, but in every branch of the law, “these 1,000 pages of treaties are going to affect you.”

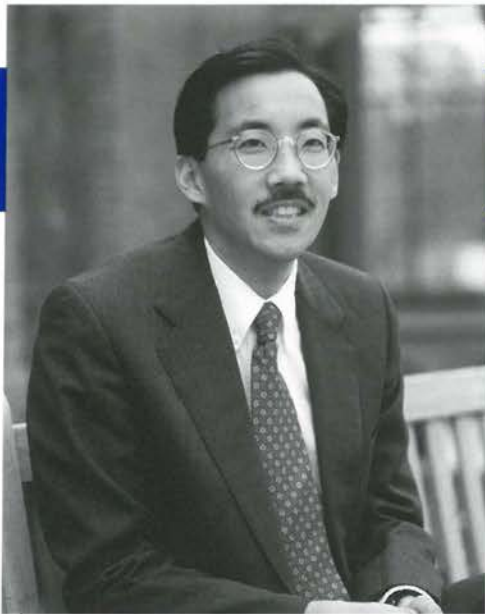
Coughlin Receives All-University Teaching Award

Anne Coughlin has been selected as a recipient of the All-University Outstanding Teacher Award for 1998-99. The award is presented to select University faculty members in recognition of their outstanding teaching skills. This marks the fifth straight year that a member of the Law School faculty has been honored with this award.

Coughlin, whose primary research and teaching interests are in criminal law, criminal procedure, and feminist jurisprudence, joined the faculty in 1996 after visiting the preceding year from

Vanderbilt Law School, where she taught for four years. After earning a B.A. from Tufts University and an M.A. in English literature from Columbia University, Coughlin received her J.D. from New York University. She clerked for Judge Jon Newman of the U.S. Court of Appeals for the Second Circuit, and later for U.S. Supreme Court Justice Lewis F. Powell, Jr. Before entering law teaching, Coughlin practiced law, first with Cravath, Swaine & Moore in New York, and then with Miller, Cassidy, Larroca & Lewin in Washington, D.C.





George Yin: We Can Save the Income Tax

By Katherine Johnson (Col. '99)

The Law School's new Chaired Professorship Lecture Series continued this semester with a lecture by George Yin on tax reform entitled, "Can the Income Tax Be Saved? The Case of Public Companies." The Chaired Professorship Lectures provide an opportunity for new holders of endowed chairs to discuss their current research in a public setting attended by faculty and students.

Yin, recently named the Howard W. Smith Professor of Law, is a former tax counsel to the U.S. Senate Finance Committee who has been a member of the Law School faculty since 1994. In his speech, Yin pointed to an increased investment in tax shelters among public companies as an indication of the tax's inefficiency, and examined several proposals for improving the income tax system.

In efforts to save the income tax, Yin noted two principles that must be preserved: citizens must have the ability to observe the law, and there must be authority to enforce it. He believes that the current income tax law is so complicated that neither principle can be preserved satisfactorily. The confusing nature of the tax has led,

in Yin's words, to an "unusually aggressive interpretation of the law." Companies have so ingeniously interpreted the tax rules that the growth in federal income taxes corporations pay is lagging far behind the growth in pre-tax earnings they report. Yin discussed concerns regarding this "creative interpretation" of tax law that allows companies to pay less than their fair share of income taxes. Along with allocative distortions that shift the tax burden from one taxpayer to another, Yin stressed the damage this behavior causes to the voluntary compliance bedrock of the tax system. Continuation of this trend could lead to the dissipation of the social income system altogether, as exemplified by the fate of the income tax in other countries.

Discarding recent anti-tax shelter proposals and broader anti-tax avoidance standards as merely "quick fixes" that satisfy short-term needs but will create new problems in the future, Yin suggested two new ways to revise fundamentally the taxation of public firms. He first described a "market-capitalization tax," which would tax the change in value of a company's ownership interests. This method would tie the amount of tax liability to a mar-

ket-based measure of value, thus simplifying the process and eliminating room for creative interpretation. Yin's second alternative, the "book-income tax," would tax public firms' reported book income. This would collapse the company's desire to report a higher book income level and a desire to demonstrate a lower income for tax purposes, creating a tension that would help constrain manipulation.

Yin emphasized that attempts by Congress to solve problems through "quick-fix" regulation will only create a situation he compares to that of disobedient children constantly outrunning the talents of authority. His two simplified alternatives to the current tax rules make it easier for companies to obey the laws, and at the same time make the laws easier to enforce. Yin views simplification of the process as a key way to reduce tax avoidance, increase the efficiency of the system, and put a stop to what he calls the "endless, mindless search for a perfect tax system." Yin concluded by emphasizing that lawyers as well as politicians play a critical role in improving the tax system, and that if improved, our income tax can survive.

Career Services Launches Online Job Database for Alumni

Alumni interested in finding out about law-related job openings across the nation can now access them online. By pointing their web browser to the Law School's newly updated Web site at www.law.virginia.edu and clicking on "Alumni" and then "Career Resources for Alumni," alumni can read about job openings that have been submitted to the Career Services Office.

"Alumni can view the job postings as soon as they are added to the system," explained Diddy Morris, a special assistant to the dean who has been working with Career Services to bring more of the office's services for students and alumni online. "Alumni visiting the site will be able to view job notices by location, by employer name, by employer type, and by date posted."

Although Career Services will continue to produce the *Alumni Career Newsletter*, a listing of job openings that is distributed to subscribers approximately every two weeks at a cost of \$10 for six months, alumni can find the same information online at no charge. To access the online database, they must first have a password issued by the Career Services Office. Directions for obtaining a password are available at the entrance to the site.

"The Career Resources site is only as strong as the information we receive from employers, so we encourage anyone who wants to post job openings for Law School alumni to notify us of open positions. For details on how to do this, check the Law School Web site under "Student Services," then "Career Services," then "Information for Employers," said Morris. "The database is a work-in-progress, and we welcome comments and suggestions from the alumni who use it."

Olin Conference Focuses on Elections

by Katherine Johnson (Col. '99)

The John M. Olin Program in Law and Economics sponsored a weekend conference March 5-6, entitled "The Law and Economics of Elections." The conference provided a forum that brought economic and legal analysis together to examine the American electoral system. Speakers from several law schools presented papers on topics such as direct democracy, political intermediaries, campaign finance, and election rule litigation.

Lillian BeVier, the Henry L. and Grace Doherty Charitable Foundation Professor of Law, delivered her paper, "The Politics and Economics of Regulating Issue Advocacy During Candidate Election Campaigns." With reference to the 1976 case of *Buckley v. Valeo*, which determined that only acts of "express advocacy," (speech that in a clear way advocates the election or defeat of a clearly identified candidate) can be constitutionally regulated, BeVier examined proposals to broaden the reach of campaign speech regulation. She mentioned three historical motivations for reforming the electoral system: ensuring equality, eliminating corruption, and ensuring a fair debate. Criticizing the argument that issue advocacy endangers political equality as a democratic principle, she discussed the impact of wealth

inequality on the attainment of political power. BeVier believes that wealth inequality, which is inherent to our economic system, necessarily skews political equality, but cannot be rectified without undermining our capitalist principles. "The political equality norm is not practical, as it ignores the dynamism of the American economic and political system," she said. BeVier discussed other aspects of the debate before concluding that our electoral system has imperfections, but that we must "take the bitter with the better."

Commentators Ian Ayres from Yale Law School and Anthony Corrado from Colby College presented feedback and criticism after BeVier's talk. Other speakers in the conference included Daniel Ortiz, the John Allen Love Professor of Law, who provided introductory remarks and delivered his paper, "Governing Through Intermediaries."

The John M. Olin Program in Law and Economics is funded by the John M. Olin Foundation of New York. The program supports a variety of teaching and scholarly activities at the Law School such as public lectures, academic conferences, student colloquia, and student research in the economic analysis of law.



Profiles from Practice Welcomes Dennis P. Duffy '82

Labor and employment lawyer Dennis P. Duffy '82 spent two days at the Law School in February, lecturing in two employment law classes and dining and meeting informally with students. General counsel for the University of Houston and the University of Houston System, Duffy is a former general counsel for the federal Office of Compliance and spent seven years in private practice before entering the public sector. His visit was arranged through the Profiles from Practice program, which funds short visits to the Law School by young practitioners who have achieved particular distinc-

tion and whose careers are likely to interest and inspire current students.

"The Profiles from Practice program is a showcase for young legal talent that serves as an important bridge between the academy and practice," explained Professor Mildred W. Robinson, who chairs the program.

During his visit, Duffy lectured in George Rutherglen's Employment Discrimination class and in J. Hoult "Rip" Verkerke's class in Employment Law. In Verkerke's class, Duffy discussed his views on working in the private and public sectors. "As in-house

counsel in higher education, my job is different from working in private practice," he noted. "When I make decisions at Houston, I am, in fact, making public policy."

Duffy believes that working in higher education is unique from other public-sector jobs. "Employment issues are different

others," he explained. "Because management has ceded power, they've opened the window for a free flow of information. In higher education, decisions are made in a fishbowl and questioned by shareholders, including everyone from tax payers to state legislators. That openness affects how decisions are made."

Following his lecture, Duffy entertained questions from the students. In response to one student's question about how the University of Houston deals with intellectual property, Duffy explained some of the difficulties Houston has experienced in determining who "owns" faculty inventions. He described negotiations between faculty and the university that resulted in a split: currently 75 percent of the value of an invention "belongs" to its creator, and 25 percent of the invention's value "belongs" to the university. "We figure this is a good split because the university serves as venture capitalist for the faculty member," he explained.

Duffy's visit to Virginia was not his first time in the classroom. He spent the 1994-95 academic year at the Law School, where he taught Evidence, Torts, and Employment Discrimination.



J. Hoult "Rip" Verkerke and Dennis P. Duffy '82 chat after Verkerke's Employment Law class.

in higher education because the tenure system has forced management to cede much of its power to

German Tradition Encourages Exchange of Ideas

Twenty years ago Professor Daniel Meador invited a group of individuals with their law degrees from what was then East Germany to Virginia to conduct research on constitutional law and to spend time at the Law School. This February Professor A. E. Dick Howard and the J.B. Moore Society for International Law continued the tradition by welcoming two German law professors and 18 students from Halle University in a now-unified Germany to the Law School for a week-long visit.

"These students were all children at the time that the Berlin Wall came down," Howard said. "They came to visit the U.S. as Germany strives to reconstruct its system of legal education following years of socialism."

The German students, most of whom are in their early 20s, received a warm welcome at Virginia. In addition to attending an oceans law class taught by Professor John Norton Moore, they were housed with Law School students and entertained by faculty and students.

The German professors, Helmut Goerlich from Leipzig University and Karl-Heinz Millgramm from Halle University, joined the students in a discussion of the new Germany sponsored by the J.B. Moore Society and open to the public. Howard opened a session of his class in Comparative Constitutional Law to Goerlich, who lectured to a capacity crowd of American and international students on the reaction of the German people and their political parties to the German constitution and the unification process.

Howard also arranged for the Germans to visit the U.S. Supreme Court, where they were part of the audience during an oral argument. In addition to touring the Court, they spent time with its clerk, William Suter.

"We were delighted to provide our German visitors a firsthand look at American life, but the lessons that they taught our own students are invaluable in this era of global change," said Howard, the White Burkett Miller Professor of Law. "It is our hope that this tradition continues in the years ahead."

Grieshaber First Female Jackson Walker Award Winner

By Katherine Johnson (Col. '99)

Third-year Law School student Trace Grieshaber is the 1998-1999 recipient of the Jackson Walker Award. The award recognizes the Law School student who has the highest grade in his or her class at the conclusion of four semesters. Grieshaber is the first female recipient of the award, which was established in 1989.

The award came as a complete surprise to Grieshaber. "I was called into the Law School Foundation, and I had no idea why. I was completely floored and very honored," she explained. When asked to explain the secret of her success, Grieshaber replied, "I do work hard, but everyone here works hard. I just feel that

I have been truly blessed." Grieshaber is particularly honored to be the first female recipient of the award. "Although I have never felt that I am at a disadvantage because I am female, I am proud to be a representative of the accomplishments women have achieved," she stated.

Hailing from Albany, Georgia, Grieshaber attended the University of Richmond where she obtained her B.A. in accounting. The University of Virginia was her first choice for law school. "I was familiar with the area and had heard so many good things about U.Va. I didn't really want to go anywhere else," she remarked. Grieshaber has enjoyed her time at



the Law School immensely, and claims that time passed too quickly. Next year she plans to clerk for Judge Carnes of the Eleventh Circuit Court of Appeals.

The Jackson Walker Award was established in 1989 by the Texas firm of Jackson Walker L.L.P., and the fund is managed by the Law School Foundation.



Ethics: Law School Institutes New Third-Year Forum on Values

by Dan Heuchert

With lawyers in the headlines debating the legal definition of 'is,' the Law School has taken on the mission of steering its students to a broader understanding of ethics.

The school has this year launched the Mary Morton Parsons Seminars in Ethical Values, year-

long forums for third-year law students to explore ethics. The seminars are funded by gifts from the Charles E. Culpeper Foundation, a generous \$500,000 challenge grant from the Mary Morton Parsons Foundation, and seven \$100,000 lectureships.

"As law students, we are taught to look at both sides of an issue; as lawyers, we pride ourselves on our ability to be objective," said Professor Mildred W. Robinson. "But there's a price to objectivity in the all-too-pervasive loss of sensitivity to the human side of our profession.

"The seminars in ethical values provide a forum for encouraging students to look beyond the issues and to refocus on the people affected by the law. They also serve to remind law students that lawyers really aren't the center of the universe."

The Law School offered eight seminars in the spring, with a capacity of 12 students apiece, and all 96 slots were filled. As a rule, the seminars meet five times during the school year, usually at the professor's home. The students receive one credit, judged on a pass-fail basis; professors do not receive credit for the course toward their required teaching loads, but are compensated separately through privately raised funds.

Typically, the discussions are based upon assigned reading. Many of the books have a legal theme or element, but one class, taught by a partner in a law firm, explores ethical topics raised in Shakespeare's dramas.

The reception, from both students and faculty members, has been overwhelmingly positive, professors said.

"I'm getting a lot of inquiries from my colleagues," said Paul Stephan, Percy Brown, Jr. Professor and Barron F. Black Research Professor, whose class uses films as discussion fodder. "I think it's been a great experience—I'm very happy to have done it."

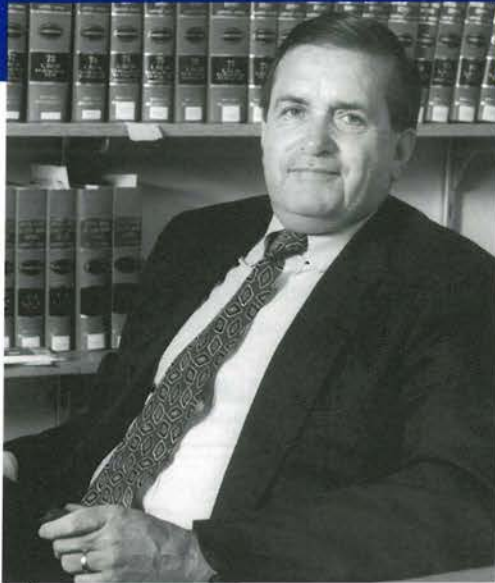
His colleagues report good attendance, and students seem to be preparing thoroughly, despite the one-credit, pass-fail grading.

"The students are taking it very seriously," said Walter Wadlington, James Madison Professor of Law and Professor of Legal Medicine, School of Legal Medicine, whose seminar looks at legal and ethical issues in health care and science. "They're taking it like they are trying to get an 'A' in the course."

John C. Jeffries, Jr., the Emerson G. Spies Professor and William L. Matheson and Robert M. Morgenthau Research Professor who once taught a simi-



Mildred Robinson



Laurens Walker

lar class called "The Lawyer's Role," is heading up the Parsons Seminars in his role as academic associate dean. He likened the experience of a good law school to putting students' heads in a vise—the resulting education is very deep, but very narrow.

"We thought that when the students are ready to leave, we should open up their minds in the broadest way possible," he said.

The school does require students to take a course in professional responsibility, but that, too, is more narrowly focused, he said, dealing with rules of conduct and what attorneys are required and permitted to do.

"The seminars are much broader than that," said Jeffries. "They are not limited to legal ethics. They have to do with the kind of choices all of us have to make."

Many seminars have included guest instructors. Wadlington has welcomed Jonathan Moreno, director of U.Va.'s Center for Biomedical Ethics, for one session.

Another featured hospital Chief of Staff Dr. Thomas Massaro -- who holds graduate degrees in law, business, and medicine -- leading a discussion about the allocation of resources to elderly patients, based upon Daniel Callahan's book, *Setting Limits*.

Laurens Walker's seminar examines the actions of lawyers in litigation. The assigned books include two that center upon criminal trials and three focusing on civil actions, including *A Civil Action*, by Jonathan Harr; *Gideon's Trumpet*, by Anthony Lewis; *Agent Orange on Trial*, by Peter Schuck; and *The Buffalo Creek Disaster*, by Gerald Stern.

Typically, Walker asks his students to choose -- and justify -- which lawyers in an assigned book were most worthy of casting as role models. In the final meeting, he asks them for their top choices from all of the texts.

"It's kind of nice to see [the students] on the edge of becoming practicing lawyers," said Walker, the T. Munford Boyd Professor of Law. "It has been very lively. They're interested in these issues, and quite demanding in terms of who might meet their own personal criteria" to be role models.

Jeffries plans to expand the Parsons Seminars to at least 12 offerings next year, with the ulti-

mate goal to provide entire third-year classes, which usually number around 380 students, the opportunity to participate in at least one seminar.

A version of this article was originally published in Inside UVa, a newsletter for the faculty and staff of the University.



John C. Jeffries, Jr.



collections. A new member of the American Law Institute, which publishes various restatements of the law, model codes, and other proposals for law reform, O'Neil is a University Professor.

Daniel Ortiz delivered his paper, "Governing Through Intermediaries," at a conference entitled "Democratic Equality" at Brown University April 9-10. Ortiz also organized an Olin Conference on the law and economics of elections at the Law School March 5-6 and delivered the same paper there. He is the John Allan Love Professor and the Elizabeth D. and Richard A. Merrill Research Professor.

In addition to becoming chair of the Maritime Law Section of the American Association of Law Schools, **George Rutherglen** spoke before a seminar for appellate judges organized by the American Bar Association and held in Williamsburg, VA, on April 21. His talk answered the question "When is a Precedent Not a Precedent?" Rutherglen is the O.M. Vicars Professor and director of the Graduate Program for Judges.

Jim Ryan served on two panels at the Law School on school vouchers during February. The first, "School Vouchers and the Constitution," included Professors Larry Sager from New York University Law School and Michael McConnell from the University of Utah Law School. The other panel, "School Choice and the Future of Education," included Clint Bolick from the Institute for Justice and Ryan's Law School colleague, **Amy Wax**.

Paul Stephan presented three papers this spring. He delivered his paper, "The New International Law," as part of a symposium, "Foreign Affairs Law at the End of the Century," at the University of Colorado on January 23. He presented his paper, "The Cold War and Soviet Law," as part of a panel entitled "The Impact of the Cold War on Law" during the annual meeting of the American Society of International Law on March 24. Stephan presented his third paper, "Regulatory Cooperation, Competition, and the Search for Virtue," as part of a symposium on transatlantic regulatory cooperation held at Columbia Law School

on April 17. Finally, he participated in a panel discussion on Russian constitutional law and the role of foreign advisors at Yale Law School on April 24. Stephan is the Percy Brown, Jr. Professor and the Barron F. Black Research Professor.

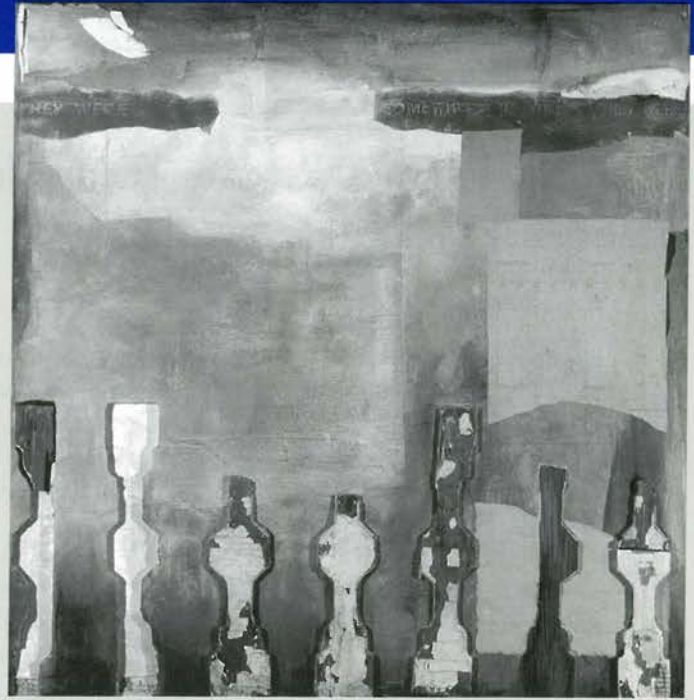
G. Edward White delivered the Swinford Lecture at the University of Kentucky College of Law on March 25. His talk was entitled "The Constitution and the New Deal: A Reassessment." Previous Swinford lecturers include U.S. Supreme Court Justices Rehnquist, Kennedy, O'Connor, and Scalia. White is the John Barbee Minor Professor of Law and History and the Class of 1963 Research Professor.

Art Exhibits Grace Law School Walls

To many people, a law school conjures images of dark, hushed spaces, where students hunch over thick, dusty tomes. Not so at the University of Virginia School of Law, where, thanks to a librarian's efforts, the first in a series of colorful and thought-provoking art exhibits now graces the walls of the library.

Taylor Fitchett, associate director of the school's Morris Law Library, has mounted the exhibit in the library's main research area. The exhibit features work by Virginia artists Pam Black, Kristin Onuf, and Anne Slaughter. "Law students spend a lot of time studying in the library, so through these exhibits we hope to expose them to something provocative and inspiring," explained Fitchett. "Law school can keep students focused on details, and I don't want them to forget about the big picture, about the issues the artists are addressing that the students will soon be exposed to as lawyers. They are going to be leaders in our society one day, and by displaying all types of art in their study spaces, we may enhance and perhaps even broaden their view of the world."

The first exhibit is an eclectic one, designed to pique students' interest in the subject matter as well as the media selected by the artists. Black's series of prints was inspired by a visit to a family cemetery several years ago. The images, the result of pressing articles of the artist's clothing that had been dipped in charcoal powder or powdered pigment on paper and combining those images with sketches and written words, form impressions of her memories of family members. Onuf's series of mixed media works on paper, entitled "a well regulated militia," is based on the Second Amendment, the right of Americans to keep and bear arms. Slaughter's work, from her "Memory of Walls" series, include several many-layered paintings in acrylic inspired by the Belgium native's travels through Israel, Turkey, Crete, and Morocco. The paintings evoke Slaughter's childhood



"Memory of Walls V" by Anne Slaughter

memories of wartime Europe, where she recalls seeing bombed houses with exposed inner walls.

Fitchett's efforts are the latest in a number of recent attempts to bring art into the Law School. Since the completion of a major \$30 million construction and renovation project in 1997, a committee of Law School faculty has been acquiring works by Virginia artists to grace the expansive walls of reading rooms, lounges, corridors, and other public spaces. Temporary exhibits are mounted periodically as well. To recognize African American History Month, an exhibit of paintings, woodcuts, and sketches by black Virginia artists was displayed in a lounge where receptions for students and visitors take place.

Fitchett is delighted by student reactions to the art around them. "Sometimes I'll walk through the library and notice a student studying a particular print or painting. A few students also have popped into our offices to inquire about the artwork," she said. "It's clear to me that art is contributing to the environment at the Law School in a very important way."



Elaine R. Jones '70 Receives Thomas Jefferson Memorial Foundation Award

Elaine R. Jones, one of America's foremost civil rights lawyers and the first African American woman to graduate from the Law School, received the 23rd annual Thomas Jefferson Memorial Foundation Award in Law during Founder's Day celebrations at the University of Virginia.

The awards are the highest outside honors conferred by the University -- which, in compliance with Thomas Jefferson's wishes, does not award honorary degrees -- and are sponsored jointly by the University and the Thomas Jefferson Memorial Foundation, which operates Jefferson's home, Monticello.

Jones is the first woman to serve as director of the NAACP Legal Defense and Educational Fund, the nation's premier civil rights public-interest law organization. She turned down a job offer from a Wall Street law firm to join the organization 28 years ago, and has been there ever since except for two years in President Ford's administration, when she took the lead in opening the Coast Guard service to women.

"Elaine's record of public service speaks volumes about her character, principles, and commitment to justice. Throughout her distinguished legal career, she has

made positive social change her preeminent objective," said Dean Robert E. Scott. "There is simply no one who is a better example of a lifetime commitment to public service."

As the winner of the Thomas Jefferson Memorial Foundation Award in Law, Jones delivered a public lecture and spent several days teaching and meeting with students. She was honored last fall as the eighth woman and the second Law School graduate to receive the University's Distinguished Alumna Award.



Luis Alvarez Joins Law School Foundation

Luis Alvarez, Jr. '88 recently joined the Law School Foundation as director of major gifts and planned giving. He replaces Laurel Alexander, who resigned last year to accept a position with the Public Broadcasting Service.

Alvarez spent the last 10 years in the Tampa office of Carlton,

Fields, Ward, Emmanuel, Smith & Cutler, P.A., where he was an equity partner. He returned to Charlottesville in January with his wife, Judy English, and their son, Max Gabriel, born July 26, 1998.

Alvarez graduated Phi Beta Kappa from the College of Arts and Sciences and was notes editor for the *Virginia Tax Review*. He joined Carlton Fields after serving a year as adjunct faculty at the Institute for International Studies and Training in Fujinomiya, Japan.

English is also a lawyer. She graduated Order of the Coif from the University of Florida College of Law and clerked for U.S. District Judge B. Avant Edenfield of the Southern District of Georgia before practicing in Tampa.

According to Alvarez, his family is enjoying life in Charlottesville. "This is the finest law school in the country, and I consider it a privilege to share that message. The opportunity to make our home here has only added to the experience," he said.

Communications Staff Wins Publication Awards

Two Law School publications produced by the Communications staff won awards recently from the Council for the Advancement and Support of Education (CASE), a professional organization which has recognized the accomplishments of advancement professionals for more than 20 years. The CASE District III Advancement Awards Program honored *A Celebration of the David A. Harrison III Law Grounds* as the Grand Award recipient in the Institutional Publications program category. This publication, which was produced by Cathy Eberly, director of communications, and Marion Kingdon, former assistant director, was distributed to all Law School alumni in the spring of 1998. The second award-winner, *University of Virginia School of Law: Snapshot 1998-99*, received an Award of Excellence in the Visual Design: Improvement in Design category. This brochure, which was produced by Senior Writer Denise Forster, was distributed last fall in the dean's annual letter to alumni.



The Communications staff: (clockwise, from left) Penny Chang, Cathy Eberly, Denise Forster, and Linda Skove.

Business Advisory Council Engages Law Graduates Working in Business

by Cathy L. Eberly

Not everyone who graduates from law school decides to practice or remains in the practice of law. The percentage of law school graduates who do not take a legal job following commencement has been increasing steadily, according to statistics compiled by the National Association for Law Placement. In 1997, more than 11 percent of all graduating law school students did not accept legal jobs. These J.D.'s are usually

not part of professional legal organizations such as the American Bar Association. They may even be difficult for their law schools to track.

Roughly 25 percent of Virginia's graduates are not practicing law, according to Dean Robert E. Scott, who says that Stanford Law School reports a similar percentage. "We know that some of our graduates have moved from jobs with law firms to jobs in business or have become corporate

counsel, and we want to remain relevant to them and to graduates who enter the world of business in the future."

Accordingly, Scott created a forum for the school's graduates who have found success in business to help the Law School become a better training ground for future business leaders. The Business Advisory Council advises the dean on developments in business to help ensure the continued



Business Advisory Council member Otto G. Stolz '66 (foreground) teaches Corporate Finance with Paul Mahoney and Darden School faculty.

relevance of Law School programs. The council also recommends enhancements to the business law curriculum and accepts adjunct teaching assignments and periodic speaking engagements.

The council has been meeting in Charlottesville at least once annually since its inception in 1995. Members hear from the dean, faculty, and students about the school in general and the business law program in particular. They also have an opportunity to question, to offer counsel, and to network among themselves. More than 100 Law School graduates are members of the group.

Scott is delighted with the council's success. "These alumni have a powerful instinct to give something back to the Law School; their contributions are

always thoughtful, and the quality of their advice is outstanding," he said.

The council has made several recommendations embraced by the school. Following suggestions that they work more closely with the Darden Graduate School of Business Administration, law faculty have developed new courses with Darden colleagues that are open to Law and Darden students. The most successful to date has been Corporate Financial Transactions, a 14-week course that revolves around problem solving and is co-taught by Michael Dooley of the Law School and Robert Bruner of Darden to 16 Law and 16 Darden students.

"We are encouraging more interaction between the Darden faculty and our own," said Paul

Mahoney, the Albert C. BeVier Research Professor and director of the business law program. "During the spring, we organized a workshop for Law and Darden faculty that was highly successful. In addition, two of our faculty have recently co-authored articles with business school professors. These exchanges have been energizing for both schools."

Mahoney now regularly teaches a course in Quantitative Methods, heeding a suggestion made by the Business Advisory Council three years ago. The course, which is designed to help law students enhance their quantitative skills, has been very positively received. In response to recommendations from the council that the school add additional business law courses to the cur-

“These alumni have a powerful instinct to give something back to the Law School; their contributions are always thoughtful, and the quality of their advice is outstanding.”

riculum, Mahoney urged caution. “The law students most interested in a business career are those enrolled in our four-year, J.D./M.B.A. program,” developed more than 20 years ago with the Darden School. “The demands of that program are such that students don’t have time to commit to additional business law courses. Other students tend to develop an interest in business law late in law school. We also are subject to student interests that change somewhat from year to year.”

In spite of varying student interests, Scott noted that demand across the nation for law and business courses is outstripping almost every law school’s ability to keep pace. “Good business law faculty are in great demand, and we are often competing with our peers for

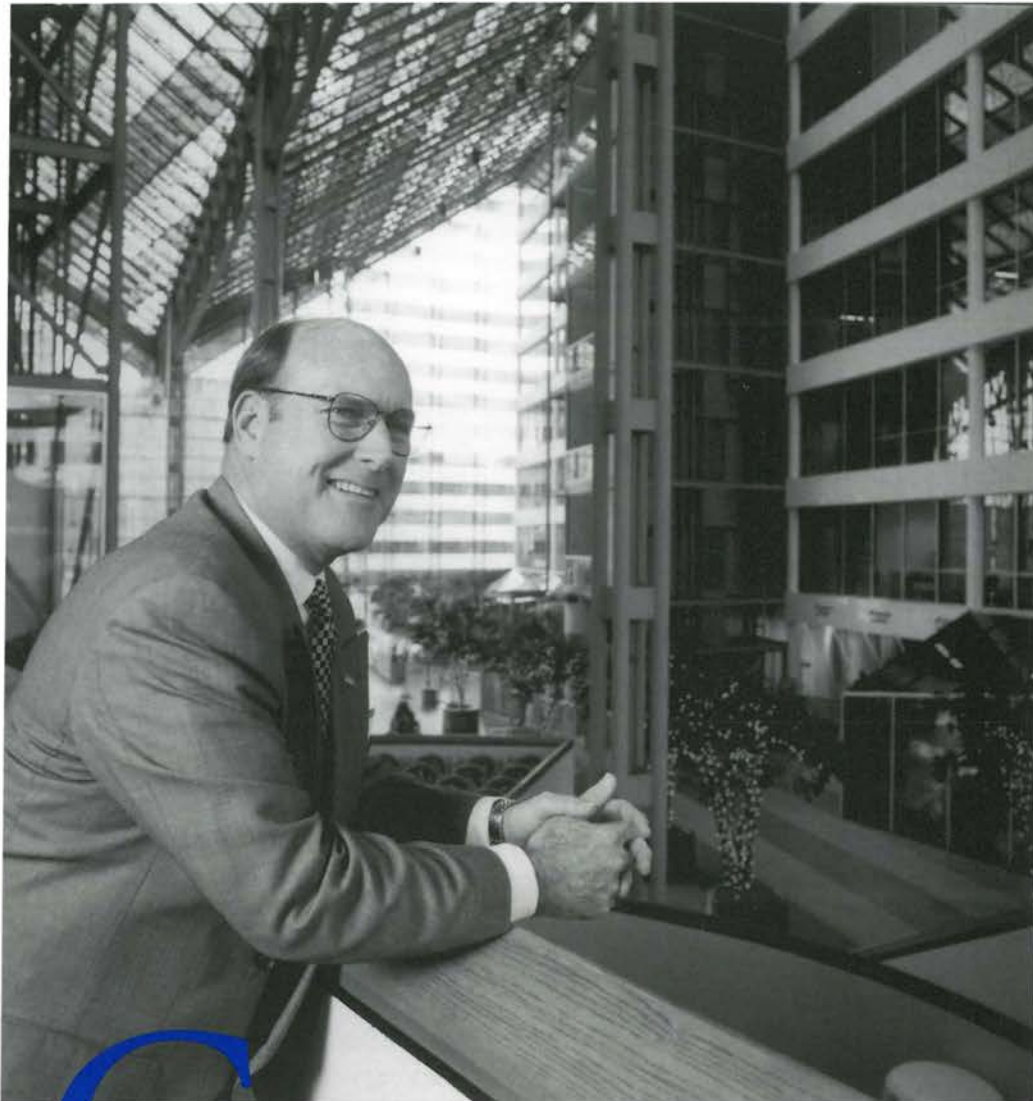
the very best. We have made the decision to develop our own talent, and that takes time.”

Fortunately, Business Advisory Council members and other Law School graduates working in the world of business are stepping forward to augment Virginia’s business law program in important ways. They are speaking to students and co-teaching both short and semester-long courses, the latter under the auspices of the popular Principles & Practice program. Council member Robert Wright ’68, who is the president of NBC, will speak on “The Lawyer as Manager” at the council’s upcoming meeting, scheduled for September 24, 1999.

In addition to benefiting the school, the council also benefits council members themselves,

offering opportunities to connect with other business leaders from around the nation. In the profiles that follow, you will read about two council members, Christopher J. Murphy III ’71, president and CEO of 1st Source Bank of South Bend, Indiana, and Penny Kyle ’79, director of the Virginia Lottery.

Dean Scott is enthusiastic about the future of the Business Advisory Council. “The enthusiasm among the members is contagious,” he said. “We are committed to keeping these graduates engaged in the life of the Law School, because Virginia will be the better for it.”



Christopher Murphy, the First Source for Banking

by Cathy L. Eberly

Chris Murphy overlooks the atrium of the 1st Source Center in South Bend.

Christopher Murphy's family expected him to become a doctor. After all, the 1968 Law School graduate -- who is now chairman, president, and CEO of the South Bend, Indiana-based financial services company, 1st Source Corporation -- is the son and grandson of physicians. Murphy, however, was not convinced that the study of medicine was right for him. Instead, the Northern Virginia native chose another path, one that would fulfill his desire to serve people in a different way. In 1964 he entered the University of Notre Dame, started in pre-med, and then

shifted his major to government and international relations. He also became active in student politics and served as student body president during his senior year. Following graduation, he decided to attend law school.

"In choosing where to attend law school, I took the advice of former Attorney General Ramsey Clark, who lived across the street from us. He said that I should consider studying in a quiet setting where I could focus on the philosophy of law and not go to a large urban area where my study would be overly influenced by the temporal issues of the day. Because

I respected Mr. Clark, even though I disagreed with some of his views, I followed his advice and chose Virginia," Murphy explained.

Murphy did not allow law school to insulate him from the world's realities. Instead, he embraced life beyond the classroom. During his first year, he married Carmi Carmichael, a South Bend native and his Notre Dame sweetheart, and joined a small group of law students who had started a company conducting legal research for lawyers on an hourly basis. In addition to making a little extra money, the job awakened in him a new interest:

he became fascinated with making a success of his new business venture. "I was convinced that we had a product that would sell, one that many lawyers would buy. After all, we were providing them access to the best law libraries in the nation and doing so in a predictable, disciplined way."

Murphy's business instincts were on target. He joined his Law School friends in developing a nationwide legal research service that eventually began publishing digests of the cases of appellate courts of record, which were sold by subscription. With these recurring sources of revenue in place, the Research Group, Inc. grew. Recalling his lack of experience at the time -- "as the son of a doctor, I had little or no exposure to small businesses, although we were fortunate to have a very savvy mentor" -- Murphy remains proud of the company that he helped to "grow" as a law student and appreciates the opportunity that Jim Dieter, the "investor," gave him. He also is glad that he was able to join his fellow law students and founders of the Research Group, Ware Morrison and John Schell, in providing a reliable source of income to Law School friends while they pursued their degrees. Murphy worked with the founders of the Research Group until he felt he could add no more value to the enterprise.

Murphy's desire to learn how to manage a business and make it successful led him to Harvard

Business School, where he earned his M.B.A. with distinction in 1973. While there he joined his father-in-law, Dr. O. C. Carmichael, in purchasing 1st Source Bank back from Gulf and Western. He joined the bank's board of directors and was asked to consider moving to South Bend. At that time, however, the Murphys wanted to pursue their dreams in a larger metropolitan area. After working for Oppenheim & Co., an investment banking firm, Murphy joined Citicorp, where he became involved in its national expansion program. He went on to serve as insurance and liability products manager and assistant to the president of Nationwide Financial Services Corporation, a subsidiary of Citicorp, headquartered in St. Louis. The Murphys moved from Boston to New York and then on to St. Louis at Citicorp's behest. When Carmi's father died in 1976, Murphy was called in to help tie up loose ends. The next thing he knew, he had taken a leave of absence from Citicorp and he, Carmi, and their growing family -- including four preschool children (two more were to come in the next two years) -- moved to South Bend. Within months of the move, he was named president of the bank.

1st Source presented Murphy with major new challenges. When he had joined his wife's family in buying back the bank in the early 1970s, it was with the goal of

maintaining its independence and its high level of service to the South Bend community. Murphy wanted to remain true to that commitment, but he knew it would be difficult unless the bank was able to exhibit consistent growth. "The late 70s were not a great time economically for most parts of the country, especially the 'rust belt,'" he explained. "Here unemployment was running as high as 20 percent, and we were worried that, unless we invested in businesses that would provide a solid economic contribution to the community and employ its residents, the bank's future would not be secure."

Under Murphy's guidance and working with his mother-in-law, Ernestine Raclin, 1st Source expanded into several financial businesses, including leasing, mortgage banking, venture capital, insurance sales, and a unit specializing in the financing of transportation and construction equipment across the United States. In addition, the company acquired a few small banks in northern Indiana during the 1980s to strengthen its influence in the region. During the 1990s, it added more branches in Indiana and Michigan. But bank acquisitions were never at the top of Murphy's agenda. "We've always been more interested in hiring people and building our markets, one customer at a time, than in acquiring other banks," he said.

Murphy's careful commitment

“Although I chose to go into business rather than law, I credit my law school experience with teaching me to think critically. Its rigor instilled in me a self-reliance I wouldn’t have had otherwise.”

to growth has served 1st Source well. Today the bank boasts more than \$2.80 billion in assets and has been recognized as one of the better managed banks in the nation for the consistency of its results over the years. “We average 13 to 17 percent return on equity, and our growth remains in the double digits,” he commented with pride.

Murphy’s business acumen brought him to the attention of Law School Dean Robert E. Scott, who invited the successful banker to join his Business Advisory Council. Murphy was delighted to have an opportunity to give something back to his alma mater. “Although I chose to go into business rather than law, I credit my law school experience with teaching me to think critically. Its rigor instilled in me a self-reliance I wouldn’t have had otherwise,” he said.

Murphy believes that his success in the financial services industry can be attributed in part to some of the law courses he took at Virginia. “Banking is a highly regulated industry, and I’m involved in aspects of commercial and contract law every day. I also deal with lawyers every day, and, if I hadn’t gone to law school, I might find those interactions somewhat intimidating. I understand where lawyers are coming from, and I can work with them.”

That does not mean that

Murphy thinks lawyers have all the answers. In fact, one of the major concerns he has about a legal education is that law students are not taught to be comfortable with quantitative analysis. “As lawyers, when they’re put into positions to advise their clients, many don’t understand how business and commerce work,” he said.

Murphy also is concerned about the direction in which he sees the legal profession moving. “It’s less about ethics, and more about winning,” he commented. “Some lawyers have learned to rationalize almost any behavior in the name of winning the case for their client, and that’s dangerous. Lawyers need to remember the difference between right and wrong.”

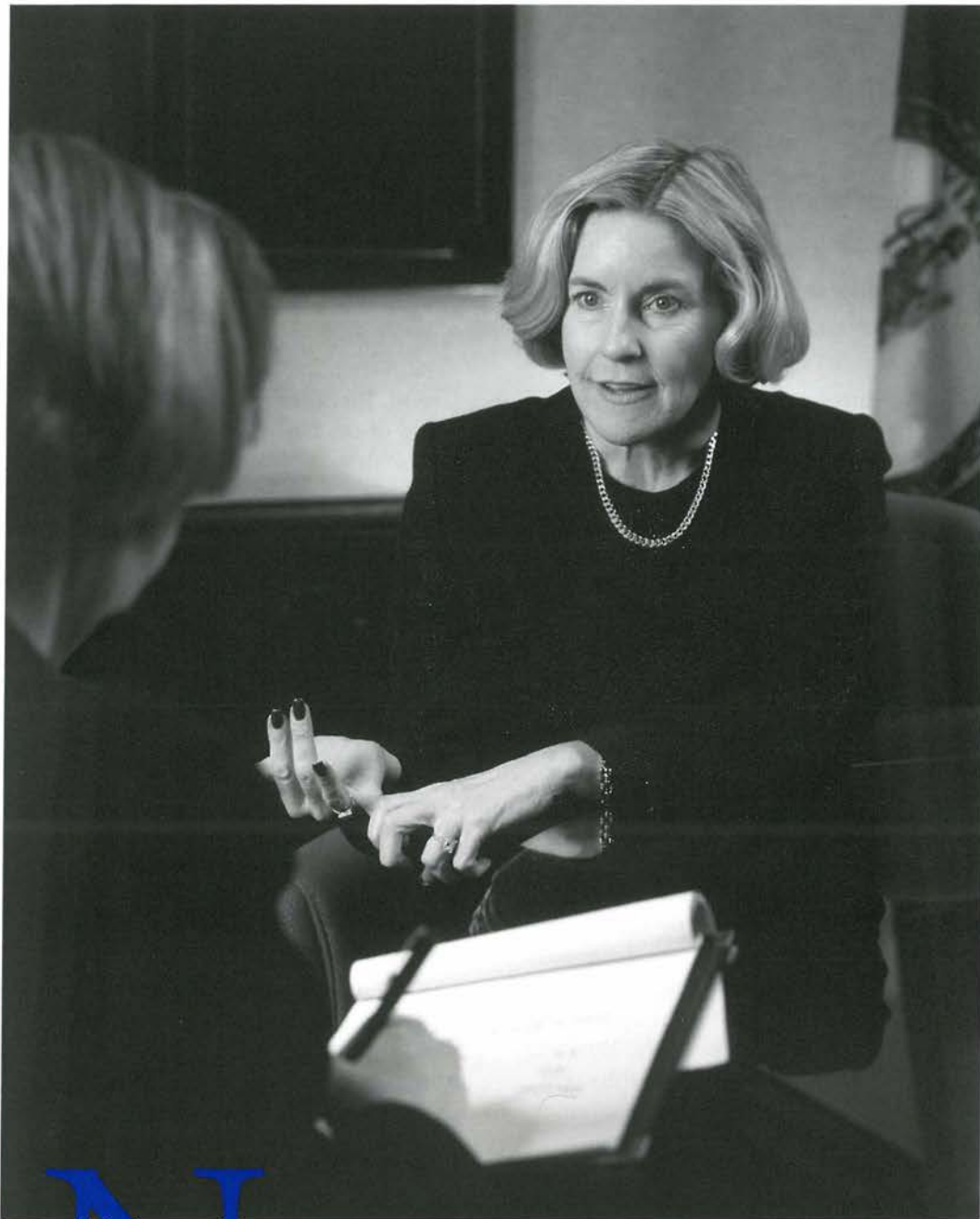
As a member of the Business Advisory Council, Murphy will have the opportunity to counsel the Law School on preparing lawyers with well-developed quantitative skills and a strong commitment to ethics. In the meantime, he remains active in his local community. In addition to serving on numerous corporate boards and lecturing at the Notre Dame law and business schools, he serves or has served as a director of three public and numerous private companies. He has taken on leadership roles in organizations ranging from the United Way and the Northern Indiana Historical Society to the Medical Education Foundation, Memorial Health System, and the Omega Health

Group, Inc. He also serves on the board of the University of Chicago Hospitals and Health System and is former chairman of the University of Notre Dame College of Arts and Letters Advisory Council and a member of the executive committee for the Indiana University School of Medicine Capital Campaign, where he received the Otis R. Bowen, M.D. Distinguished Leadership Award in 1997. When asked why he is so involved in health-related organizations, Murphy laughed. “I guess guilt is a powerful motivator; I’m always trying to make it up to my dad for not going to medical school.”

None of the six Murphy children has answered medicine’s siren call yet, either. Christopher IV, 29, and Sean, 27, are actors; Kevin, 23, is a financial consultant with Merrill Lynch, and Kelly, 25, just started law school at Notre Dame. The other two children, 22-year-old Conor and 21-year-old Dillon, are still in college.

Murphy says that making a life in a community like South Bend has brought him and Carmi great satisfaction. “I always tell people that I learned how to think at Virginia, how to make money at Harvard, and how to live at Notre Dame,” he said. “Of all of these, living right and doing right are most important, and I hope that in some small way I have made my community a better place in which to live.”





Lady Luck's Got Nothing on Penny Kyle

by Denise M. Forster

Not many people consider the number 13 a lucky number. Yet the offices of the Virginia Lottery are on the thirteenth floor of a building in downtown Richmond. And as director of the Virginia Lottery, Law School alumna Penny Kyle '79, feels lucky. After all, she believes that it was luck that brought her to the Law School, recalling the

event that led to her decision to apply.

"I hired two lawyers to work on some corporate transactions for me. Both were University of Virginia Law School alumni. At one point, they told me I should go to law school—I guess they thought I had the mind for it," Kyle said, seated at the head of a large conference table. She had

been teaching at a community college in Virginia since earning her master's in English at Southern Methodist University. While she had enjoyed her career to date, the time had come for a change. "It was really meant to be. That's how I think of it."

Only one week after she made her decision to attend law school, Kyle sat down to take the dreaded

**“I wanted to negotiate and cut the deals—not have someone else do the negotiating
and then drop the deal on my desk to ‘paper it up.’”**

LSAT. She was not overly concerned about the test, and only prepared for it by going to bed early the night before. “I figured either I had the raw talent to be a lawyer, or I didn’t. Still, I had my scores sent to me instead of any schools—just in case. When the scores arrived I didn’t have a frame of reference by which to gauge them.” She called the two Virginia alumni. “Over the speaker phone I told them my scores. They said, ‘Penny, be sure to apply only to Virginia.’ They were apparently pretty decent scores,” she laughed.

Kyle arrived at Virginia in 1976 and realized quickly that she was one of only a few older students. She may have been the only student who had cashed in her retirement savings to fund her legal education. “Unlike most of my classmates, my life plan did not revolve around attending law school,” she said.

Perhaps it is because attending law school had not been her life-long dream that Kyle didn’t know the range of the options available to her as a law student. “Had I known then about the joint degree program between the Law School and the Darden School, I know I would have taken advantage of it. What a marvelous opportunity—two well-regarded professional schools at Virginia!”

After earning her J.D. in 1979, Kyle joined the Richmond

office of McGuire Woods Battle & Boothe. “I had contemplated heading to Dallas after I clerked there between my second and third years, but my family wanted me closer,” said the Galax, VA, native. “We’re all Virginians on both sides of my family, and they helped persuade me to stay.”

Practicing commercial real estate law between 1979 and 1981 excited Kyle, but when she and another lawyer at the firm decided to marry, she chose to leave. Marriage between colleagues was prohibited. She married Charles L. Menges, a 1977 graduate of the Law School. Their paths had never crossed while they were in law school.

At the time Kyle left McGuire Woods, the CSX Corporation was moving its headquarters to Richmond. Kyle was brought on board as the first associate counsel to the global transportation company. She made such a name for herself dealing in the intricacies of the company’s real estate involvements that she was appointed assistant corporate secretary—the first woman officer of the Fortune 500 company. While gaining exposure to all facets of the business during her four-year tenure as secretary, she decided she wanted more involvement in the business dealings of the corporation.

“I wanted to negotiate and cut the deals—not have someone else do the negotiating and then drop

the deal on my desk to ‘paper it up.’ It was more alluring to me,” she stated. CSX valued Kyle and wanted to keep her on their team. They supported her earning an M.B.A. from the College of William & Mary’s executive education program. In 1987 she moved to CSX’s real estate business unit as vice president of finance and administration. Meanwhile, she and her husband had their first child in 1989.

When her CSX business unit moved to Florida in 1991, Kyle returned to the corporate side of the house as vice president of finance and special projects. In the spring of 1994, she got a call from George Allen ’77, the newly elected governor of Virginia.

“Governor Allen was looking for a director of the Virginia Lottery. He wanted the director to have both business and legal acumen. He said I had been recommended to him by several business leaders.” Kyle accepted the appointment and has considered herself fortunate ever since. “To be the CEO of an operating business—it’s not an opportunity many women get. I have developed many talents that I will eventually take back to the private sector.”

The gaming industry is huge in the United States, encompassing casinos, river boats, Indian gaming, and lotteries. While some states boast larger lotteries, the



Virginia Lottery is hoping to generate a formidable \$915 million in gross revenue this year. Kyle's job is complex and includes creating game concepts, overseeing marketing, ensuring probabilities are run, and managing nearly 300 employees out of nine regional offices. "We are the only lottery in the nation that truly runs its own information systems, meaning we have to support and secure electronic information for 6,000 retail locations with 3,400 live terminals, running around-the-clock," Kyle explained. If the system goes down, Penny Kyle is accountable.

She is well aware that she is one of only 38 lottery CEOs in this country, six of whom are women. From working closely with members of the state's General Assembly, to bringing the

lottery's operating budget in at under seven percent a year, Kyle finds her job exhilarating, though sometimes difficult. "This has been a managerial experience I never could have obtained in my former career," she noted. Initially appointed by Allen, she was interviewed by current Governor James S. Gilmore III, another class of 1977 graduate, to gain reappointment. Gilmore was obviously impressed that the lottery sends, on average, 33 to 37 percent of its revenue to the state's general fund each year. He asked Kyle to remain as director through his tenure as governor.

While Kyle is busy running the lottery and raising her family (she has a son, Kyle, 10, and two daughters, Whitley, 7, and Patricia Lee, 6) she makes time to serve on

the Law School's Business Advisory Council and its Alumni Council. "The Law School values its alumni who are senior business executives and the wealth of experience they bring to their professions. I am an advocate of the Law School preparing students to graduate with a sense of the business world," Kyle stated. "I want to be sure the joint degree program continues to be a strong opportunity for students. If lawyers are going to become business leaders, then I want the Law School to do a better job of training them. I want law students to realize that the business community values lawyers, and that clerking or heading straight to a top firm are not their only options."

Kyle will always be thankful for her lucky break, when two Virginia Law grads recommended that she consider attending law school at Virginia. She values her legal education as she does no other.

As director Kyle cannot play the Virginia Lottery, but she looks forward to the day when she can, although it means that she will be heading on to her next adventure. "I love the lottery," she said with a big smile. "It's magic." The 300 Virginia millionaires created by the lottery would probably agree.



SKADDEN TAPS TWO PUBLIC SERVICE FELLOWS

by Kathleen D. Valenzi

For a third-year law student seeking a career in public interest law, finding a desirable job that also pays a decent salary can be difficult. Most government and non-profit agencies that offer legal services to the poor have limited resources, so the pay scales are very low compared to the more lucrative salaries offered in the private sector. The starting salary for a lawyer in the Miami district attorney's office, for example, is just \$26,000.

Given that context, Christine Ellertson and Tim Freilich, third-year Law School students interested in public service careers, were elated when they learned last December that they each had been awarded a Skadden Fellowship. "I was so excited by the news," said Ellertson, recalling the day -- December 11, to be precise -- that Susan Butler Plum, director of the Skadden Fellowship Foundation, phoned with the news. "It was such a relief to know that I didn't have to open a hot dog stand after graduation!"

Each year, the prestigious Skadden Fellowship is offered to 25 of the nation's top graduating law students and outgoing judicial clerks who want to work with the poor—a term that includes the working poor, the elderly, the disabled, and those deprived of their civil or human rights. The fellowship provides a generous, one-year salary of \$37,000 (renewable for a second year), fringe benefits, and debt service on all law school loans for the duration of the fellowship.

In addition to the financial rewards, Skadden fellows also become part of a network of public interest attorneys who support each other by sharing information, contacts, strategies, and other useful advice. Plum refers to this cadre of current and former Skadden fellows as "a national public interest law firm without walls."

As far as fellowships go, said Kimberly Carpenter Emery '91, director of the Law School's Public Service Center, "Skadden is *the* public service fellowship. Skadden,

Arps, Slate, Meagher & Flom was the first law firm to establish a fellowship of this sort, and over the last ten years, the fellowship has become highly sought after."

"The program is wildly self-selecting and highly competitive," said Plum, who receives between 175 and 200 applications for Skadden Fellowships each year. "The selection process is incredibly difficult because the applicants are all so qualified."

Prior to Ellertson's and Freilich's selection to the Skadden fellows class of 1999, the only Virginia Law student to receive a Skadden Fellowship was Mary Bauer '90. As a Skadden fellow, Bauer provided legal services and community outreach to migrant farm workers in southern and western Virginia under the sponsorship of the Charlottesville-Albemarle Legal Aid Society. Today, Bauer continues this advocacy as director of the Virginia Justice Center for Farm and Immigrant Workers. In fact, the Virginia Justice Center will be

“The kinds of people who are Skadden fellows have been working with the poor for a long time, leading bike trips for children from poor families, teaching in Sunday school, and so on. You can’t suddenly show a desire to work in public service in your last year of law school and expect to be selected as a Skadden fellow.”

serving as Freilich’s sponsoring organization—an important requirement in the selection process.

Before applying for a Skadden Fellowship, applicants must first secure a potential position with a sponsoring public interest organization—and not just any organization will do. “Applications are judged not just on the quality of the student, but also on the quality of the sponsor,” said Emery. “The Skadden Fellowship Advisory Committee believes that the sponsors’ ability to supervise and train the fellows is critical, so they are looking for sponsoring organizations that have a proven track record in public interest law. Also, the projects must be carefully planned. Skadden doesn’t support any death-penalty work, for instance, or impact-only work. The proposed project must include direct client service.”

The advisory committee, which assists in the selection process, is also looking at the student’s track record in the area of

public service “back to and including high school,” Plum said. “The kinds of people who are Skadden fellows have been working with the poor for a long time, leading bike trips for children from poor families, teaching in Sunday school, and so on. You can’t suddenly show a desire to work in public service in your last year of law school and expect to be selected as a Skadden fellow.”

After reviewing each applicant’s academic performance, demonstrated commitment to public interest, and proposed project/sponsor, the top 70 applicants are interviewed by Plum and one or more members of the advisory committee. During these interviews, the advisory committee is looking for “character, commitment to the public interest, compassion, track record, and affinity,” Plum said. The field is then narrowed to 55 semi-finalists. The final selection is made by the Skadden Fellowship Foundation’s trustees, six of whom come from outside the firm, and four of

whom are Skadden, Arps partners.

What pushed Ellertson and Freilich to the top of the semi-finalist pool? According to Plum: “Christine had worked in the White House for five years. Tim had done a lot of labor organizing. So they were both real authorities in their areas.”



SKADDEN FELLOW

TIM FREILICH

In October 1993, a few months after receiving a bachelor of arts degree in Spanish and psychology from the University of Virginia, Tim Freilich embarked on a solo trip to Central America. "I really wanted to speak Spanish fluently," he said, so he snaked his way through Mexico and Guatemala to Costa Rica, where he volunteered as a park ranger for that country's national park service.

On this extended journey, Freilich met people who told him about friends and relatives who had left their homes to take jobs in the United States. "That trip made me much more sympathetic to the plight of migrant workers," he said. "They leave everything they have ever known to travel to a country where they don't know the language, where they live in constant fear of being deported, so they can work at hard jobs for very little pay."

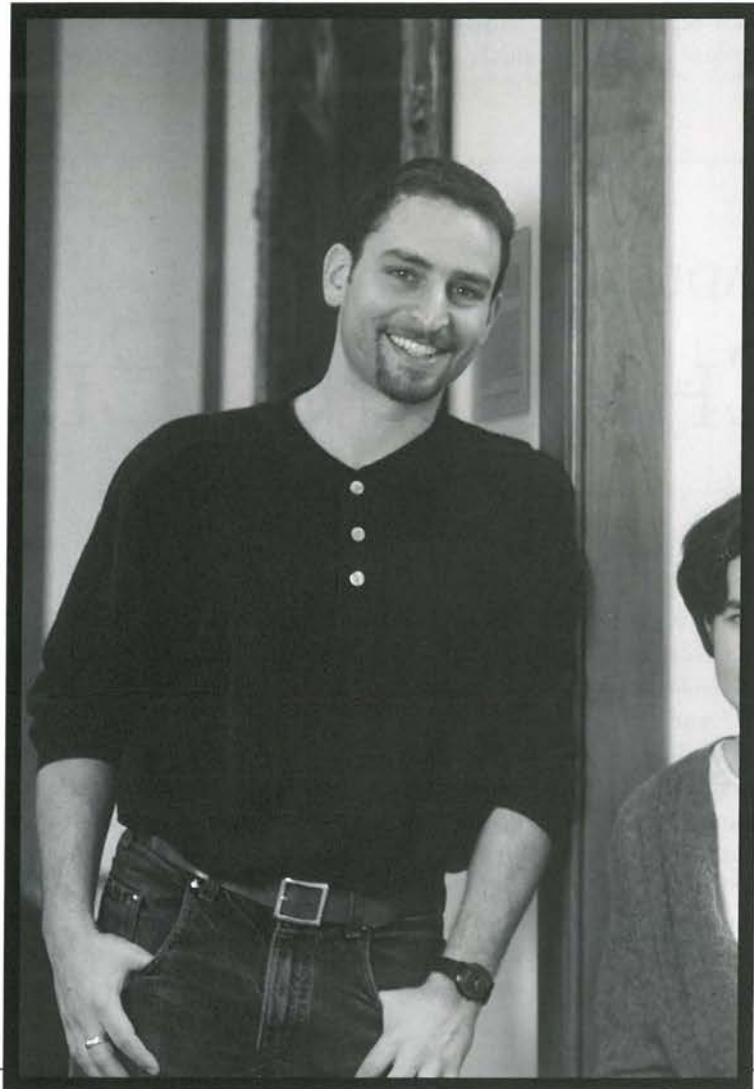
After returning to the states in May 1994, he trained backpacking guides and contributed to a travel guide to El Salvador.

Freilich then traveled to Portland, OR, to serve as a bilingual trial assistant at the law firm of Squires and Lopez. In this job, he managed a caseload of indigent, Spanish-speaking felons for a criminal defense attorney. The work made him realize how few bilingual lawyers there are in the

United States. "Since I speak Spanish, I thought I could get a law degree and be able to help a grossly underrepresented segment of our society," he said. "I saw a law degree as my ticket to high-powered activism."

In 1996 Freilich returned to the University, this time as a stu-

dent at the Law School. At Virginia, he jump-started the Migrant Farmworker Project, a nearly defunct student group, and served as its director. He also established a relationship with Virginia Law graduate and former Skadden fellow Mary Bauer '90, executive director of the Virginia



Justice Center for Farm and Immigrant Workers in Charlottesville. Bauer guided the students in their efforts to educate migrant workers regarding their legal rights.

Freilich recalled one outreach visit he made with other students from the Migrant Farmworker Project. "I had been talking to workers, mostly single guys," he said. "One guy looked really young, and I asked him where he was from. His eyes welled with tears. He had left his family in Mexico to come pick apples in the Charlottesville area. He was in the United States, alone, and couldn't have been more than 15 or 16 years old."

Such experiences are important for law students, Freilich

believes. "So few students at 'Mr. Jefferson's Holiday Resort' realize that in the same county there are workers living in substandard housing and getting shafted out of the money they have earned, particularly if they are undocumented workers. Who are they going to complain to if the crew leader is skimming money off the top, or if the owner decides not to pay? Those visits really changed my perspective."

As a Skadden fellow, Freilich will remain in Charlottesville, working with Mary Bauer at the Virginia Justice Center. He will represent migrant workers in the courtroom, and reach out to Virginia's estimated 50,000 migrant workers to ensure that their rights are not being violated.

"I'll also be helping Mary identify industries that employ migrant workers but that haven't traditionally had any oversight," he said. "We'll be trying to make sure that workers are being paid the money they earn and that housing conditions meet legal requirements."

As for his long-term goals, Freilich wants to "help others and be happy," he said. "There's a good chance that I will end up staying in Charlottesville. The quality of life here is so high. But I try not to plan too far ahead. If I did, I might not have been able to take advantage of an opportunity like the Skadden Fellowship."



SKADDEN FELLOW

CHRISTINE ELLERTSON

After receiving a bachelor of arts degree in philosophy from the University of Minnesota in 1987 and a master's degree in public administration from Syracuse University in 1989, Christine Ellertson took a job as a social program examiner for the White House Office of Management & Budget (OMB) in 1990.

"One day my boss handed me the portfolio for federal child pro-

tection programs," Ellertson recalled. "I began shadowing a social worker for the Montgomery County (MD) Department of Social Services to see how these programs were run. We went to the home of a mother who was neglectful. She had a baby girl in her lap, but she didn't hold her, and the baby nearly wobbled off several times. She kept hitting the side of her head as if she had an

earache and the mom mentioned she'd seen a roach crawl out of the child's ear the other day, but she didn't feel the baby needed a doctor's visit. The experience really galvanized me. I realized I was getting a look at some of the most down-and-out kids I'd ever seen. Child protection really became a life's work for me."

At OMB, Ellertson helped to develop the president's annual

budget and policy proposals for child and family programs, including foster care, adoption assistance, refugee resettlement, Aid to Families with Dependent Children, and family preservation. By overseeing these programs, she learned a lot about how they worked and about how to create public policy. "Working for the White House also gave me a sense for thinking large, for not being intimidated by anyone," she said. "Nothing really intimidates you after you've briefed a short-tempered official on a messy budget issue—by comparison, everything else seems like a cake walk!"

During off hours, Ellertson, who grew up in Africa, volunteered as a coordinator for the Central Africa Regional Area Network of Amnesty International in Washington, D.C. She also volunteered as a Court Appointed Special Advocate in Fairfax, VA, to gain a better understanding of how foster care programs work at the ground level.

By 1995 Ellertson had begun to be frustrated by deteriorating relations between Congress and the president, and the growing difficulty of improving child protection policy at the federal level. While considering her next career move, Ellertson heard that attorney Marsha Lowry had filed a lawsuit against the D.C. Child Welfare Program on behalf of 4,000 foster children living in the District of Columbia. "One lunchtime I went to the courtroom to watch Lowry. I suddenly had this incredible feeling that 'maybe I should be her,'" Ellertson said, "so I decided to apply to law school."

In talking about her Law School experiences, Ellertson credited U.Va. for being "fantastically



flexible. If you can come up with an idea that is good for your career and academically rigorous, you can design your own program." As evidence, she mentions a book-length manuscript on the troubled U.S. child protection system that she wrote while attending the Law School. She was supported in her efforts by Law School Professor Elizabeth Scott and the University's Center for Children, Families & the Law. (The book, Ellertson said, is now being considered for publication by an academic press.)

After graduation in May, Ellertson will study and then sit for the Colorado bar in preparation for her new post with the Rocky Mountain Children's Law Center in Denver, her sponsoring organization in the Skadden

Fellowship process. As a Skadden fellow working with the center, she will represent abused and neglected children in the courts, work on children's impact litigation taking place in the Rocky Mountain area, and draft a model consent decree to help reform the health care system for foster children.

One day she would like to run a state child protection program or head up the Child Welfare League of America, "the oldest, most venerable child protection advocacy group, with the most clout on Capitol Hill," she said. In the meantime, "I'm just raring to go to Denver, to get back out there in the real world."



CLASS NOTES

■
1953

Octavius Orbe's 44-year-old law firm, Orbe, Nugent & Darcy, has merged into the 100-lawyer firm of McElroy, Deutsch & Mulvaney in Morristown, NJ.

■
1961

C. Breckenridge Arrington, Jr. was inducted as one of 11 new fellows of the Virginia Law Foundation at the foundation's annual meeting in Williamsburg, VA, on January 14. The honor recognizes attorneys deemed to

be outstanding in their profession and in their community. Arrington is executive vice president of the Virginia Bar Foundation in Richmond, VA.

■
1962

Michael Armstrong and Frank Miller III were inducted as two of 11 new fellows of the Virginia Law Foundation at the foundation's annual meeting in Williamsburg, VA, on January 14. The honor recognizes their outstanding contributions to the legal profession and their communities. Armstrong is a partner at Mays & Valentine, L.L.P.,

in Richmond, VA. Miller is a principal at Sands Anderson Marks & Miller, a Professional Corporation, also in Richmond.

■
1963

William Hardie, Jr. received the G. Duffield Smith Award from the Defense Research Institute (DRI) in November. With 21,000 members, the institute is the nation's largest association of civil litigation defense lawyers. It presents the award annually for the best DRI-published article. Hardie's article, "Liability Based on Testing Product Warning Labels," appeared in DRI's monthly

Dean, Faculty Join Alumni for 1999 Events

Virginia Law graduates enjoyed a wide range of alumni events over the past few months.

Dean Robert E. Scott and Alumni Council member, the Honorable F. Charles McMains, Jr. '73, joined more than 30 **New Orleans** and **Baton Rouge** alumni in New Orleans on January 7 for a reception during the annual conference of the Association of American Law Schools.

An enthusiastic group of **Birmingham, AL**-area alumni met at the Summit Club on January 19, with Dean Scott in attendance.

More than 70 **Atlanta** alumni gathered for lunch at the Ritz-Carlton Downtown to hear Dean Scott offer an update on programs and events at the Law School.

Fifty alumni convened for a pre-game reception at the **Richmond** Coliseum before cheering the Wahoos on to victory at the U.Va.-Virginia Tech men's basketball game on January 27.

San Francisco-area alumni gathered on February 8 in the offices of Orrick, Herrington & Sutcliffe L.L.P. for a reception attended by Dean Scott.

The **European Alumni Chapter** held a reunion at SchloB Leopoldskron, a castle in Salzburg, Austria, from March 4 to 7. More than 30 alumni and their families enjoyed academic presentations on corporate takeover law and a review of bankruptcy laws in the European Union and the United States, as well as fine dining, tours of the region, and skiing in the Austrian Alps.

Approximately 30 **Chicago**-area alumni gathered at Schiff Hardin & Waite's conference center on March 19 to hear Professor A.E. Dick Howard discuss the past 30 years of the U.S. Supreme Court.

Dean Scott joined more than 75 **Northern Virginia** alumni and several students who have been admitted to the Law School for a reception at Maggiano's in McLean, VA, on March 25.

More than 100 Law School alumni served as judges during First-Year Oral Arguments, held at the **Law School** between March 27 and April 10.

member magazine, *For the Defense*. Hardie's practice at Johnstone, Adams, Bailey, Gordon & Harris, L.L.C., in Mobile, AL, focuses on products liability, antitrust, computer law, and securities.

1964

Joseph Miele, a commissioner of the New Jersey Turnpike Authority, created and serves as president of the Partnership for a Drug-Free New Jersey. For the past 10 years, he has also served as chairman of the

Governor's Council on Alcoholism and Drug Abuse in New Jersey. In 1990 he created the Joseph P. Miele Foundation, which has awarded close to half a million dollars in scholarships to students attending New Jersey high schools, colleges, and one law school, based on need and academic excellence.

1965

Robert Dolbear's son, Ken, graduated from George Mason University Law School in May 1998 and now works for First Virginia Bank.

The Honorable Joseph Leafé became a judge in the Norfolk, VA, Circuit Court in March 1998.

William Rachels, Jr. was named a fellow of the American Bar Foundation in December, recognizing the contributions that his professional, public, and private careers have made to the welfare of his community, the tradition of the law profes-

sion, and the advancement of the American Bar Foundation's objectives. Rachels practices employment and labor law at Wilcox & Savage P.C. in Norfolk, VA.

1967

The American Lawyer Media has appointed **Stuart Falk** advertising director of the Law News Network, a leading legal news Web site: www.lawnewsnetwork.com.

After 20 years of federal service, **Jeffrey Lang** retired in 1998 as deputy U.S. trade representative with the rank of ambassador and accepted a

partnership in Wilmer, Cutler & Pickering in Washington, D.C. He and his wife, Lynn, live on the Eastern Shore of Maryland.

Mays & Valentine, L.L.P., in Richmond, VA, awarded **C. Cotesworth Pinckney** its John Davenport Award for Community Service in November.

1968

Gail Starling Marshall was recently elected a member of the American Academy of Appellate Lawyers, a group founded in 1990 to recognize outstanding appellate lawyers and promote the improvement of appellate advocacy and administration of the appellate courts. Marshall was also recently elected president of the Virginia Law Foundation, a grant-making organization with an endowment of over \$10 million. The Supreme Court of Virginia appointed Marshall a member-at-large of the Virginia State Bar Council in July. In October she was elected board member of the Local Government Attorneys' Association. Marshall has a private practice in Rapidan, VA, and serves as the town attorney for Orange, VA. Last semester she was an adjunct professor at the Law School, teaching a Principles & Practice seminar in pre-trial motions and procedures.

W. Scott Street III was inducted as one of 11 new fellows of the Virginia Law Foundation at the founda-

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ALUMNI NEWS

Calling All Law School Alumni

Beginning in just a few weeks, we will be asking you to help us as we enter the next phase of preparing an all-new *Alumni Directory* for the Law School. Representatives of Bernard C. Harris Publishing Company, Inc. will be phoning to verify the information (name, academic data, residence address, phone number, e-mail address, etc.) we collected for the *Directory*.

The *Directory* will sort the data by name, by class year, and by geographical location. It also will feature a history and photos of the Law School and a special message from the Alumni Association.

Soon locating your fellow alumni will be as easy as turning a page. You may reserve your personal copy of the all-new *Alumni Directory* when your Harris representative phones. Don't delay, because only pre-publication orders placed at that time will be guaranteed.

tion's annual meeting in Williamsburg, VA, on January 14. The honor recognizes his outstanding contributions to the legal profession and his community. Street is a partner at Williams, Mullen, Christian & Dobbins, a Professional Corporation, in Richmond, VA.

1970

Francis Carter has joined the newly expanded Miami firm of Ferrell Schultz Carter & Fertel, P.A., formerly Ferrell & Fertel, P.A. Carter was formerly a founding partner of Coll Davidson Carter Smith Salter & Barkett, P.A. His practice focuses on commercial bankruptcy, general business, and corporate law. Since 1995 he has served on the board of editors of *The Bankruptcy Strategist*.

Jonathan Kane joined Pepper Hamilton L.L.P. as a partner in the firm's Berwyn, PA, office in December. A labor and employment specialist, Kane was formerly a shareholder with Gollatz, Griffin & Ewing, P.C., and manager of their labor relations and employment section.

1971

W. Douglas Brown was named to the board of trustees of Allentown College of St. Francis de Sales in Center Valley, PA, in December. A resident of

Bethlehem, PA, Brown is the vice president-administration of the gases and equipment group at Air Products and Chemicals, Inc.

In December **William Boswell** was elected vice chairman of the Gas Industry Standards Board, which establishes and sets standards for all members of the gas industry in North America. He will become the board's chairman on November 1, 2001. He is deputy general counsel at Consolidated Natural Gas Company, vice president and general counsel at the Peoples Natural Gas Company, and general counsel of Hope Gas, Inc., in Pittsburgh, PA. He became a grandfather in October when daughter Susan Sunseri gave birth to a bouncing baby boy, Michael William Sunseri.

In January **Thomas Boyd** was named senior counsel in the financial services practice group of Alston & Bird L.L.P., an international firm specializing in financial services law. Boyd served as assistant attorney general for legislative affairs under President Ronald Reagan and was in charge of the Office of Policy Development for the U.S. Justice Department under President George Bush. Alston & Bird L.L.P. provides legal counsel to major financial institutions and corporations in mergers and acquisitions and global capital market transactions. As a member of the firm's Washington, D.C., office, Boyd will focus on legislative issues affecting the financial services industry.

Jeanne Franklin has been

named chair of the Virginia Bar Association's executive committee. A sole practitioner in Alexandria, VA, Franklin has served on the executive committee since 1997 and is a past chair of the association's membership task group.

Edward Lowry was inducted as one of 11 new fellows of the Virginia Law Foundation at the foundation's annual meeting in Williamsburg, VA, on January 14. The honor recognizes his outstanding contributions to his profession and his community. Lowry is a principal at Michie, Hamlett, Lowry, Rasmussen & Tweel, P.C., in Charlottesville, VA, and a past president of the Virginia State Bar.

1972

Two fellow classmates have established a scholarship at the Law School in honor of **Linda Fairstein**, head of the Manhattan Sex Crimes Unit, for her dedication to public service. When fully funded with additional gifts from alumni and friends, the Fairstein Scholarship will support students interested in a public service legal career. A second-year student, Orlyn Lockhart, recently bought the right to have his name used as a character's name in Fairstein's next mystery novel. Lockhart bid \$520 for the honor at an October auction to raise money for the Public Interest Law Association's Student Funded Fellowships.

David Landin became president of the Virginia Bar Association in January. He is a partner in Hunton & Williams in Richmond, VA.

1973

G. Franklin Flippin continues to serve on the Virginia Bar Association's executive committee as immediate past president. He is a founding member of Flippin, Densmore, Morse, Rutherford & Jessee in Roanoke, VA.

J. Stephen Street was elected chairman of the International Advisory Committee of the Special Olympics, Inc., board of directors at its May 1998 meeting in Brussels, Belgium. Special Olympics, Inc., is the international governing body of the Special Olympics movement founded by Eunice Kennedy Shriver in 1968. One million athletes in 150 countries participate in 24 summer and winter sports events organized especially for mentally-handicapped athletes. Street has served on the Special Olympics Hawaii board of directors since 1990. He currently heads the commercial litigation group at the Honolulu firm of Rush Moore Craven Sutton Morry & Beh.

1974

Mays & Valentine, L.L.P., in Richmond, VA, awarded **Jane Schwarzschild** its Richard Moore Award for Client Service in November.

Frank Thomas III was elected to a three-year term as a member of the Virginia Bar Association's executive committee. Thomas is a partner at Shackleford, Honenberger, Thomas, Willis & Gregg, P.L.C., in Orange, VA.

1975

In March **John Ingalls** was named senior vice president and chief financial officer of Software.com, the leading developer of carrier-scale messaging software for service providers, in Santa Barbara, CA. He is responsible for the company's financial operations. Ingalls was formerly the senior vice president and chief financial officer of Chrystal Software, a Xerox company that specializes in management technology in San Diego.

Henry Tucker, Jr. joined Ober, Kaler, Grimes & Shriver, a Professional Corporation, in December as counsel to its commercial finance and corporate departments in Baltimore, MD. He concentrates on secured transactions, asset/stock purchase and sale transactions, and equipment-leas-

ing transactions, representing financial institutions, institutional lenders, and mid-size corporations. He formerly served as corporate counsel to Southern Retailers, Inc., and Fas Mart, Inc., headquartered in Virginia. He is also a former chair of the Virginia State Lottery Board.

1976

Michael Taylor recently became vice president for public policy at Monsanto. A specialist in food and drug regulation, Taylor was formerly with the Washington, D.C., office of King & Spalding.

1977

The Honorable Charles Cofer was appointed a county court judge for Duval County, Florida, by the late Florida Governor Lawton Chiles in July 1998. Cofer lives in Jacksonville, with his wife, Emily, and two daughters, Laura and Anne.

Ann Gordon recently completed four years as chief of the consular section at the U.S. Embassy in Belize City, Belize. At the end of her term, her section received a meritorious honor award for its services to the families of two murder victims and of four other people killed in a small airplane crash, all of which occurred in the same

week. She is now a Caribbean and Central American desk officer in the U.S. State Department's Bureau of Democracy, Human Rights, and Labor.

John Meck joined Kabala & Geeseman, a Professional Corporation, as a director in June 1998. He continues to practice probate, tax, estate planning, and estate and tax litigation law in Pittsburgh, PA. He is president of the probate and trust section of the Allegheny County Bar Association and a member of the fiduciary litigation committee of the American College of Trust and Estate Counsel.

1978

Carolyn Lown became a partner in the San Francisco firm of Landels Ripley & Diamond, L.L.P., a nationally recognized environmental practice, in November. An environmental compliance specialist, she came from Bank of America, also in San Francisco, where she was senior counsel for environmental issues.

William McKenzie recently joined Burr & Forman L.L.P. as a partner in Atlanta, after his former firm, Cashin, Morton & Mullins, voluntarily dissolved, with seven of the 10 partners joining Burr & Forman.

Reunions Planned for European Alumni

Thanks to alumni of the Law School's Graduate Program, which attracts students from all continents and numerous graduates working outside the United States, the Alumni Association boasts a chapter in Europe. The chapter has been organizing exciting alumni gatherings for Law School graduates and their friends for more than a decade.

The chapter held its first event in 1988, when 53 alumni and friends met at University College, Oxford, England. The highlight for those gathered was a banquet in the College Hall. The success of Oxford was repeated in 1990, when similar numbers met at the College of Europe in Bruges, Belgium. The guests were able to sample the delights of Belgian cuisine and enjoy remarks by Professor A. E. Dick Howard.

The next European alumni event was held earlier this spring in Salzburg in the Austrian Alps. Looking ahead, events are being planned for Hannover, Germany, to coincide with the World Trade Fair in the summer of 2000, and in Edinburgh, Scotland, to coincide with the Edinburgh Festival in 2002.

According to chapter president Kris Gledhill '85 LL.M., the chapter relies on alumni in the host country to take the lead role in organizing a reunion. The format the chapter has adopted is to combine an academic session on a Friday with a weekend of social and cultural events. In addition, the chapter always offers assistance to those who want to spend extra time in the area, combining a vacation with the reunion.

"We have always been glad to welcome visitors from North America and other parts of the world to our events," Gledhill said. "I would be pleased to hear from any Law School alumni interested in attending future events in Europe. If there is enough interest, then we will investigate organizing trips from the U.S. that would join the European reunion and then go on from there. For example, those who come to join us in Hannover could combine this with a tour to Berlin and Prague in the Czech Republic."

Any alumni who are interested in corresponding with Gledhill about European reunions can reach him at 66 Grove Park, London SE5 8LF England, or by e-mail at KrisGledhill@compuserve.com.

A Front-Row Seat at the Impeachment Trial of President Clinton

by C. Stewart Verdery, Jr. '93

The recent impeachment trial of President Clinton in the U.S. Senate featured an unusually high number of Law School alumni playing important roles. Members of the Senate, including John W. Warner '53, Charles S. Robb '73, Christopher "Kit" Bond '63, B. Evan Bayh III '81, and Edward "Ted" Kennedy '59, were front and center during the proceedings in their dual roles as jurors and judges.

There was an even higher Virginia concentration among the handful of staff allowed access to the Senate floor. They assisted in structuring the trial, negotiating the details with the managers from the House of Representatives and White House counsel, and briefing members on the facts and the law. For us, the trial was a once-in-a-lifetime chance to play a part in making American history.

On the Republican side of the aisle, all of the principal staff attorneys were Virginia alumni. Michael Wallace '76, a partner in the Jackson, MS, office of Phelps Dunbar, served as Senate Majority Leader Trent Lott's (R-MS) special impeachment counsel, while Kimberly Kranys Cobb '91 worked as counsel for Republican Conference Chairman Connie Mack (R-FL). I was fortunate to work with these lawyers in my role as general counsel to Senate Assistant Majority Leader Don Nickles (R-OK). In addition, Senate Legal Counsel Tom Griffith '85, served as principal legal advisor to the Senate and as the liaison with Chief Justice William H. Rehnquist.

On the Democrat side, Robert Bauer '76, managing partner of Perkins Coie in Washington, D.C., served as lead counsel to Democrat Minority Leader Tom Daschle (D-SD). Bruce Kasold (JAG '84) assisted the Senate's sergeant-at-arms and the secretary of the Senate in their roles during the trial.

I believe the most interesting aspect of the proceedings was how the Senate handled this unusual responsibility. Under the Constitution, the Senate must decide how to "try" an impeachment. The only constitutional requirements are that senators must take a special oath pledging to perform "impartial justice," two-thirds of the Senate must vote to convict for the accused to be removed from office, and the Chief Justice must sit as the Senate's presiding officer. In addition, the Senate has enacted rules to govern certain procedures of impeachment trials, but those rules left many key questions



Virginia's Impeachment Team, from left: Robert Bauer '76, Michael Wallace '76, Stewart Verdery '93, Kimberly Kranys Cobb '91, Senator John Warner '53, Tom Griffith '85, Senator Christopher "Kit" Bond '63, Bruce Kasold (JAG '84), Senator B. Evan Bayh III '81, and Senator Charles S. Robb '73. Not pictured is Edward "Ted" Kennedy '59.

unanswered, such as the following: What material can be submitted into evidence? Can witnesses be called for depositions or to testify? How long can the trial last? Can the Senate deliberate on findings of fact?

As any student of American government knows, the Senate is normally a peculiar body where the rules allow a determined minority or even a single senator to derail or postpone legislation or a nominee even if a majority of the Senate wants the bill passed or the nominee confirmed. The outcome could be very different in an impeachment trial, because the Constitution states that a bare majority of senators has the power to dictate almost every aspect of the trial. As we sat down to sketch out how the trial would proceed, my primary job -- working with my colleagues mentioned above -- was to advise Senator Nickles and the rest of the Senate leadership on how to structure a trial that would allow senators to make an informed decision, while meeting the Senate's constitutional and historical standards. The Republican caucus organized nearly unprecedented, round-the-clock meetings to discuss possible options. Most members recognized that the public was weary of partisan bickering and would see a party-line vote as politics as usual. Realizing this, the senators agreed -- during an historic meeting in the Old Senate Chamber -- to a more bipartisan approach that allowed opening statements and a question-and-answer period, admitted evidence compiled by Judge Kenneth Starr, and postponed decisions on witnesses. This approach did not remove partisan politics from the trial. It did, however, create a sense that the Senate was acting responsibly and constitutionally. As we moved closer to a verdict, the procedural votes split largely along party lines, but this initial spirit of unity kept the Senate from descending into rank partisanship.

My most vivid memories from the trial are the moving remarks by nearly every senator in our caucus as he or she struggled with the evidence. While obviously aware of political considerations, the large majority of my colleagues were more concerned about how history would judge their performance than they were with the next morning's polls.

With the trial concluded, I have returned to my normal responsibilities, helping shape laws in areas such as crime, bankruptcy, and the "Y2K" problem, and assisting with the oversight of agencies and nominees. Having a front-row seat at the impeachment trial of President Clinton, however, will be an experience that I will remember for the rest of my life.

1979

Daniel Rowley became general counsel of S&S Energy Products, a General Electric Power Systems Business, in September. Headquartered in Houston, TX, S&S sells gas turbine packages and performs turnkey construction for customers around the world.

HarperCollins released **Jamie Katz's** debut mystery novel, *Dead Low Tide*, in paperback in November. In November 1997 Katz and his wife, Cynthia Piltch, welcomed home from Wuhan, China, their daughter, Lee Lu-Min, born December 2, 1996. Katz is the assistant attorney general and alternative dispute resolution coordinator for the Massachusetts Office of Attorney General in Boston. He is currently working on a second novel for HarperCollins.

Jack White has been named associate general counsel at Bell Atlantic in Washington, D.C., where he continues to advise the wholesale and retail lines of business. He and his wife, Marianna, have two sons, Ian and Winston.

1980

After 15 years with Marriott International, Inc., **Robert Searle** retired as assistant general counsel on January 1.

Mays & Valentine, L.L.P., in Richmond, VA, awarded **George Somerville** its David Mays Award for Legal Scholarship in November.

1981

James Ewing IV was elected a member of Kilpatrick Stockton L.L.P.'s executive committee in February. The committee sets the strategic direction and governs the 420-member firm. Ewing, who works in the firm's Atlanta office, focuses his practice on patent-related matters with the firm's nationally recognized intellectual property practice group.

1982

Daniel Dokos joined the institutional finance practice group in the New York office of Weil, Gotshal and Manges L.L.P., as a partner in December. He was a partner at Sidley & Austin, also in New York, for the past eight years. His practice concentrates on lending transactions, in particular secured lending and acquisition finances.

Mark Roderick discussed legal issues involved in starting a new business on "Legal Line," a half-hour television program on Garden State Cable's Channel 2 in New Jersey in December.

Roderick concentrates on taxation, commercial law, health care matters, and computer software in his practice with Flaster, Greenberg, Wallenstein, Roderick, Spigel, Zuckerman, Skinner & Kirchner, P.C., in Cherry Hill, NJ.

1983

William Fish, Jr. was re-elected assistant managing partner of Tyler, Cooper & Alcorn, L.L.P., a firm with offices in New Haven, Hartford, and Stamford, CT. He continues to teach Commercial Paper at the University of Connecticut School of Law as an adjunct faculty member, where he is "using an excellent casebook authored by (Law School Dean) Bob Scott and (Law School professor) Clayton Gillette."

Paula Monopoli and **Marin Scordato** live in Malibu, CA, with their four children, including 6-year-old triplets. Both teach law at Southwestern University School of Law in Los Angeles. Monopoli is a visiting professor at Pepperdine University School of Law this year. She has a contract with Northeastern University Press to write a book on financial abuse of the elderly entitled *Fiduciary Duty: American Lawyers on Trial*. Both Monopoli and Scordato will be visiting professors at the University of Maryland School of Law in Baltimore for the 1999-2000 academic year.

1985

Dean Ferguson joined Munsch Hardt Kopf & Harr, P.C., as a shareholder in February. As a member of the reorganization and creditors' rights section, he represents creditors, debtors, trustees, and other parties in connection with the purchase or sale of assets from bankruptcy estates.

James McDermott was recently selected litigation department chair of Ball Janik L.L.P. in Portland, OR.

Chris McIsaac's third child, Jessica, was born on February 2, 1998. She joins older brothers Duncan and Jack, all of whom, McIsaac writes, are "rapscallions and scalliwags."

Moir Dempsey Modzelewski was recently promoted to commander in the U.S. Navy's Judge Advocate General's Corps. She currently serves as a military judge in Norfolk, VA.

1986

Eileen Brumback and her husband, Karl, welcomed their third son, Roscoe, born March 11, 1998. Roscoe joins brothers Matthew, 8, and Mark, 5, in New York City.

Richmond Inside Business named **Elaine Richardson Jordan** a "Top 40 Under Forty" in December. The award recognizes 40 Richmond, VA-area professionals who are civic and business leaders. Jordan is a shareholder at Sands Anderson Marks & Miller, a Professional Corporation, where she practices commercial litigation and specializes in construction law. She serves on the board of directors and loan committee of Metro-County Bank of Virginia, and on the boards of Friends of Hanover, a local charitable organization, and the Richmond Metro Junior Boys Basketball Club.

David Burchmore was elected a partner of Squire, Sanders & Dempsey L.L.P. of Cleveland, OH, in January. In his environmental practice, he represents public and private sector clients, including steel and tire manufacturers, petroleum refiners, paper coating and chemical manufacturing industries, and banks, as well as municipal and county governments.

Virginia Gov. James S. Gilmore III '77 appointed **Cameron Quinn** secretary of the Virginia State Board of Elections in January. Quinn was formerly a Virginia assistant attorney general.

1987

J. Goodwin Bland recently became a partner at Bachner, Tally, Polevoy & Misher

L.L.P., a New York City firm, where he practices commercial real estate law. His practice areas include conveyancing, leasing, financing, and restructuring of real estate transactions. He reports that **Craig Gatarz, Sarah Kiefer, Nancy McFadden, Susan Ressel Kumleben, and Joseph Baker III**, all of whom he sees often, are doing well. Bland and his companion, Michael Katovitz, live in Manhattan.

David Morriss, legislative counsel and congressional liaison for the U.S. Navy's Office of Legislative Affairs, published his Harvard Law School Master of Laws thesis, "From War to Peace: A Study of Cease-Fire Agreements and the Evolving Role of the United Nations," in the *Virginia Journal of International Law*, Summer 1996. The thesis examined six cease-fire agreements -- Indonesia and Palestine in the 1940s, the 1950-53 Korean War, the 1956 Suez crisis, the 1973 Arab-Israeli War, and the Iraqi invasion of Kuwait -- and found that international law and the involvement of the United Nations definitely do constrain even major powers.

Morriss and his wife, Mary Elizabeth, spent two years in Bahrain, an independent island off the coast of Saudi Arabia, with their sons, John and Will, while Morriss was the Force and Fleet Judge Advocate for Commander, U.S. Naval Forces Central/Commander, U.S. Fifth Fleet in the Persian Gulf. Shortly after their return to the U.S., a third son, Graham Patrick, was born on August 17, 1997. Morriss works in the



CORRECTION: The ABA Senior Lawyers Division changes hands as (from left) incoming president Newton Allen '48 and his wife, Melinda, are welcomed by outgoing president Leigh Middleditch '47 and his wife, Betty, to the ABA meeting in Toronto on August 3. In the last issue of *UVA Lawyer*, we reversed the two. We apologize for the error.

Pentagon and on Capitol Hill. He and his family live in Springfield, VA.

David Skeel became a full professor at the University of Pennsylvania School of Law in Philadelphia in January. He formerly taught at Temple School of Law.

Fred Wagner was named a director at Beveridge & Diamond, P.C., in its Washington, D.C., office. He continues his practice in environmental and natural resources litigation. Wagner and his wife, Mary, live in Rockville, MD, with their children, David, 3, and Sarah, 1. His e-mail address is fwagner@bdlaw.com.

1988

Marcia Voorhis Andrew has been named a partner at Taft, Stettinius & Hollister in Cincinnati, OH. She practices commercial litigation and resides in Middletown, OH, with her husband, Will, a physician, and their three children, Alexander, 4, Rachel, 3, and Mark, 1.

Stradley Ronon Stevens & Young, L.L.P., has appointed **Bibb Strench** to manage its new office in Washington, D.C. Strench is a specialist in securities regulations and enforcement, mutual funds, border-dealers, and corporate and business law.

1989

Michael McAlevey was named deputy director of the corporation finance division of the Securities and Exchange Commission in November. He helps structure and implement new rules affecting securities offerings and coordinates with Capitol Hill on capital markets and securities regulation legislation. McAlevey was formerly a partner at Alston & Bird L.L.P.

Jonathan Talcott became a partner in Alston & Bird's Washington, D.C., office in January. As a member of the firm's financial services practice group, he focuses on mergers and acquisitions, securities, and regulatory

matters concerning financial services companies. Before he joined Alston & Bird in 1994, he served as staff attorney in the legal policy division of the Office of Thrift Supervision in Washington, D.C.

1990

Virginia Harnisch joined the New York Stock Exchange in 1997. She is a trial counsel in the Division of Enforcement.

Mays & Valentine, L.L.P., has elected **Clark Lewis** a partner in its Richmond office. Lewis, who joined the firm in 1990, focuses on transportation law, products liability, and insurance defense in the products liability, tort, and insurance practice group.

Philip Parker serves as chair of the Virginia Bar Association's Young Lawyers Division this year, and is a member of the association's executive committee. Parker is an associate with Woods, Rogers & Hazlegrove, P.L.C., in Roanoke, VA.

Dan Renberg and his wife, Rose, brought home a new daughter, Sarah, on March 16, 1998, making Aaron, 3, a big brother. Renberg recently opened his own lobbying firm, Renberg Strategies, L.L.C., in Washington, D.C. He represents airports, colleges, and state and local governments, and expects to begin corporate representation. He was deputy chief of staff and legislative director

for U.S. Senator Arlen Specter of Pennsylvania for more than four years, where he became an expert in the annual appropriations process in Congress.

Chryso Sarkos Sarris completed her Master of Laws in international intellectual property law at the London School of Economics and Political Science and now works for Ashurst Morris Crisp, a leading London commercial practice established in 1822. She married Michael Sarris on October 3. **Margaret "Peggy" Mattimoe** and **Joshua Prober** attended the traditional Greek Orthodox wedding. Michael, a native Iowan, is a management consultant for Deloitte Consulting in London. On their honeymoon in Bali, the newly married couple went scuba diving, climbed an active volcano, and watched traditional Balinese trance dancing on burning coconut shells.

Anita Rutkowski Wilson became a partner at Vinson & Elkins L.L.P. in Washington, D.C., in December.

Burton "Barney" Wilson married Ann Chiga in August 1998. He continues to work at Putnam Investments in Boston, MA, as an equity research analyst.

1991

Bell, Boyd & Lloyd named **Anthony Black** a partner in the communications group of the firm's Washington, D.C., office on January 1. Focusing on telecommunications and electronic commerce, Black has represented U.S. and foreign businesses on issues relating to satellites and the growing competition in the local telecommunications market. He also represents financial institutions, ATM networks, and Internet-based companies on regulatory issues governing electronic banking and other forms of electronic commerce.

In January **Terrence Graves** joined the risk management practices group of Sands, Anderson, Marks & Miller, a Professional Corporation, in Richmond.

Kimberly Knight was named a partner at Alston & Bird's Atlanta office in January. Her practice concentrates on corporate law, with an emphasis on business and finance, in the firm's health care-corporate practice group.

Matthew Levin became a partner at Alston & Bird's Atlanta office in January. He focuses on litigation and bankruptcy, as a member of the firm's bankruptcy, reorganization, and workouts practice group. He managed the defense of a \$40-million fraudulent conveyance claim brought by a bankrupt trucking company against a major bank.

James Lovely and his wife, Suzanne, are pleased to announce the birth of their son, Connor Masato Lovely. A vice president with Bank of America in San Francisco, Lovely works as an investment banker and structurer of new financial products. He was formerly a director and associate general counsel at Nomura Securities International, Inc., an international broker-dealer based in New York City.

Virginia Business Observer, a Hampton Roads business journal, named **Kevin Martingayle** the "Top Dog" out of "The 10 Hottest Young Lawyers to Watch For" in its March 8 edition. The article reports that Martingayle, now with Stallings & Richardson, P.C., in Virginia Beach, VA, "rocketed onto the legal scene with the recent *Reid v. Cellar Door* trial that ended in a \$3.9 million verdict for his client." The magazine reports that Martingayle received the "lion's share" of nominations in the survey.

Jason Murray was elected a shareholder of Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., in February. Murray, who joined the firm in August 1997, practices general commercial litigation in state and federal courts, including securities, insurance, intellectual property, and franchise matters, in the firm's Miami, FL, office. He is a member of the franchise law committee of the Florida Bar's business law section, the Dade County Bar Association's board of directors and the Miami-Dade

County's economic development organization, the Beacon Council. He was formerly an associate attorney with Morgan, Lewis & Bockius L.L.P., also in Miami, for five years.

Orrick, Herrington & Sutcliffe L.L.P. recently named **Tracy Preston** a partner in its San Francisco, CA, office.

Herbert Thomas was named counsel at Debevoise & Plimpton's Washington, D.C., office in January. A member of the litigation department, he concentrates his practice in the area of complex class action litigation and insurance law. He is the author of a 1997 novel, *The Superlative Man*, about a cub reporter who exposes a modern-day Superman as a fraud in cahoots with drug dealers.

1992

The Honorable Elizabeth Lacy of the Supreme Court of Virginia was elected to a second one-year term as the judicial representative of the Virginia Bar Association's executive committee.

Daniel Meador, Jr. became a partner in the Charlottesville, VA, firm of Morin & Barkley in December.

Patty Merrill was recently transferred to the Richmond, VA, office of McGuire Woods Battle & Boothe L.L.P. from its Charlottesville office. Her practice focuses on project

ALUMNI NEWS

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finance and other corporate transactions related to energy assets. Though sorry to leave home, she reports that she is thrilled with the new job.

Jeffrey Naness and his wife, Margaret, are happy to announce the birth of their first child, Jonathan Cunningham Naness, on October 14. Naness is a partner at Naness, Chalet & Naness, L.L.C., in Jericho, NY.

1993

Glenn Benson joined the Washington, D.C., office of Fulbright & Jaworski L.L.P. in December. This international law firm has over 670 attorneys in nine cities, including Hong Kong and London. Benson will focus on energy and environmental matters.

1995

Robert Bell and his wife, Jessica, bought a new home in September and promptly discovered the joys of home ownership as they accidentally emptied the contents of their water heater into the basement during a repair attempt. Bell was elected local Republican party chairman in fall 1998 and continues to serve as a Virginia state prosecutor. One of his cases began with neighbors blowing grass clippings on to each other's lawns and ended

with a fist fight and a court case.

Darrell Drinkwater has joined David, Kamp & Frank in Newport News, VA. Previously an associate with Pender & Coward in Virginia Beach, he continues to concentrate on civil litigation.

1996

Jody Ruiu is serving the final year of a three-year term on the board of trustees of her undergraduate alma mater, Seton Hall University. She currently chairs the student affairs and athletics committee. Last year she left the corporate department at LeBoeuf, Lamb, Greene & MacRae L.L.P. in Manhattan for a more finance-oriented position in the structured finance group at Standard & Poor, also in New York City.

Mel Simmons recently joined the Cincinnati, OH, office of Vorys, Sater, Seymour and Pease L.L.P. She practices commercial and real estate law, including commercial lending, secured transactions, and real estate financing. She also serves as a trustee for the Clovernook Center-Opportunities for the Blind, a trustee for Prevent Blindness Ohio, and a broadcaster for Radio Reading Services.

1997

Heather Miller joined the Washington, D.C., office of Thompson Coburn in December, bringing her regulatory and legislative expertise in the fields of aviation and maritime law. She formerly worked on trade and transportation issues for U.S. Senator Bill Bradley.

David Simons recently moved to Boston to join Fish & Richardson P.C., a national intellectual property and technology law firm, after clerking for the Honorable Elizabeth Lacy on the Supreme Court of Virginia.

Glenn Saks has moved into the commercial litigation section of Streich Lang, P.A., in Phoenix, AZ. He previously practiced in the firm's bankruptcy group.

Scott Townsend and his wife, Anastasia, welcomed their son, Alexander, to the family on October 3. Townsend's practice at the 320-member firm, Goodwin, Procter & Hoar L.L.P., in Boston, MA, focuses on acquisitions and mergers, venture capital, and securities. Anastasia has completed the course work for her Ph.D. in French civilization from U.Va. and is commencing work on her dissertation.

Alumnus Takes Wrongful Circumcision to Court

1998

Melissa Longin has joined the Houston office of Fulbright & Jaworski L.L.P. This international firm has over 670 attorneys in nine cities, including Hong Kong and London. Longin practices family law.

The international firm, Fulbright & Jaworski L.L.P., has appointed Holly Royce to its Houston office. Royce focuses on labor and employment law matters.

Amy Williams-Derry joined the Seattle firm of Hillis Clark Martin & Peterson, a Professional Service Corporation, in November. She will concentrate on commercial litigation and real estate law.

LL.M.s
1972

Jordan Paust, professor at the University of Houston Law Center in Texas, recently received a contract from West Publishing for his course book, *International Law and Litigation in the U.S.*

1982

The Mercer Law Review (49 Mercer L.R. 1045) published an article by the Honorable Richard Mills of the U.S. District Court for the Central District of Illinois.

Every day in hospitals around the country, wide-awake day-old infant boys are tied down to plastic boards, Velcro strapped around their arms and legs, while residents perform surgery on the most sensitive part of their bodies.

David Llewellyn '79 believes routine medical circumcision is unethical and possibly illegal. He is one of a growing number of people in the U.S. who are organizing against the routine practice of medical circumcision. He is also one of a handful of lawyers who is actually going to court over it.

A sole practitioner in Atlanta and Conyers, GA, Llewellyn disagrees with the notion that the operation is painless. "It is usually done without anaesthesia," he said. "The pain is extreme. Most infants go into shock, or something akin to shock—that's why (doctors) say they sleep through the circumcision."

Between five and ten percent of Llewellyn's practice involves infant boys or men who were circumcised against their express wishes, or who were damaged so severely by the operation that they may have trouble having sex.

Lawyers generally turn away cases of wrongful circumcision, Llewellyn said, because they don't know much about the issue, or don't think courts will award damages.

His experience shows otherwise. In July 1985 Llewellyn assisted in a case, *J.T. Brown v. Jackson Hospital and Clinic*, in Montgomery, AL, that awarded \$65,000 to the plaintiff, an infant boy who was circumcised against his mother's instructions.

Another client Llewellyn successfully represented was a man in his 20s who underwent surgery on his penis and was circumcised during the operation, despite his specific instructions to the contrary.

Besides the State of Israel, the U.S. is the only industrialized country in the world that routinely circumcises its baby boys. In Europe infants are only circumcised for religious reasons.

Routine medical circumcision not only traumatizes the infant, Llewellyn said, it removes important protective tissue and decreases sensitivity. There is not a shred of hard evidence that it is medically necessary, he added.

The practice began in the end of the 19th century, Llewellyn said, before bacteria was recognized as a cause of disease, when doctors still believed in "humors." The loss of seminal fluid -- except through vaginal intercourse in marriage -- was considered to be a cause of disease, and masturbation in particular was thought to cause insanity, tuberculosis, and epilepsy.

As recently as the 1970 edition of *Campbell's Urology*, medical journals cite circumcision as a way to limit masturbation. A study done on the issue shows the opposite is true, he said. Circumcised men may actually masturbate more, due to loss of sensitivity.

A March 1 statement by the American Academy of Pediatrics states that any potential medical benefits of the surgery are so slight that they could not recommend routine neonatal circumcision for all boys.

Llewellyn first researched the issue when he started his own family. He and a local nurse founded the Atlanta Circumcision Information Center after he read an Ann Landers column that said that, out of 50,000 men affected by penile cancer in the United States, only 10 were circumcised at birth. Llewellyn knew from his research that no such study had ever been conducted. The rate of penile cancer in the U.S. is actually higher than in northern Europe, where circumcisions are not routine.

Last August Llewellyn shared his experiences in a talk, "Some Thoughts on Legal Remedies and Their Efficacy," at the Fifth International Symposium on Genital Mutilations at Oxford University in Oxford, England. Plenum Press is publishing the proceedings of that symposium in a book, *Male and Female Circumcision: Medical, Legal, and Ethical Considerations in Pediatric Practice*, scheduled to be out in May.

In Memoriam

John Woods Harris, Jr. '20
Galveston, Texas
February 22, 1999

Harry B. Darden '26
Anderson, South Carolina
April 30, 1998

Robert H. Whilden '26
Houston, Texas
May 1998

Dick M. Wheat '29
Lexington, Kentucky
August 30, 1998

W. Leroy Corron '30
Front Royal, Virginia
January 29, 1998

G. Kenneth Crowther '32
Southbury, Connecticut
January 2, 1999

Bernard Baldwin, Jr. '35
Lynchburg, Virginia
January 4, 1999

Sylvanus Gordon Reese '35
New Orleans, Louisiana
December 7, 1997

Carl Paige Wooldridge '37
Bluefield, West Virginia
September 26, 1998

Mills E. Godwin, Jr. '38
Newport News, Virginia
January 31, 1998

John M. Gephart '40
Wagoner, Oklahoma
October 25, 1998

Robert E. Purdum '40
Baltimore, Maryland
June 1998

Robert M. Saunders '40
Newport News, Virginia
January 1999

Collins J. Seitz '40
Wilmington, Delaware
October 16, 1998

Ralph L. Connor '41
Seattle, Washington
August 29, 1997

Elizabeth E. Hooks '41
Marietta, Georgia
October 28, 1998

Donald T. Ruby '41
Walnut Creek, California
December 25, 1998

Hugh D. McCormick '47
Front Royal, Virginia
September 15, 1998

Richard J. Davis '48
Portsmouth, Virginia
March 4, 1999

John Thomas Manning '48
Greensboro, North Carolina
January 23, 1999

Norman Stevenson '48
Charleston, South Carolina
March 22, 1999

Braden Vandeventer '48
Norfolk, Virginia
December 5, 1998

Anthony R. Burnam III '49
Richmond, Kentucky
May 1998

Robert S. Hornsby, Sr. '49
Williamsburg, Virginia
December 17, 1998

Jack G. Paden '49
Birmingham, Alabama
October 27, 1998

William H. Lacey '51
Sun Valley, Idaho
September 19, 1998

Robert N. Tyler '51
Centreville, Maryland
December 10, 1998

Roderick E. Smith '52
York, Maine
October 8, 1998

William Minor Lile II '55
Palm Desert, California
December 12, 1998

Frank V.J. Darin '57
Dearborn, Michigan
January 31, 1999

Wirt Peebles Marks III '57
Greenwich, Connecticut
July 28, 1998

William R. Powers III '58
New London, New Hampshire
October 17, 1998

Guy O. Farley '59
Warrenton, Virginia
November 1, 1998

Robert B. Preston '59
New York, New York
December 1, 1998

Raymond T. Field '60
Rockville Centre, New York
January 25, 1999

Victor C. Harwood '60
Hackensack, New Jersey
February 13, 1999

John M. Goldsmith, Jr. '68
Roanoke, Virginia
January 8, 1999

John F. Kuether '71
Topeka, Kansas
January 12, 1999

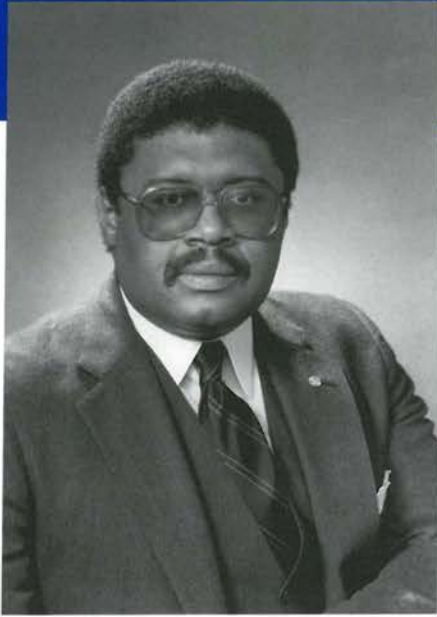
Randall S. Strange '75
Fort Lauderdale, Florida
September 24, 1998

Reese C. Lenheiser '79
Northville, Michigan
November 8, 1998

Michael Keyes '82
Spokane, Washington
July 6, 1998

Jana L. DeMeire '84
Los Angeles, California
September 2, 1998

Myron Wahls '88
Detroit, Michigan
November 24, 1998



Commentaries On the Art of Advocacy

My Vantage Point

I came to the bar in 1975. I became a partner in the litigation section of my law firm in 1982. In 1983, at the age of 32, I became the youngest person in history to serve on the Supreme Court of Virginia.

I was a Justice for almost seven years. In that time I read thousands of petitions for appeal, hundreds if not thousands of briefs, and heard more than a thousand arguments. I had a great deal of time to reflect on what works and what does not work in advocacy. In late 1989, I returned to the practice of law and became chief of my firm's appellate practice group.

I have seen the law from both sides of the bench. As a Justice I paid close attention to the writings that were most persuasive to me and to the arguments that had the greatest impact upon me. As a practicing attorney I have kept tabs on the writings and argu-

ments that appeared to have had the best effect upon tribunals before which I appeared.

I have set forth in this paper what I think are the most important elements of communicating effectively with decision makers. The focus is upon appellate matters, but I believe the points are of general application.

Advocates must be effective at every stage of the game, from pre-trial motions to objections; to instructions; to post-trial motions; to the appellate process. Young doctors are told that a cardinal principle of medicine is "do not make matters worse." I have become convinced that young lawyers, perhaps all lawyers, need a similar reminder. Lawyers need to understand that poor advocacy can make matters worse, can help lose cases that might have been won. If we are to represent others, we owe it to our clients, to ourselves, and to the courts to be effective at what we do.

II. Effective Writing

The first step towards effective written advocacy is having a thorough understanding of your case—its strengths, its weaknesses, and what it is about the case that you need to make the court understand in order to have the best chance of prevailing. That type of understanding takes a great deal of old-fashioned reading, questioning, digging, and researching. If you do not know your case thoroughly, you will have little hope of being an effective advocate.

Once you fully understand your case, you then need to keep in mind that, whereas your case is high on your agenda, it is just another of thousands of cases that come to the attention of the judge or judges who are called on to review it. The fact that you have a deep understanding of your case while the court views it as one case among many creates a tension in communication.

Find a way to make what you write stand out in the crowd of briefs, motions, and memoranda that compete for the court's attention.

Because of your thorough familiarity with your case, you will tend to talk about it using all the jargon, shop talk, and acronyms of those knowledgeable in the field. But when you present your case to the court, you will be trying to communicate with a decision maker who simply does not know your case to the same level of detail; therein lies the risk of a failure to communicate.

To counter the effects of this difference in levels of knowledge about a case, lawyers must make sure that all communications with the court are "user friendly." This does not mean that you should treat the court as if it is an idiot or that you should talk down to the court. Rather, the point is that you must find a way to insure that the court understands the essence of your position and that the jargon of the specific field of law is not allowed to get in the way of the court's understanding. Put another way, you must be able to discuss your case "in other words."

Here is an example. Say you were working on a complex case that involved the U.S. Constitution, federal and state statutes, regulatory rulings, and decisions from federal and state courts. You might describe the dispute to a knowledgeable colleague as a "4th Amendment taking problem that was complicated by a collision between a federal statute and its regulations and a state statute and its regulations in an area of law

where the federal government had by express statutory terms given discretion to the several states to decide the question." You might throw in all the statutory citations and the regulatory citations along with the case cites and you could come up with a "jawbreaking" description of the dispute. You might be completely accurate in everything you say, but in all likelihood it would be very hard for anyone to follow your description of the problem who did not share your unique closeness to the dispute.

But say your parents visited you during the time you were working on the case. Say that though they were non-lawyers they were both highly educated, widely read individuals who often dealt with complex problems. If they asked you what you were working on, you would probably not give them the answer that you had given your colleague at the law firm. But you would not be pedantic or condescending, either, because you would respect your parents' level of education and sophistication. You would probably say something like this: "Mom, Dad, it is a situation where the federal government claims the power to tell my client what to do, the state government claims the power to tell my client what do, both governments are telling my client different things, and my client is caught in the middle about to lose everything." You

would get to the heart of the matter in a clearly understandable manner.

In many cases, it would be easier on judges if lawyers would try to "lose the jargon" and say it "in other words." The ability to make things clear in that way helps a judge get to the point of saying, "Oh, I see." "User-friendly" writing is shorthand for readily understandable writing.

Try always to write in a user-friendly manner. As you write, remember that judges spend days on end reading and writing. Find a way to make what you write stand out in the crowd of briefs, motions, and memoranda that compete for the court's attention.

Write with clarity, with conviction, with an easy manner. Write with thoroughness and completeness. Write with the attitude that you are there to help the court see what you see about the case. Guide the court step by step through the logic of your position. Don't leave gaps in the argument. Don't assume that the court knows or even wants to know the intricacies of your case. Take the court where you want the court to go; in addition:

1. Get your main points before the court early, then keep those points in front of the court. Have a theme that you can revisit from time to time, though not too frequently. I recall consulting on an appeal where the key argument was not mentioned in any way

until 12 pages into a 25-page brief. If you bury the key point, the court might not get it.

2. Do not use long, unwieldy sentences. Simple declarative sentences are easier to grasp. They are more digestible.

3. Make liberal use of paragraphing. In my time on the Court, when confronted with thousands of pages of reading, I enjoyed good paragraphing because it gave me little breaks in the reading, little places to rest my eyes, to lift my attention momentarily from the brief. By contrast, it is extremely difficult to read a solid page of unparagraphed sentences. You have no clue when you have gotten the kernel of a thought. Try it some time. Take the same material and put it as a solid block of words on a page; then break it into paragraphs.

4. Use division, subdivision, section, and subsection headings. It is much easier to read and understand information when you have an expectation of what the writer is trying to tell you. Headings are like guideposts on a long journey. They give you a sense of where you are going; they alert you to rough or smooth spots in the argument. I would find myself sitting up in anticipation when a heading told me a critical point was about to be discussed.

5. Be sure to call the court by its own name. This sounds like a small point, but true effectiveness often turns on mastering the

details. My Court was the Supreme Court of Virginia, not the Virginia Supreme Court. When we were addressed by the wrong name, it caused just a slight pause—but it was a pause that did not have to be there at all. There is a United States Court of Appeals for the Fourth Circuit; there is no such thing as the Fourth Circuit Court of Appeals. Courts like their names just the way you like your name.

6. Be frank in your discussion of authorities. If a statute or case stands in your way, do not ignore it as if it will disappear; it won't. Say something. By being silent you open yourself to the charge that you made no response because there was no response you could have made. It is better to meet the troublesome cases or statutes head on. Find a way to distinguish them. From time to time when in that situation, I have found that, by directly confronting adverse authorities, I have found "good" points of distinction.

7. Use proper signals with your authorities. Lawyers sometimes seem to be surprised to learn that the signals for uniform citations we all learn in law school mean something to courts. It is not good to give an unsignaled citation to a case and thus suggest that it clearly states the cited proposition and then have the court find that it is not so. It is a matter of credibility. If a court gets the impression that your advocacy

cannot be trusted, your effectiveness is all but gone.

8. Answer each and every one of your opponent's arguments. This goes hand-in-hand with the preceding point. As a general proposition, when I decided cases I would actually draw a line down the middle of a page and put the appellant's main arguments down one side of the line. Then I would search the responding brief for the answering argument. When I found no answer to a particular argument, I would treat that argument as essentially conceded.

9. Find whether your opponent has answered all your arguments and authorities; if not, tell the court. This is related to the preceding item. If you can show the court that your opponent has been silent in the face of a key argument or has made no mention of a key decision that you have cited, then the court will know what to do with that information. By doing this, you help the court in its study of the briefs. It always meant a lot to me to find that one party simply did not discuss a controlling case or authoritative case.

10. Be accurate in your citations to transcripts, to the record, or to appendices. This point is not unlike the proper use of case signals; it is a matter of credibility. It always caught my attention when a lawyer made a bold factual assertion that was key to the case, yet failed to cite the record. My reaction was that if the point was so

clearly established, “show me.” I would always scour the record to see if I could find a basis for the key factual assertions in a brief. If I did not find any, the lawyer would have some explaining to do at oral argument. But more than that, I would start wondering how much I could trust that lawyer’s work.

11. Use your opponent’s words against him. Sometimes your opponent will state something in one part of his or her brief that helps you with a completely different argument in the dispute. In other words, briefs often have internal inconsistencies that result from reliance upon a range of differing legal precepts in the same case. This is something to guard against in your own writing and to look for in your opponent’s writings. Nothing gets a court’s attention more than to be shown that your opponent has made a statement that, when looked at closely, is helpful to your case.

12. Use your opponent’s cases against him. Computer research can have a dangerous downside for those who do not use such research wisely. Because lawyers can make full-text searches for specific words and phrases, they sometimes find the exact language they were hoping to find, but use it without first reading the whole decision. In other words, computer research can result in case language being taken out of context. Sometimes the language quoted by your opponent will

come from a dissenting opinion and not be so identified in your opponent’s brief. It is not hard to imagine how to make use of such a turn of events. It pays, then, to analyze the other side’s cases very closely.

13. Don’t belittle the trial court in your effort to describe that court’s error. Do not attack the court whose ruling you seek to overturn. Judges believe in respect for the courts.

14. Remember that a brief is a unilateral communication to the court over which you have full control. When you stand before a court in oral argument, you may intend to go in one direction but the questions may lead you in another. A brief is different. When you write a brief you have control over what you say. There is no one there to “throw you off your argument.” Use that control to advance your case.

15. Write a conclusion that has some heft; don’t just say, “that’s all, folks.” Write a conclusion that succinctly restates the key points. Then ask for something from the court. Tell the court what you really need. Some courts take the view that if you don’t ask for it, you’re not going to get it. It is a fairly simple thing to end by asking for what you want.

III. Effective Oral Advocacy

The key to effective oral advocacy is knowing that oral advocacy makes a difference. It does. It can alter the outcome of cases. But some lawyers just cannot believe that a few minutes of talk -- following a long course of brief writing -- can make any real difference. The lawyers who doubt the efficacy of oral argument usually give themselves away by their demeanor, by their lack of conviction, by a performance that looks for all the world like “going through the motions.”

Judges can tell whether a lawyer believes what he or she is saying. If you don’t believe in your case, why should anybody else? If you act as if you are there with no hope of prevailing, why should a judge take you seriously?

I have seen cases that could have been won but were lost because of ineffective oral advocacy. On the other hand, I have seen cases that could have been lost but were won because of effective oral advocacy. I have seen judges come on the bench thinking that they knew how a case should be decided who were turned completely around by a cogent, thoughtful, bulls-eye argument. It has happened to me. Oral advocacy can have a case-dispositive impact on a court.

One key to effective oral advocacy is understanding that it is not just a spoken version of written

An oral advocate must remember that he or she is there for the benefit of the court. Oral argument is the court's time to satisfy its doubts, questions, and concerns about the case.

advocacy. In the early 1990s, I was involved in an ABA study on the importance of oral advocacy; I was quoted as follows in the 1992 ABA Appellate Practice Committee report:

Our impression of the impact of oral argument on the court is for the most part anecdotally gathered from comments of appellate judges and articles by appellate judges. However, our subcommittee includes John Charles Thomas, who served on the Supreme Court of Virginia for almost seven years. He commented from his own experience on the importance of oral argument.

There were times when appeals were won on the basis of oral advocacy.

When I say that, I mean that upon a reading of the briefs and a review of the record, my preliminary view going on the bench and that of my colleagues was in one direction but because of effective oral advocacy we were persuaded to move in the other direction. This did not happen all the time. But it happened enough to let me know that oral advocacy is an important tool in the arsenal of appellate practitioners and an important element of appellate decision making. Thus, it is my view that the appellate court "needs" oral argument.

Once you convince yourself

that oral and written advocacy are different, you will act differently when you stand before a court to make an oral argument.

It is never effective oral advocacy to stand before a court and simply read a brief. It is a matter of logic: The brief is a persuasive tool of its own. Once the judges read the brief, they form a view of the case based on the brief. They come to oral argument carrying with them the view of the case they have gathered from the brief. Therefore, if all a lawyer does is get up and deliver a perfect reading of the brief, that lawyer cannot advance his or her cause beyond the point where the brief has already taken the judges.

An effective oral advocate looks for the heart of the case and seizes upon it. An effective oral advocate finds a principle or a theme and drives it home. An effective oral advocate answers any contentions by the other side that were left unanswered, fills any gaps in the facts or the logic of his position, and shores up any weaknesses on his side of the dispute.

An oral advocate must remember that he or she is there for the benefit of the court. Oral argument is the court's time to satisfy its doubts, questions, and concerns about the case. Because questions are to be expected during oral argument, an effective oral advocate must keep a "comeback" line of argument: "answer the court's question, come back to the main

theme. Answer the court's questions in a way that ties into the main theme."

Command of the facts and the law is crucial to effective oral advocacy. Such command lends itself to flexibility and responsiveness. Such command allows the oral advocate to be as simple or as complex in a response as the occasion requires.

Here is a short list of points relating to effective oral advocacy:

1. Use a simple "ear-catching" description of the problem to set up the discussion and catch the court's attention. Don't be melodramatic. Don't overstate your case. But make the court know that you are convinced that something is wrong and that justice has not been done.

2. Address the court with respect. "Yes, your Honor." "No, your Honor." "Yes, Judge." "No, Judge." "Yes, Justice Smart." "No, Justice Smart."

3. Do not indict yourself by contending that the case is too complicated to explain. I have heard lawyers say that a certain case was too complicated for a jury or too complicated for a particular judge or too complicated even for an appellate panel. Whenever I have heard such remarks, my reaction has been that the person speaking did not understand the role of an advocate. Effective advocates cut through the seeming complexity and lay bare the simple truth of a problem. The ability to

Many courts are concerned about not becoming legislatures. They do not believe that it is their proper role to "write the law;" rather, they believe their mission is to interpret and construe the law.

do this separates the real oral advocates from the pretenders.

4. Answer questions from the court immediately. I have seen lawyers so determined to finish reading their briefs that when one of the judges raises a question, the lawyer says, "In a minute." Then the court says, "Answer now." And there is a snag in the argument. If lawyers would understand that oral argument is for the benefit of the court then they would never put off a question from the court. Those questions can reveal a great deal about what is going on, if the lawyers would listen.

5. Where possible, tell the court that you don't seek to change the law, only to follow it. Many courts are concerned about not becoming legislatures. They do not believe that it is their proper role to "write the law;" rather, they believe their mission is to interpret and construe the law. Thus, the outcome of a case may turn on whether the court can be persuaded that it can grant the relief you seek without changing the law.

6. If the court asks a hypothetical question, answer it as best you can but come back with "that is not this case." Courts like to test lawyers, to find the breaking point of their logic. Hypotheticals serve that purpose. But virtually every veteran oral advocate of ability will find a gentle way to say, "But your Honor, that is not this case. Here you need not concern yourself

with the latter part of the hypothetical because..."

7. Do not ask the court, "Have I answered your question?" Courts are not timid. If you do not give a satisfactory answer, they will usually not let you go. So in my experience it was just a waste of time to have a lawyer ask that little question. I think that some lawyers use that question as a crutch to give themselves a moment to think of the next thing to say. Answer the court's question as best you can; pause a second for a follow-up; then move on.

8. Do not ask the court whether you should state the facts or whether you should simply start your argument. Though you are there for the benefit of the court, when you stand up for oral argument you are largely in command. So, act like it. The court is usually annoyed by this question because it contains the implied criticism that the court may not know what is going on. Don't waste your breath. If you want to emphasize a fact, do it. If not, start where you want to start. The court will let you know if you are not addressing what the court thinks is key.

9. Never say, "I don't have enough time to argue this case." By making that statement, you are already wasting time. And by making that statement, you tell the court you do not know how to handle limited time constraints. Such an assertion does not help, because in the typical appellate sit-

uation, you will not get any more time.

IV. Concluding Thoughts

It takes work to be an effective advocate. It takes work to hone your writing to a point. It takes work to make your oral argument sparkle. But it can be done. I have read engrossing written advocacy and heard eloquent oral advocacy; I remember because it happened so infrequently. Effective advocates have a winning edge. With practice and attention to what we have talked about here, you can own that winning edge.



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The Honorable John Charles Thomas (Col. '72, Law '75) is a former Justice of the Supreme Court of Virginia; a member of the Advisory Committee on the Federal Rules of Appellate Procedure; chief of the appellate practice group at Hunton & Williams in Richmond, VA; a trustee of the Law School Foundation, and a nationally recognized expert in advocacy.



Upcoming Alumni Events

New York Alumni Reception

May 11, 1999

Yale/U.Va. Club of New York (with special guests University President John T. Casteen III and Dean Robert E. Scott)

Boston Alumni Luncheon

May 12, 1999

Harvard Club Downtown (to honor Alumni Association President Gene D. Dahmen '67)

Providence Alumni Reception

May 12, 1999

University Club (hosted by Stephen A. Cardi '66)

Los Angeles Alumni Mexican Fiesta

May 15, 1999

Malibu-La Costa Beach Club (hosted by Todd M. Sloan '72 with special guests Professor Kenneth Abraham and Professor Emeritus Thomas Bergin)

Graduation Reception for Class of '99 Graduates and Their Families

May 23, 1999

Law School

Virginia State Bar Meeting Alumni Breakfast

June 19, 1999

Holiday Inn on the Beach

Virginia Beach, VA (Dean Robert E. Scott will address the group)

American Bar Association Meeting Alumni Reception

August 5, 1999

Georgian Terrace Hotel

Atlanta, GA

Save the Date Now for Law Alumni Weekend 2000

May 5-7, 2000

European Alumni Reunion

July 6-9, 2000

Hannover, Germany (featuring a visit to the world exposition EXPO 2000 as well as social, cultural, and academic events)

For more information on these events,
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