FACULTY

SPENCER NAMED AUTHOR OF FREQUENTLY CITED ‘FEDERAL PRACTICE AND PROCEDURE’

WRIGHT & MILLER’S “Federal Practice and Procedure” quietly added a new name to its list of authors this year:

PROFESSOR A. BENJAMIN SPENCER

Spencer is taking over responsibilities for updating the civil rules of procedure covered in Vols. 5, 5A, 5B, and 5C—focused on pleadings—for the massively cited, multi-volume reference book series. He published his first supplement to volume 5A this year. Additional supplements will follow, with a new edition of the volume to carry his name in 2018.

“This is the preeminent reference for civil procedure topics for practitioners, courts and professors,” Spencer said. “It’s the No. 1 most-respected treatise, and it’s a big responsibility, because courts cite this frequently. You’ll see thousands and thousands of citations to this work.”

—Eric Williamson

LANDING UVA LAW’S INAUGURAL INSTRUCTOR WAS SURPRISINGLY DIFFICULT FOR THOMAS JEFFERSON

THOMAS JEFFERSON considered 12 candidates to teach law at the University of Virginia before hiring John Tayloe Lomax. Why was it so difficult to find the right person for the job?

“Most law professors at that time were also sitting judges, so there was not necessarily a great deal of prestige to holding the professor of law position,” explained Professor Gordon Hylton ’77, who is writing a book on the history of legal education at the Law School. “Law teaching as a career did not really exist in 1824, when Jefferson began his search for the first law professor at UVA.”

Part of the problem was bad luck. The original choice, William Cooper, wasn’t willing to wait around for the University to open (which didn’t happen for six years after its official founding). The next choice, Francis Gilmer, dithered over whether or not to accept the position and then died shortly after he decided to accept it. Most of the others were not interested, although two of Jefferson’s candidates were too young to be acceptable to the other members of the Board of Visitors. In some ways, the problem was also that Jefferson’s vision of an ideal law professor—a relatively young man of broad intellectual interests whose expertise was not limited to a narrow mastery of private law—was not shared by many of the members of the Board of Visitors, most of whom were prominent attorneys.

Except for James Madison, many of his colleagues thought the best candidates for the position of law professor were experienced judges or practicing lawyers. In the end, Lomax got the job.

“Lomax was a respected lawyer and an expert on real property law and chancery practice, but he fell far short of what Jefferson had been looking for,” Hylton said. “He was also apparently not a very good teacher. He attracted very few students, and when he had the chance in 1830 to take a judicial position, he jumped at the chance, even though the judgeship he accepted had already been slated for termination under the new Virginia constitution.”

Jefferson believed that law should be taught as a liberal art with an equal emphasis on public and private law. In his mind, constitutional law, international law, political theory and political economy should constitute at least half of the law course—a curriculum that Lomax ignored, even though he appears to have been chastised by the Board of Visitors for not following Jefferson’s outline. His successor, John A. G. Davis, restored the Jeffersonian curriculum, but in the end, Lomax’s approach won out. By the mid-1840s, the primary focus of the School of Law was teaching law and legal practice skills to future lawyers.

Hylton drew upon a rich collection of early records at UVA relating to the founding of the University and the Law School for his book, part of a planned three-volume history, which is to include a volume on architecture and one on the history of law student life.

“Jefferson may have had bad luck recruiting a law professor, but the process of recruiting other University professors actually went pretty smoothly,” Hylton said. “The first faculty members as a whole proved to be quite distinguished.”

—Mary Wood
Education policy University-wide. In June, he presented at the Harvard Law School’s annual conference on pension management and health care. In October, he participated in a roundtable on the impact of the Affordable Care Act on the health care system. In November, he presented at the University of Virginia Law School’s annual conference on medical ethics and law. In December, he presented at the University of Pennsylvania Law School’s annual conference on criminal justice. In January, he presented at the University of California, Berkeley, School of Law’s annual conference on social justice. In February, he presented at the University of Michigan Law School’s annual conference on environmental justice. In March, he presented at the University of Chicago Law School’s annual conference on constitutional law. In April, he presented at the University of Notre Dame Law School’s annual conference on legal education. In May, he presented at the University of Michigan Law School’s annual conference on law and technology. In June, he presented at the University of Virginia Law School’s annual conference on legal scholarship. In July, he presented at the University of California, Berkeley, School of Law’s annual conference on law and technology. In August, he presented at the University of Michigan Law School’s annual conference on legal education. In September, he presented at the University of California, Berkeley, School of Law’s annual conference on environmental justice. In October, he presented at the University of Michigan Law School’s annual conference on social justice. In November, he presented at the University of California, Berkeley, School of Law’s annual conference on legal education. In December, he presented at the University of Virginia Law School’s annual conference on legal scholarship. In January, he presented at the University of Michigan Law School’s annual conference on law and technology. In February, he presented at the University of California, Berkeley, School of Law’s annual conference on environmental justice. In March, he presented at the University of Notre Dame Law School’s annual conference on legal education. In April, he presented at the University of Michigan Law School’s annual conference on legal scholarship. In May, he presented at the University of California, Berkeley, School of Law’s annual conference on law and technology. In June, he presented at the University of Virginia Law School’s annual conference on legal scholarship. In July, he presented at the University of California, Berkeley, School of Law’s annual conference on law and technology. In August, he presented at the University of Michigan Law School’s annual conference on legal education. In September, he presented at the University of California, Berkeley, School of Law’s annual conference on environmental justice. In October, he presented at the University of Michigan Law School’s annual conference on social justice. In November, he presented at the University of California, Berkeley, School of Law’s annual conference on legal education. In December, he presented at the University of Virginia Law School’s annual conference on legal scholarship. In January, he presented at the University of Michigan Law School’s annual conference on law and technology. In February, he presented at the University of California, Berkeley, School of Law’s annual conference on environmental justice. In March, he presented at the University of Notre Dame Law School’s annual conference on legal education. In April, he presented at the University of Michigan Law School’s annual conference on legal scholarship. In May, he presented at the University of California, Berkeley, School of Law’s annual conference on law and technology. In June, he presented at the University of Virginia Law School’s annual conference on legal scholarship. In July, he presented at the University of California, Berkeley, School of Law’s annual conference on law and technology. In August, he presented at the University of Michigan Law School’s annual conference on legal education. In September, he presented at the University of California, Berkeley, School of Law’s annual conference on environmental justice. In October, he presented at the University of Michigan Law School’s annual conference on social justice. In November, he presented at the University of California, Berkeley, School of Law’s annual conference on legal education. In December, he presented at the University of Virginia Law School’s annual conference on legal scholarship.

BACHELOR OF CRIMINAL LAW


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In June, Dr. Howard Jaffe, a partner at the law firm of Sidley Austin, presented an article in the National Tax Journal titled “The Social Cost of Uncollected Taxes” for the 2015 Tax Policy Conference at the University of Virginia School of Law. The article examined the relationship between the elimination of tax information on public returns and the outcome of cases involving tax fraud, corruption and tax evasion.

BACHELOR OF CRIMINAL LAW

In May, Kimberly Lewis Ferzan, an associate professor at the University of California–Irvine School of Law, presented a paper at the American Constitution Society’s Washington Justice Project’s symposium on “Voting Rights: The Path to Protection” at the University of Virginia School of Law. She also spoke at the 2015 Constitution Day event at the University of California–Irvine and the 2015 Constitution Day event at the American Constitution Society’s Washington Justice Project’s symposium on “Voting Rights: The Path to Protection”.

BACHELOR OF CRIMINAL LAW

In May, John J. Cafferty, a visiting professor at the University of California–Irvine School of Law, presented a panel on “The Jurisprudence of Justice for All” at the University of California–Irvine School of Law’s Mason Center. Cafferty was also a speaker at the American Constitution Society’s Washington Justice Project’s symposium on “Voting Rights: The Path to Protection” at the University of Virginia School of Law.

BACHELOR OF CRIMINAL LAW

In May, Brenda Sue rallies for her book “Vagrant Nation” at the University of Minnesota Law School. In April, she participated in a symposium at Harvard Law School on labor law and organized a panel on “Innovation, Workforce and the Future of Labor Law,” cosponsored by Cardozo Law School and Work Law Lab. Rallies shared her paper, “Bad Wills?” in the companion volume of the publication’s proceedings.

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New Books From Faculty

Legal, Moral, and Metaphysical Truths: The Philosophy of Michael S. Moore

KIMBERLY SPILLER-VERZAN (co-edited with Michael S. Moore) Foundation Press

Forde-Mazur honors the scholarship of law and philosophy giant Michael S. Moore with her first book, a collection of essays, letters, and reflections upon Moore’s transformative theories.

Philosophy, Law, and the -verse

KIM FORDE-MAZUR (with Ralph A. Bank, General F. Charles, and Cristina M. Rodíguez) Foundation Press

As the book’s editor, Moore reached out to thinkers in key areas—economic growth and distribution, foreign policy and defense, and international criminal justice—to identify where they devote their powers and energy, and to see if others are interested in the current political discussion should be focused.

Transnational Civil Litigation: Principles and Prospects

GEORGE RUTHERGLEN Foundation Press

Rutherford’s book, a companion to his 2011 co-edited "Transnational Civil Litigation," provides a framework for students trying to get a grasp on international civil litigation.

City Power: Urban Governance in a Global Age

RICHARD SCHRAEGER New York University Press

Schrager, an expert in local government law, looks at the powers cities have to control their own destinies.

Poplar Forest, Jefferson’s second home, and to the quadrangular con- vention of the Religious News Association in Bloomington, Ind., on “Given a Religious Liberty or Give Me an Amias Brief?” He didn’t write the title. He is on an amicus brief in support of the church in Twenty-Lawyer Church v. Pataky, making at the Emergency Court chal- lenge to a state Blaine Amendment, and he is serving as an advisor to the American Law Insti- tute’s Project on Sexual and Gender-Based Mis- conduct on Campus: Procedural Frameworks and Analysis.

Lawrence recently published “Protecting the Future of Marriage and Religious Liberty” with Thomas C. Berg in “Religion and Equality: Law in Conflict” (W. Cole Durham, Jr. & Donald Frayser, eds.; Routledge, 2016), and the 2016 Supplement to his casebook, “Modern American Remedies: Cases and Materials” with other prominent scholars and experts, to attend the American Law Institute’s second conference on the up- coming Restatement (Fourth) of Property: Land. This fall he is a visiting scholar at Stanford Law School.

The next month, he participated in a discussion on a political system reforms hosted by the Migration Policy Insti- tute in Washington, as a nonresident fellow of the institute and a session considering a new architecture for the global system for refugee protection and assistance, held in New York City as part of the 30th Annual International Migration Colloquium. He remains a member of the Homeland Security Advisory Council, advising high officials of the Department of Homeland Security on ongoing issues. Martin is also a partic- ipant in an ambitious project launched by the United Nations Trust Fund Center called the First Year Project. It draws together experts in a wide range of policy fields to evaluate the policy opportunities and threats for our next presidential term, or four years from now, and to examine the history and struc- ture of presidential first years. Martin contrib- uted an essay on immigration policy titled “Go Complacency, Go Bold: The Time is Actu- ally Ripe to Pass Through Immigration Reform,” which appeared, along with historian and fellow project participant Daniel Tichenor, in a special issue of the Immigration Policy Project hosted by the Crookeson of Na- tional Public Radio’s “The Takeaway.” This book was guest edited by Howard, who had written the state’s current constitution, in announcing the restoration—a move that was ultimately challenged and struck down by the Virginia Supreme Court. The brief outlined the rationale for favoring voting rights.

The professors’ amicus was facilitated by the pro bono efforts of Hogan Lovells partner TOM CONNALLY ’93 (see more on p. 60).
In May, "JONATHAN MOORE" directed the conference on "The Marine Environment: National and International Aspects,” which COLP organized, for the program, "Reforming Copyright Law in the Digital Age," at the Stanford Law School in May. In June, "MARK LOUIS" participated in a workshop on "The Force of Law" at the University of Vienna. "FREDERICK SCHAUER" spent a month in Germany, where he gave a lecture at the University of Münster.

In the meantime, "NACHBAR" presented a paper titled "Copyright Law Schools in Israel. He participated in a seminar on "The Ratio-Proof of Law," which was held in Cambridge, England, and presented his response to eight symposium contributions. He reviewed "The Force of Law," which was published in the Harvard Law Review Forum.

"BENNY SRANSTEDT" has recently hosted a symposium on "Law, Science, and Religion," which will be published by "MOLLY BISHOP SHADEL" and "Molly Sayler," who evaluated the campaign rhetoric at the presidential campaign as it progressed. From national conventions and political speeches, "Molly Sayler" and "Dona Trump," and their running mates, have brought to the forefront the political rhetoric of the presidential campaign as it progressed. From national conventions and political speeches, "Molly Sayler" and "Dona Trump," and their running mates, have brought to the forefront the political rhetoric of the presidential campaign as it progressed.

"Dana Nelson" was elected to the Presidency of the American Psychiatric Association for the upcoming academic year.

"Finley" spent a month in the United Kingdom, where he gave a lecture at the University of Cambridge. He also presented a paper titled "The Ratio-Proof of Law," which was published in the Harvard Law Review Forum.

"RICHARD SCHLAGER" was a visiting professor at the National University of Singapore, where he gave a keynote lecture on "Topics in Constitutional Law.

"DEBRAH HELLMAN" reviewed "The Public Sphere" by John Rawls in the Spring 2015 issue of the Harvard Law Review."

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shop on the question. “In Religion Special?” He participated in a panel titled “The Fourth Circuit Judicial Conference.”


towards the U.S. Army Judge Advocate General’s Corps, Reserve Component. Sponsor spent the summer providing legal support to Southern Command, as well as assistance on various military personnel and dependents in various parts of Florida. He is working on a book on military law that will serve as a comprehensive primer on the subject for practitioners and those interested in entering the field.


demonstrated interest in improving the law. Forde-Mazrui, who was elected in October, is the Mountin M. Kaplan Professor of Law and director of the center for the Study of Race and Law. His election on an constitutional law, employment discrimination and criminal law, among other topics. His scholarship focuses on equal protection, especially involving race and sexual orientation.


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STEPHAN, JOHNSTON and DUFFY TESTIFY BEFORE CONGRESS

Three law professors were called upon in recent months to give congressional testimony on issues related to terrorism, financial institutions and regulatory reform.

PAUL STEPHAN ’77 gave testimony on July 14 before the U.S. House Judiciary Committee’s Subcommittee on the Constitution and Civil Justice. He spoke out against the Justice Against Sponsors of Terrorism Act. In light of the revelation that the Saudi Arabian government had ties to the Sept. 11 attackers, the legislation was created to provide a private civil remedy for families and other parties affected by terrorism.

Stephan predicted the bill would harm the United States by increasing its exposure to litigation abroad, would not likely hold foreign states accountable for material support of terrorism, per its stated aim; and would strip the executive branch of its power to determine which states sponsor terrorism, putting that power in the hands of private litigants.

President Barack Obama later vetoed the bill, but a congressional majority overturned his veto.

JASON JOHNSTON addressed a House panel on May 18 on a rule proposed by the Consumer Financial Protection Bureau to ban forced arbitration clauses in financial products. The bureau cited its own study, mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which found that consumers received smaller awards from arbitration. But Johnston said the bureau did not study enough cases before taking action, and pointed out that arbitration is typically a speedier means to payment than litigation—97 percent of consumers receive an award or settlement within five months through arbitration, he said.

JOHN DUFFY testified on May 17 before the House Judiciary Committee’s Subcommittee on Regulatory Reform, Commercial and Antitrust Law for the second time this year (he also testified in March). He praised a proposed House bill, the Separation of Powers Restoration Act, which would demonstrate statutory disapproval of various judge-made doctrines requiring deference to administrative legal positions, including the doctrine commonly associated with the U.S. Supreme Court’s decision in Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc. Duffy said the proposed legislation will likely decrease litigation by “eliminating the myriad complexities and uncertainties in the current case law governing judicial review of legal issues.” The bill passed the House and has been referred to the Senate.

—Eric Williamson

Charles Adams Jr.’73

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