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Museletter: March 2004

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University of Richmond

The University of Richmond School of Law Library

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Museletter

THIS ISSUE:

Spring 2004 Regular Library Hours

Sunday
10:00 a.m. - Midnight

Mon.-Thurs.
7:30 a.m. - Midnight

Friday
7:30 a.m.- 9:00 p.m.

Saturday
9:00 a.m. - 9:00 p.m.

"MASSIVE RESISTANCE": PRINCE EDWARD COUNTY, VIRGINIA, 1954-1979

by John R. Barden,
Head, Reference & Research Services

For the parents and students of Prince Edward County, Virginia, the road *from* the U.S. Supreme Court's landmark *Brown* decision was filled with twists and turns. Although the fight between segregationists and integrationists spread throughout Virginia and the South, almost nowhere were the developments any stranger than in this rural county.

The U.S. Supreme Court, having held the *Brown* case over for arguments on proposed remedies, issued a second opinion on May 31, 1955. The Court placed the responsibility for finding the way out of the segregated school system on the local school authorities, with the Federal district courts assuring that the actions taken "constitute[d] good faith implementation of the governing constitutional principles." *Brown v. Board of Education of Topeka*, 349 U. S. 294, 299 (1955). The courts were to be "guided by equitable principles, . . . characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs." *Id.* at 300. While avoiding a fixed deadline for ending segregated schools, the Court directed the district courts to move with "all deliberate speed." *Id.* at 301.

The wording of the second *Brown* decision left the parties and the district courts with few benchmarks for progress. The three-judge panel that heard the *Davis* case ruled in July 1955 that it would not be practicable to integrate the Prince Edward County schools by September 1955. *See Davis v. County Sch. Bd. of Prince Edward County*, 149 F. Supp. 431, 432 (E.D. Va. 1957). The following April the plaintiffs filed a motion asking, in effect, "If not now, when?" *Id.* Then things began to get really hot.

On February 24, 1956, Senator Harry F. Byrd, Virginia's most prominent politician, called for "massive resistance" against the effects of the *Brown* decisions. Efforts to integrate Charlottesville schools were moving into the courts, and the unrest showed signs of spreading. The Virginia General Assembly, meeting in special session, passed a series of acts designed to shield local school authorities from Federal district court enforcement and ensuring that no child would have to attend an integrated school. On May 3, 1956, the Prince Edward County Board of Supervisors passed a resolution "that no tax levy shall be made . . . nor public revenue

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derived from local taxes . . . be appropriated for the operation and maintenance of public schools in said county wherein white and colored children are taught together." *See Griffin v. Bd. of Supervisors of Prince Edward County*, 322 F.2d 332, 347 (4th Cir. 1963).

The reaction of the local Federal district court to these developments was cautious. When asked by the *Davis* plaintiffs to set a date for integration in Prince Edward County, Judge C. Sterling Hutcheson, declined, citing the need for "patience, time and a sympathetic understanding" and concluding, in effect, that segregated schools were better than none. *Davis v. County Sch. Bd. of Prince Edward County*, 149 F. Supp. 431, 438-40 (E.D. Va. 1957). (Note: the three-judge panel that originally heard the *Davis* case had been disbanded, now that the constitutional questions had been settled. *See Davis v. County Sch. Bd. of Prince Edward County, Virginia*, 142 F. Supp. 616 (1956).)

The Fourth Circuit disagreed with Hutcheson's accommodating approach to the defendants, interpreting the Board of Education's failure to act as a "clear manifestation of an attitude of intransigence." The Court ordered the defendants to remove the requirement of discrimination and at least allow voluntary integration. "The fact that the schools might be closed if the order were enforced is no reason for not enforcing it. A person may not be denied enforcement of rights to which he is entitled under the Constitution of the United States because of action taken or threatened in defiance of such rights." *Allen v. County Sch. Bd. of Prince Edward County, Virginia*, 249 F.2d 462, 464-65 (4th Cir. 1957).

On remand, Judge Hutcheson, clearly piqued at the lack of detailed guidance from the Fourth Circuit, again adopted the slow approach. The judge feared that hasty moves would provoke a reaction. Solon, he noted, left Athens for ten years after the adoption of his laws to give them a chance to be accepted, and much remained to be done on his return. *Allen v. County Sch. Bd. of Prince Edward County, Virginia*, 164 F. Supp. 786, 792. Following Solon's example, Judge Hutcheson set September 1965, ten years after the second *Brown* opinion, as the date for Prince Edward County to come into compliance. *Id.* at 794.

The Fourth Circuit came down sharply on Judge Hutcheson's failure to act more expeditiously and stepped in to provide the specifics that the district court had refused to include: "[T]he District Judge [shall] issue an order enjoining the defendants from any action that regulates or affects on the basis of color the admission, enrollment or education of the infant plaintiffs, or any other Negro children similarly situated, to the high schools operated by the defendants in the County[.]" *Allen v. County Sch. Bd. of Prince Edward County, Virginia*, 266 F.2d 507, 511 (1959). Furthermore, the Court specifically ordered admissions to the white high school "without regard to race or color" and to permit entrance of qualified persons by September 1959, less than four months away. *Id.* After the U.S. Supreme Court refused to issue a stay of proceedings in the case, a showdown appeared likely. *County Sch. Bd. of Prince Edward County, Va. v. Allen*, 360 U.S. 923 (1959).

On September 1, 1959, two significant things happened. Judge Hutcheson took senior status, and the case was transferred to Judge Oren Ritter Lewis. And the Prince Edward County public schools did not open.

NEXT: The Closed Schools Era

Law School Staff Participate in "Law School for a Day"
By Gail Zwirner

Recently, law school staff from the library, admissions, career services, development, the Dean's office, and faculty administrative assistants participated in a program called "Law School for a Day." The mission was to connect those participating with the educational and instructional mission of the Law School through exposure to selected substantive legal topics covered in some first-year courses. The program was modeled after the one the American Association of Law Libraries offers to law librarians without a J.D. The faculty intended for the staff to experience a typical first year class. The teaching methods employed were a combination of lecture, Socratic dialogue, and role playing.

Gail Zwirner presented an abbreviated version of the first Legal Research class the librarians present during orientation week. She discussed the basics of researching the law by defining the issues, determining the jurisdiction, and identifying the components of the law. She introduced the group to research "buzzwords" such as "mandatory and persuasive authority," "annotated versus un-annotated sources," and the impact of online sources in legal research.

Emmy Reeves and Clark Williams teamed up to present an introduction to Civil Procedure by discussing the *effects test* for purposeful availment in Pavlovich v. Santa Clara County. Professor Reeves used Pavlovich to instruct the group on briefing a case.

Peter Swisher, complete with props, introduced the group to Torts law through the "stick" cases, Anonymous and Brown v. Kendall. He helped the group distinguish reasonable care through Cohen v. Petty and Spano v. Perini Corp. Of course, a torts discussion would not have been complete without mentioning the McDonald's coffee case.

David Frisch used the Restatement to discuss requirement for consideration and inducement in Contracts law. He referred to Dougherty v. Salt and Kirksey v. Kirksey to illustrate some discussion problems.

Wade Berryhill lived up to expectations and used the Socratic teaching method to distinguish the points of bailments in Nolde v. WDAS Broadcasting and Shamrock Hilton Hotel v. Caranas. Stolen fur coats and purses naturally led to a spirited discussion.

Dean Smolla used his personal experiences before the U.S. Supreme Court in the cross burning case, Virginia v. Black, to illustrate a First Amendment issue in the Constitutional Law section of the day.

The day ended with a role playing experience led by Corinna Lain. She introduced the art of witness examination by discussing the essential elements to effective cross-examination, then used the attendees to create questions for a student witness, "Ella Grimm," who was "tricked" on Halloween with an exploding jack-o-lantern, allegedly by a neighborhood boy.

Reprinted with Permission of the Author:

Dear Richmond Law Campus Community,

Unfortunately, two students have had their possessions stolen from the library over the past week. While campus police investigates these incidents, you are all urged to secured your personal belongings, laptop, printers, and other items of value in our locked carrels or on your person.

In Service,

Amandeep

NOTARY ANYONE ?

Lois Brown, the library's evening Circulation Assistant, has received a Notary Public commission. She is available Sunday through Thursdays from 3:30 p.m. to Midnight for the Law School's notary needs at no charge.

Spring Carrell Swap

April 6 –8 is the Spring Carrel Swap. Students have the option of remaining in their carrel for all three years of law school, with the exception of students enrolled in a clinic. Students registered for a clinic are assigned a carrel in the clinic for that semester and must give up their carrel until the following semester.

Vacant carrels and carrels of December and May graduates are included in the swap. On Monday April 5 the list of available carrels will be posted on the glass front doors of the Library. The list will be updated daily during the swap process. If you would like to switch carrels, the following are the dates and times when you may request a new carrel:

Tuesday, April 6 – Current clinic students only
Wednesday, April 7 – Rising third years only
Thursday., April 8 – Rising second years only.

In order to sign up for a new carrel you must go to the Administrative Office in the Library (L17). The times of the swaps are 9:00 a.m. to 11:30 a.m. and 1:00 p.m. to 4:30 p.m.

Carrell Information For Graduates, Transfers, Visitors and Swaps

Graduating students not studying for the Virginia Bar, students registered for Fall clinics, and students swapping carrels, transferring or visiting away next year must empty our their carrel and turn in the key to Mrs. Barlett in the Library Administrative Office (L17) prior to leaving town.

All students should clean their carrels before leaving for the summer. Personal belongings may be left only in in the locked portion of your carrel.. Nothing should be left on the carrel surface, the side walls , the top of the carrel or the floor underneath the carrel. Housekeeping will clean the carrels during the summer. The Library is not responsible for damage to personal items left in the carrel. We especially request that students check the locker portion of the carrel and remove any leftover food or food wrappers. Your co-operation is greatly appreciated.

If you are not planning to use your carrel next year, please consider turning your carrel key into to Mrs. Barlett. There are other law students who may be able to use the carrel. Even if you do this, you will be able to obtain a carrel for exams during the year

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The Museletter is the official newsletter of the William Taylor Muse Law Library at the School of Law of the University of Richmond, Richmond, VA 23173.

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