Professor Panel Discusses Impeachment

Phil Tonseth '22
Staff Editor

"Congress has set forth a process that we can't possibly predict." This theme pervaded the panel discussion of the current impeachment process within the House of Representatives, hosted by Virginia Law Democrats on October 2, 2019, Professors Ashley Deeks, Deborah Hellman, and Saikrishna Prakash spent forty-five minutes tying their expertise to the areas of national security, campaign finance, and presidential privilege in light of the current impeachment process. This discussion was followed by a fifteen-minute question and answer session. It’s fair to say more questions were left than were answered, not due to lack of knowledge on the topic, but rather because of the nearly constant matriculation of information from Washington D.C. and the unpredictable nature of the relevant actors.

To set the stage, Professor Deeks ran through the basics of the Constitution and powers held in foreign affairs. Drawing from the Constitution, the President has broad powers and discretion in foreign affairs, serving as the sole actor in several capacities. The structural advantages inherent to the office: secrecy, speed, and control over intelligence, have only been diminished by Congress’s additional delegation of power to the Executive through various statutes. President Trump’s current, unfettered power as the sole voice in foreign policy for the U.S., while necessary to execute the president’s authority, is being challenged for its appropriateness and necessity within the scope of the whistleblower complaint.

As an expert on national security law, Professor Deeks transitioned the discussion to the constitutional distinction of powers of the president as compared to that of the Congress and argued Congress to check the executive in this realm. As Professor Deeks explained, to classify or declassify documents at his discretion, thus allowing the White House to retain certain “code word” access files, inherent difficulties exist for congress.

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Remembering Mortimer Caplin ’40

Sarah Jane Lorenzo ’21
Staff Editor

The Law School community gathered on Saturday to celebrate the life and legacy of Mortimer Caplin ’40, who died this summer at 103. Caplin was a dedicated alumnus and professor emeritus who served as a beacon for the U.S. Navy during the Normandy invasion, sought to bring ease to tax season as IRS Commissioner in the early 1960s, and co-founded the Washington, D.C. law firm Caplin & Drysdale.

University of Virginia President James Ryan delivered opening remarks, and reflected on some of Caplin’s earliest contributions to the University: as a member of the university’s boxing team. Caplin won an NCAA boxing title with a broken bone in his left hand. The words of his boxing coach continued to inspire him throughout his career—“Punch hard, punch first,” coach continued to inspire him throughout his career. His words inspired an NCAA boxing title with a broken bone in his left hand. The words of his boxing coach continued to inspire him throughout his career—“Punch hard, punch first, and keep on punching.”

Caplin excelled academically and graduated first in his class from the Law School. His talent quickly led him back to Virginia, where he was a young law professor when Gregory Swanson, the first black student to attend UVA, applied for admission. Gregory Swanson’s nephew, Evans Hopkins, shared that Caplin’s advocacy on Swanson’s behalf was powerful. When Swanson applied to the Law School, no black man had ever been admitted to an all-white southern school. Law school faculty engaged in a spirited debate over Swanson’s application, and Caplin spoke strongly in Swanson’s favor. Although he was new to the faculty at the time and speaking up was risky, Caplin understood the importance of commitment to diversity. As the Law School’s first Jewish professor, discrimination was not foreign to him; despite graduating first in his class and serving as editor-in-chief of the Virginia Law Review, Caplin was repeatedly turned down by New York firms while searching for a job. Perhaps inspired by Caplin’s impassioned advocacy, law faculty voted unanimously in favor of Swanson’s admission. The University’s Board of Visitors rejected the school’s decision and a legal battle ensued. When Swanson entered the Law School as a student, Caplin was one of his professors. Years later, a classmate that Swanson first befriended in Caplin’s class—Robert F. Kennedy—recommended Swanson’s employment at the IRS, where Caplin was then serving as Commissioner.

Throughout his lifetime, Caplin remained dedicated to preserving Swanson’s story: in his 90s, he authored an online blog devoted to the Gregory Swanson case. Wherever he went, Caplin was committed to his community. With his wife Ruth, he opened his home as a classroom for children in Charlottesville when the Governor of Virginia shut down state public schools during the massive resistance to federal desegregation orders following Brown v. Board of Education. Caplin’s son, Michael, remembered that his father always “shared what he had with anyone who needed it.”

At work, Caplin was known for sharing his energy with all who crossed his path. Caplin & Drysdale attorney Scott D. Michel ’80, noted that Caplin relished being a disrupter and enjoyed asking hard questions. Late into his 90s, Caplin continued swimming a mile each day during the summer. He offered to take a partial year off if asked about his age, Caplin liked to quote the witticism that, “age is a question of mind over matter—if you don’t mind, it doesn’t matter.” As Michel said, “Mort didn’t mind, and it didn’t matter.”

Caplin believed that every generation can rise to greatness. Through his many contributions to the Law School, he sought to help thousands of students make their way in the world a better place. Law School Dean Risa Goluboff reflected on Caplin’s spirit of giving and generosity and noted that gifts given in furtherance of his “legendary commitment to public service” continue to provide so many opportunities for students and faculty at the Law School.

CAPLIN page 3
Last week, the Student Legal Forum hosted its annual Supreme Court Roundup, Taylor Ellicott ’20 Features Editor

where professors often discuss important cases from the previous term. Professor Dick Howard has been moderating the panel for a long time—so long that he can’t remember when the tradition started. This year, Professor Howard was joined by Professors Leslie Kendrick and Rich Schragger and, for the first time, an election law expert non-faculty member, Brian Cannon. Cannon, a William & Mary School of Law graduate, is the executive director of One Virginia 2021, a non-profit dedicated to ending gerrymandering in Virginia.

Professor Howard began the panel by reviewing the patterns and personalities that shaped the last term. Professor Howard noted that the term was not a “blockbuster” because the Court did not decide any important cases or issue important decisions. However, the term was notable for a number of reasons. The Court issued twenty-nine unanimous decisions, about 38 percent of its total decisions. Professor Howard thinks the term represented the Court in transition and can be identified as the term wherein Chief Justice Roberts truly took charge, serving as the ideological center of the Court and casting the deciding vote in two of the most important cases: New York v. United States (the census case) and Rucho v. Common Cause (the gerrymandering case).

Justice Kavanagh argued an unexpected role in the balance of power and was one of Chief Justice Roberts’s voting partners in 94 percent of cases, putting him closer to the ideological center of the Court. Additionally, Justice Thomas wrote the most (337). The fall and spring seasons of art performances this year!

As the last Sunset Series draws to an end and October rolls into Charlottes-

How to Become More Cultured on a Law School Budget: Arts and Drama Performances in ‘Cville for Free!

Virginia Film Festival (October 23-27)

Now in its 32nd year, the Virginia Film Festival is among the nation’s most acclaimed regional film festivals. As such, it is one of the highly anticipated cultural events in the region. With over 150 films being screened at guests that spread out across five days, viewers can catch every-thing from Just Mercy, adapted from Brian Steven-

1 If you haven’t, please listen to In the Dark and learn about the absolute injustice this story has perpetuated against Flowers.

2 In dog years.

3 What I call a win-win situa-

4 The play is about dungeons and dragons (Professor Schragger showed this check one out).

5 A reimagined retelling of the classic fairy tale Princess and the Pea.

The BEST PART $$$ (Drumroll) GETTING IN FOR FREE!

First, I thought it was a steal to purchase discount-

end student tickets for perfor-

mances this past weekend. I generally cost $10-12 compared to much higher prices paid by the public (e.g. most musical performances cost $50 for the public).

However, I soon discovered the open secret that students can actually get into all of the events mentioned above for FREE through the ARTS program on campus. As a law student, we are eligible to attend every event for free (if shows are not sold out).6 Each stu-

dent is limited to one ticket per event, however, you can get free tickets for multiple performances. So if you want to see all of the performances at the Virginia Film festival or three plays this semester, you are welcome to do so.

To obtain free tickets, access artsandsciences.vir-

ginia.edu/boxoffice/ and on the webpage, click on the top right blue box that says “Free UVA Student Tickets” for access to the events calendar and reservation of free tickets. I hope to see more UVA Law students at arts performances this year!

6 Generally, 90% of shows were available for student tickets, especially if booked in advance.

Taylor Ellicott ’20 Features Editor

Grace Tang ’21

One rather than religion. Professor Schragger concluded that “American Legion raises the possibility that the Supreme Court will revisit settled Establishment Clause issues, like prayer in school. He also questioned how the Court will handle these cases, where the prayer in question was once a part of civic society and has a long-standing tradition until the Court found it unconstitutional.”

Cannon concluded the panel with a discussion of Rucho v. Common Cause, where the Court held that partisan gerrymandering claims are non-justiciable within federal courts. Cannon noted that this was a blow to academics and lawyers who spent the last fifteen years trying to come up with tests to measure partisan gerrymandering after Justice Kennedy requested a test in the 2004 decision Vieth v. Jubelirer. While the case was a loss for anti-gerrymandering advocates, Cannon noted that the case would not have created the precedent necessary to end partisan gerrymandering because it only would have outlawed partisan gerrymandering where the legislators specifically admitted that they drew districts for partisan advantage. Legislators could simply stop admitting their partisan goals, and gerrymandering could continue unabated. After Rucho, the gerry-mandering fight will continue to be fought at the state level, where advocates have made significant progress. Cannon noted that the 2023 House of Representa-tives will be the first House where more than half of the members come from states that have outlawed partisan gerrymandering under their state constitutions. Cannon is hopeful that Virginia will join that list.

Grace Tang ’21

Columnist

Roundup of Recent Supreme Court Cases

The BEST PART $$$ (Drumroll) GETTING IN FOR FREE!

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Breaking the Glass Ceiling in M&A

"There's no cookie cutter ap-
proach to being a lawyer in this
field," Moderator and Covington
& Burling attorney Charlotte
Melissa Privette '22
Staff Editor

``Mein was stated in her open-
ing speech at the celebration of the
Death of Mortimer Caplin." School each year.

Friends and coworkers described Caplin as humble and res-
pectful, with a constant
tone and a twinkle in his tooth. Professor Mitchell said that Caplin's outlook was al-
ways bright and his zest for life un-
its. "His every day was designed by
the passionate pursuit of the com-
mon good."

President Ryan noted that
Caplin extolled the virtues of
"If you're looking for an ex-
ample of great and good," he
said, "look no further than Morti-
Caplin." 

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Valuable insights. Even with
certain congressional Com-
mittees maintaining secu-

rity clearances and receiving
classified briefings, the White
House has pursued an ex-

treme executive privilege to protect certain documents.

Identical to the arguments in
the current inquiry, Professor
Prakash noted the Supreme
Court in 2017 explicitly
defined its full extent. The
gaps between the branches of

the Constitution require exec-
utive privilege and the extent to
what it protects communica-
tions addressed in this inquiry re-

lating both to national secu-

rity and presidential powers.

Relatedly, Professor Deeks
addressed the risk the im-
peachment process would have
for U.S. national security

write large. With the De-
partment of Justice, and Congress

focused on this matter, their con-
nexions will not be on

ternal adversaries includ-

ing North Korea, Russia, and

ran. The executive ad-

sary to test U.S. foreign policy

and strength would naturally

follow from this distracted

focuss, thus increasing the

1 Originally conceived by

George Washington with regard
to the Jay Treaty, as
discussed in United
States v. Nixon, 418 U.S.
583 (1974).

M&A, the target is publicly trad-

ed, which means there are differ-
ent rules in terms of disclosure

and structuring of the transac-

tion, which would look different

from the perspective of a private

company, especially one that is
closely held by a few investors or

a family.

The panelists expressed how
the work they do is unique and

exciting. Slaughter partner Katy

Ashley described working on

a "panoply of things," including a

hostile takeover in which her

client received an unsolicited off-

er and was engaged in a proxy

fight over its board, resulting in

a purchase by another com-

pany. Allison Schiffman, a special

counsel at Covington & Burling,
said, "M&A is very broad," and

and that no two deals are the

same.

Ashley also spoke about how
the work she does in this field

required her to use business

knowledge to keep her op-

tions open to go back to that field. "M&A

of the corporate practices, is the

belief that if you are in control of
the room. It allows an attorney

to work across multiple indus-

tries and areas and is a very

social practice. M&A attorneys

must coordinate with special-

ist groups over the course of the
deal.

Julia Kim, an associate at Sul-

dyne & Company, shared with the

audience about her experience

in the M&A practice. Hav-

ing spent three years as a public

school teacher, she initially

believed she wanted to practice im-

migration law but ultimately
decided it was a path that didn't

point out that she was drawn by
the prospect of each deal be-

ing different. Schiffman explained

that panelists also discussed

why they chose M&A over oth-

er practice groups. In Schiffman's

case, she didn't like writing briefs

but enjoyed writing in general.

Ashley, who works in D.C.,
said that while D.C. is known

for its politics, she has found a

unique path for her career.

"M&A gets a bad rap for lifestyle.

It's not well deserved," Keeley

added. She described how the
difficulty of the work can re-

suit in managers being away
from their families for weeks,

sometimes for months.

M&A attorneys often work

long hours, sometimes working

through the night. However,

M&A attorneys also have

the ability to work remotely,

which can be beneficial to new

mothers, like Ashley.

Keeley agreed that accounting

for the unpredictability is a

good way to manage unpre-

dictability, but at the same time,

it is manageable.

Ashley spoke about how law

firms are beginning to offer

benefits to new mothers, like

reduced hours and greater flexi-

bility on when and how they

work. She also drew a contrast

between the time it takes to close
a deal and the life cycle of a case.

"Our deals start and end in a

reasonable amount of time," she

said, while litigation can last for

years.

"I don't think anyone here is
dismissed," Keeley said. "If you

question what you can do,

it is inherently some-
thing of value. Thus, oppo-

sition research would be a

bride to women's organizations.

And it is an im-
portant sanction to put
within a high crimes and mis-

demeanor definition? Or, is

there a necessary public ben-

efit to receive the information

from the investigation on the

Beijing incident? The Congress

uses determine impeachment and
judge the propriety of M&A. If

campaign finance crimes are

taken into account for the crime

of bribery, it would be more pol-

cratic and objective, because

politicians will naturally be-

lieve their own reelection is ben-

eficial to the public.

Taking into account all of

the national security, cam-


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Cold Calling. After class, the students quickly gathered together to file a complaint on behalf of JJJS against The Gunner and those like him.

III

The Covenant of Cold Calls, again known as Minding Your Own Business, provides that fellow students may inter- vene in a cold call only when the professor opens it up to the class or in order to subdue suggest the correct answer to their classmates. The Covenant strictly prohibits students from in- serting themselves between an on-going cold call, particularly in order to demonstrate their own close reading abilities and self-perceived mastery of the legal issue in question. The Covenant of Cold Calls is old as the Cold Call itself, and it is a principle that has been passed down from Peers Advisors to 1Ls for centuries as part of Common Knowledge. JJJS and his pals laid the case before a fellow court, Elle Woods v. Vivian Kensington, 317 Harv. 11, 98 (2001), the Covenant of Cold Calls was established as a general stan- dard for all rooms and it is a fact that low students look stupid in front of their classmates. It has since been referred to as a set of coattails.5 

5 The Gunner is also facing criminal charges of false report- ing a Police Officer “or Being a Cop,” as filed by his fellow classmates.

I was barely paying attention. Restatement Twelve of Law School Etiquette expanded this doctrine to protect on-call students from classmates in- fringing upon their right to an- swer the question, even after taking a long pause or saying nothing in the hopes that the professor forgets they were on call. Finally, the recent case of JJJS v. Everyone Else, 324 U.Va. 22, 24 (2019), estab- lished that, “emotional distress is a harm within the risk of attending law school.” However, in Caesar v. Brutus, 114 U.Va. 19, 31 (1954), this Court clearly carved out an exception for emotional harm at the hands of sectionmates (“Like family, the bond be- tween sectionmates is forged in the fire that they are expected to have and protect each other’s backs.”).

The Gunner’s actions were clearly in violation of the Cov- enant of Cold Calls. Not only did he fail to wait for the pro- fessor to open the cold call to the rest of the class, but he also maliciously trespassed upon the cold call of another and willfully6 trespassed a sectionmate’s private space. While The Gu- nner attempted to assert a de- fense of Trying to Move the Class Along, the Court finds this is the job of the professor, and that there is no place for a stu- dent in this duty. The Gunner should have acted like he was similarly confused about the case and comforted JJJS in the aftermath of the bloodbath with words such as, “that was totally unfair” and, “that has to be a tort, we should sue.”

We hold in favor of the plaintiffs and award emo- tional and physical damages in the form of a round of drinks at Bilt for JJJS and his pals, which we encourage all of our readers to re- spond to a brutal day of cold calls and make JJJS whole.

Faculty Quotes

E. Yale: “I’ll try not to be annoying. It might be diffi- cult.”

G. Rutherglen: “How can the professor of the law course be wrong and only myself be right?”

D. Leslie: “It doesn’t mat- ter, I don’t have to be truthful here!”

M. Schwartzman: “I’m always riding on my wife’s coattails.”

M. Gilbert: “Sometimes in my classes, people look like they’re confused, and sometimes they just look like they’re in pain.”

R. Mason: “Happy birthday. You’ll find your 1099- form in the card.”

G.E. White: “I would never think to throw a party in the early evening without al- cohol.”

Heard a good faculty quote? Email editor@law- weekly.org

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6 OR if JJJS is not a drink- er, we remind him to serve the lower court in order to find the non-alcoholic equivalent.
Club Spotlight: Older Wiser Law Students (OWLS)

Jameel Brown ‘21
2L, Education Chair for BLSA, Career Development Chair for Lambda, and a member of VLR’s editorial board.

Hi Jameel and welcome to Hot Bench! Let’s get this ball rolling with some fun questions. What’s something unique about you?

Most people don’t know that I am a UVA fan. I have donated my kidney to the hospital. It’s not a great feel.

Do you have a pet peeve?

The one pet peeve I have is I don’t like to see the person I made. I don’t like to see the person I made.

Do you eat any candy?


Do you drink your coffee black?

I don’t drink coffee, but drinking is different from eating sweets. I like sodas and sweet tea.

A “sweet tea” man! Any strong opinions about brewing it?

You can’t put sugar in iced tea. If a restaurant has iced tea, it doesn’t have any sugar. Give me sweet tea or give me death.

How much sweet tea do you drink?

That doesn’t need to be public information. It’s an abundance.

Alright, keep your secrets. Can you tell us where you’re from?

Near Austin, Texas—Lander to be specific.

Tell us something about Lander College.

It’s one of the fastest growing cities in the nation. A new subdivision goes up every other day. In 1990, the welcome sign said population is 3,300. As of today, we have over 90,000 people.

Have you been head back there this weekend. Are you attending an event?

I’m going back to Princeton. I’m going back to Princeton.

Drum Corps? It’s hard, probably the Boston Crusaders.

Favorite word?

Intersectionality—I think it’s important and not taken seriously enough.

What is your least favorite sound?

Crickets are an awful sound.

What’s one movie that left an impression on you?

Moonlight.

If you could make one rule that everyone had to follow, what would it be?

Consider other perspectives.

If you could change anything about the Law School, what would it be?

I wish the average experience of someone who doesn’t fit the typical profile of UVA law students were a little more.

What do you hope to do with your law degree?

I have dreams and goals about being a lawyer. I have dreams and goals about being a lawyer. I have dreams and goals about being a lawyer.

What’s your favorite thing about the Law School?

I am a big marching band nerd in high school and I never shook it. I played the trumpet.

Do you have a favorite

jdb4rf@virginia.edu

pcc3hq@virginia.edu
on the job,” she commented. A lot of law schools (not UVA) don’t have robust corporate curricular. Here, we are fortunate enough to have a plethora of classes that are geared toward future corporate lawyers, such as corporations, income tax, corporate tax, and securities, as well as practitioner-taught classes, and classes taught by Darden professors.

The event concluded with the panelists providing candid advice for anyone hoping to pursue a career in M&A. Ashley shared that “there’s no place to hide. You are a crucial part of the team and everyone has a role.” Each panelist expressed their hopes that more women will consider this field. It does seem that the tide is turning and more women are getting into M&A. Ashley shared that on one deal, she noticed “there are 15 men and me in this room.” Just recently, she worked on a deal with a female general counsel, a female chief legal officer, a female CEO, and a female senior associate.

Cartoon By Raphael

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npgrau@virginia.edu

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ptizzym@virginia.edu

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continued from page 3

SUDOKU

Solution