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FIRST MONDAY October 1, 2007

*Celebrating the beginning of a new term
of the United States Supreme Court*

by Sally Holterhoff

The Supreme Court of the United States (commonly abbreviated as “SCOTUS” and as “U.S.” in the *ALWD Citation Manual* and in the *Bluebook*) begins its year-long term on the first Monday in October. This starting date is mandated by 28 U.S. C. § 2 and S. Ct. R. 3. As the October 2007 term begins, you might want to check the official Supreme Court website (www.supremecourtus.gov) for a schedule of oral arguments and a great deal of other useful information about the Court.

Through the years, Valpo Law has had a number of connections with the U.S. Supreme Court. This year justice Antonin Scalia has agreed to serve on our Swygert Moot Court panel, with the competition scheduled for October 18. Justice Scalia paid a previous visit to the law school during the 1990s.

In the past we have also hosted a number of other Supreme Court justices here on campus and at summer sessions abroad in Cambridge, England. Visiting justices have included former chief justice William Rehnquist, former justice Sandra Day O’Connor, and justices Ruth Bader Ginsburg and Clarence Thomas. The current chief justice, John G. Roberts, Jr., has a Northwest Indiana connection. Growing up, he lived in Long Beach, Indiana, and attended high school at La Lumiere School in LaPorte.

For the U.S. legal community, the first Monday in October each year is a notable day. If you’d like to watch a movie well suited for this occasion, check out the library’s DVD copy of *First Monday in October*.



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Starring in this vintage comedy-drama are Walter Matthau as a liberal Supreme Court justice and Jill Clayburgh as a conservative Ninth Circuit judge who has just been appointed to be the first woman on the high court bench. They inevitably clash on such matters as obscenity and censorship of pornography. An ethical issue arises when Clayburgh’s character discovers that through her former law firm she has hidden ties to one of the parties in a case before the Court. Law students will notice that the legal research portrayed in the pre-Lexis and Westlaw days of this film all involves books. It is interesting that the film was released at the end of August in 1981 and was still in the theaters the following month when President Ronald Reagan nominated Sandra Day O’Connor to fill the seat vacated by Potter Stewart. After receiving Senate confirmation, she took the oath of office as the first (real life) woman Supreme Court justice on September 25, 1981.

Interested in how the Supreme Court evolved? Check out the new PBS series!

by Susan Waldschmidt

I would like to take this opportunity—the First Monday edition of *The Reporter*—to announce that the Law Library now has the acclaimed PBS series *The Supreme Court*, which was originally broadcast at the start of this year. This series consists of four DVDs, 60 minutes each, which together span the life of the Court from its inception to the present. They are in the law reserve collection and can be checked out for 24 hours.

I had the pleasure of viewing the first DVD, “One Nation Under Law,” which covers the early days of the Court and the part played by chief justice John Marshall, who many credit with “inventing” the Supreme Court. This DVD features commentaries by chief justice John Roberts, retired justice Sandra Day O’Connor, and a host of experts from major universities.

We also have the companion book to the DVD series: *The Supreme Court: The Personalities and Rivalries That Defined America*. The author, Jeffrey Rosen, is a professor of law at George Washington University and a celebrated journalist who was dubbed “the nation's most widely read and influential legal commentator” by the *Los Angeles Times*. I enjoyed reading the 46-page chapter “The Virginia Aristocrats” after watching the DVD. Once the DVD had sparked my interest, I was ready to learn more through Jeffrey Rosen’s engaging storytelling and analysis. With call number KF8744 .R67 2007, the book can be found in the second floor law stacks.

To celebrate First Monday, there is a quiz on the next page based on “One Nation Under Law” and “The Virginia Aristocrats.” There are nine questions, one for each justice on today’s Supreme Court, as it turns out.

FIRST MONDAY QUIZ

- 1 How many seats were on the original Supreme Court?
 - A. 6
 - B. 7
 - C. 8
- 2 Which of these was required for the job of justice on the early Supreme Court?
 - A. Ability to relocate ten months per year
 - B. Physical fitness and willingness to travel
 - C. Fluency in French, Spanish, and Munsee
- 3 Why was the length of time a justice stayed on the Court often brief?
 - A. The justices feared retaliation for their decisions.
 - B. The chief justice was hard to get along with.
 - C. The position of justice lacked prestige.
- 4 Which describes the relationship between Thomas Jefferson and chief justice John Marshall?
 - A. They were relatives who detested each other.
 - B. They were political allies who championed the same causes.
 - C. They were close friends who held different opinions.
- 5 John Marshall became a believer in a strong central government after witnessing which of these?
 - A. Cherokee families torn from the land that was promised to them
 - B. Soldiers freezing at Valley Forge during the Revolutionary War
 - C. Peasants starving in France before the French Revolution
- 6 What did the Supreme Court decide in *Marbury v. Madison*?
 - A. Madison must give Marbury his commission and pay him back wages.
 - B. Marbury has no right to his commission since it wasn't delivered on time.
 - C. Marbury has a right to his commission but the Court cannot order its delivery.
- 7 *Marbury v. Madison* strengthened the Supreme Court by establishing its
 - A. Power of judicial review
 - B. Authority over lower courts
 - C. Superiority to the executive branch
- 8 Immediately after *Marbury v. Madison*, chief justice John Marshall
 - A. Wore a red robe trimmed with ermine and flaunted his victory
 - B. Labored to win the trust of the president and Congress
 - C. Employed judicial review at every opportunity
- 9 In the 1810 case *Fletcher v. Peck*, the Marshall Court addressed one of the most corrupt land deals in history by
 - A. Declaring the Georgia law unconstitutional
 - B. Unanimously supporting the obligation of contracts
 - C. Upholding the Georgia law which rescinded the deal

To find the answers, turn the page . . .

Answers to First Monday Quiz

1 A 6

2 B *Physical fitness and willingness to travel*

Justices were made to ride circuit hundreds of miles to preside over lower courts. It was a physically taxing job that nearly killed one justice when he attempted to cross a frozen river and fell through the ice.

3 C *The position of justice lacked prestige.*

The Court handled run-of-the-mill cases. There was little to attract and hold an ambitious, talented person. The first chief justice, John Jay, left to become governor of New York, saying essentially that he didn't find the job of justice particularly interesting or appealing.

4 A *They were relatives who detested each other.*

They were distant cousins, both from Virginia, who had very different views on what was best for the future of the country. Jefferson was a strong believer in majority rule and states' rights while Marshall felt that a strong central government was critical to the young nation's survival.

5 B *Soldiers freezing at Valley Forge during the Revolutionary War*

As a young soldier, Marshall witnessed 4,000 men unfit for duty for want of clothing, most without shoes. George Washington begged the states for aid to no avail. The Continental Congress was not empowered to force the states to contribute.

6 C *Marbury has a right to his commission but the Court cannot order its delivery.*

As his presidency drew to a close, John Adams stayed up late signing "midnight appointments," attempting to pack the courts with Federalists before Republican Thomas Jefferson became president. Not all the commissions were delivered, and Jefferson instructed his

secretary of state, James Madison, not to deliver those that remained. One of the appointments was intended for William Marbury, who sued. Marshall's decision is still admired today for its cunning. By ruling that the federal statute authorizing the Court to order the commission's delivery was unconstitutional, he asserted the power of the Court to strike down laws that conflict with the Constitution.

7 A *Power of judicial review*

This is the the power of the Court to strike down laws that conflict with the Constitution.

8 B *Labored to win the trust of the president and Congress*

Marshall was sensitive to the early Court's vulnerability. Jefferson would go along with judicial review as long as he felt the judges could be trusted. Marshall chose to wear a plain black robe rather than the ermine-trimmed red robe worn by judges in England (which would have antagonized Jefferson) and tried to establish the Court as a nonpolitical branch.

9 A *Declaring the Georgia law unconstitutional*

In 1795, the Georgia legislature sold 35 million acres (now most of Mississippi and Alabama) to northern speculators for 1½ cents an acre in exchange for massive bribes. Outraged, the subsequent legislature tried to rescind the deal. Marshall wrote an opinion for the Court siding with the original purchasers and finding that the Georgia law violated the provision that says no state can pass a law interfering with the obligation of contracts. (The court was not unanimous in this opinion, though; there was one dissent, which greatly displeased Marshall, who felt a unanimous court had the authority of being above politics.) By emphasizing that local majorities could not interfere with contracts, *Fletcher v. Peck* helped create a stable regulatory environment for the young national economy.