Textualists – those who interpret the law or the Constitution by determining what its text meant when the statute or law was ratified – are wrong. The only true meaning of any text is the meaning that its author intends, according to Stanley Fish, a nationally recognized legal and literary scholar, who delivered the 101st Sibley Lecture in March.

“Things like text, utterance, paintings, gestures and facial expressions have meaning when it is assumed that they may have been produced on purpose. They are not just found in nature – they have been designed. And if you want to know what they mean, you have to figure out what the designer had in mind,” Fish said.

Textualists generally search for the meaning of a document by looking for the standard dictionary definitions of words at the time the statute was proposed. Under Fish’s argument, this is not sufficient because an author was not bound to use the conventional meanings of words when crafting the text.

“Speakers and writers are free to make anything they like by the words they record. ‘Yes’ can mean ‘no.’ ‘Good’ can mean ‘bad.’ Meaning is an intention, not a linguistic fact,” Fish said.

He further argued that the meaning of a text should not simply be what its interpreters say it means because this will lead to the text having as many meanings as interpreters.

“Rewriting is what is authorized by those who say that interpreters, and not intentions, determine what a text means. Rewriting is what is urged by those who say to us that the Constitution is a living document and should be read in light of our present meaning,” Fish added.

He also rebutted the argument that the text may in some cases stand for itself. “It cannot be the case that the text means what its words apart from intention mean because apart from intention the words don’t mean anything and are not even words.”

While emphasizing that his research does not in any way take psychology into account, Fish pointed out that knowing that the meaning of a text is rooted in the author’s intention is just the first step. He further stated that just what the author’s intention is must still be determined empirically.

Fish’s lecture was based on his article “What is Legal Interpretation: There is No Textualist Position,” which was published last year in the San Diego Law Review.

Fish joined the faculty of Florida International University in 2004, where he currently serves as the Davidson-Kahn Distinguished University Professor of Humanities and Law.

Considered one of the foremost authorities on English poet John Milton, Fish has taught English at the University of California at Berkeley, Johns Hopkins University and Duke University, where he was also a law professor.

Fish is a widely published author in the areas of literature and law and has appeared on many national television shows. His work has appeared in such prestigious publications as The New York Times and The Chronicle of Higher Education as well as some of the country’s leading legal journals.

The Sibley Lecture series is sponsored by the Charles Loridans Foundation in honor of the life and work of John A. Sibley, a 1911 Georgia Law graduate.

Sibley worked at King & Spalding for nearly 30 years and served as general counsel to The Coca-Cola Company for approximately seven years. He is also noted for his efforts to help racially integrate Georgia’s public school system.

Georgia Law Associate Dean Paul M. Kurtz praised the integrity Sibley conducted himself with in his professional and personal lives.

“The life of John A. Sibley serves as an example to everyone and reminds young lawyers in particular that a person can live a life that makes a difference while practicing in the profession with honor and dignity.”

- By rising third-year student Allison Pruitt
Students who dedicate themselves to the study of law leave school equipped not only to become attorneys but also to become leaders. Honing the ability to write, to make a rational argument and to excel at preparation, all pave the way for lawyers to step into leadership roles that help bring about change and shape history, according to Sarah Weddington, the winning attorney in the historic U.S. Supreme Court case Roe v. Wade. Weddington delivered this message as the speaker at the 24th Edith House Lecture in March.

“While not everyone who has an important role in history is a lawyer, I do think that the abilities and the techniques that you learn in law school give you a critical advantage in the kind of skills that are needed for leadership,” Weddington said.

She also recounted how her involvement in the landmark abortion case began when she tried to answer a simple question for a group of women in Austin, Texas. The women asked if they would be prosecuted if they gave information to those who wanted to know where and how to get an abortion. Weddington agreed to conduct some research for the women, never contemplating their question would lead to her arguing and winning a case before the U.S. Supreme Court at the age of 26. She is still the young-est woman to ever do so.

“At that point, I had done not one contested case. I had done uncontested divorces, wills for people with no money and one adoption for my uncle. That was my complete legal experience,” she said.

Worried that she might lose the case, Weddington ran for the state legislature in Texas so she could attempt the change “from within” if necessary. Only days after being sworn into the position, Weddington learned that she had won Roe when she received a phone call from a reporter in her new office at the Texas Capitol building.

Weddington then went on to become the first woman to serve as general counsel for the U.S. Department of Agriculture and the first woman director of the Texas Office of State-Federal Relations. She also worked for the Carter administration as assistant to the president of the United States addressing national gender issues.

She offered three tips to becoming a strong leader. First, Weddington suggested that students practice leadership. She explained that small leadership roles early in her life – such as serving as president of the Future Homemakers of America in high school and working in student government in college – prepared her for the larger leadership roles she stepped into later in her career. “I’m urging you to try some things that you are not sure that you can do. It’s not that you have to be perfect to be a leader,” she stated.

Second, Weddington encouraged students to use a critical eye in observing others. “Watch other leaders and learn from the best of what they do and learn to avoid what doesn’t seem right to you,” she said.

Finally, Weddington stressed that students should look for issues they respond to and feel passionate about.

Weddington said she is encouraged when she visits law schools and speaks to students about stepping into leadership roles. “I look out and I see what I think of as reinforcements – people who will have the skills, people who will have the talents [and] people who will have the knowledge of how to work within our legal system and who can in a very genuine way leave their thumbprint,” she said.

Weddington is an accomplished lawyer, author and supporter of women’s rights. She currently practices law in Austin and is an adjunct professor at the University of Texas at Austin. Weddington’s leadership as a women’s rights advocate continues today. She is a founding member of the Foundation for Women’s Resources and the creator of The Women’s Museum in Dallas.

The Edith House Lecture series is sponsored by the Women’s Law Student Association in honor of Edith Elizabeth House, one of the first female graduates of the University of Georgia School of Law. She graduated in 1925 and was co-valedictorian of her class. House became an assistant U.S. attorney in the Southern District of Florida in 1929, where she served for more than 30 years.

- By rising third-year student Allison Pruitt
Rusk Center hosts international trade conference

In March, the Dean Rusk Center - International, Comparative and Graduate Legal Studies hosted the International Trade Under the Rule of Law Conference, which was also designated an American Society of International Law Centennial Regional Meeting.

The central focus of the conference was the dispute settlement system of the World Trade Organization (WTO), with a view toward exploring the need for a superstructure of international law governing trade and economic cooperation between countries.

With the WTO marking its 10th anniversary last year, this symposium provided a timely venue for the review of one of the most important aspects of the WTO – the dispute settlement system, according to Rusk Center Director and conference organizer C. Donald “Don” Johnson (J.D.’73).

“It is important to look back and to take stock of how the system and its members have fared over the past decade and to address questions related to reform and modification.”

The distinguished group of international panelists assembled for the conference included ambassadors, university professors, legal practitioners and government officials, all of who are intimately involved with various aspects of the WTO dispute settlement system.

Johnson said these guests engaged in dialogue that transcended pure academic discussion by providing true, pragmatic legal and policy debate.

“In this way, conference participants were able to gain practical insight from those who are directly involved in the WTO dispute settlement system process – the decision makers – as well as those who follow and study the outcomes and workings of the system,” he said.

The proceedings of the conference will be published later this year as part of the Rusk Center’s Occasional Papers series.

Annual Red Clay Conference focuses on natural disaster planning

In the wake of last year’s devastating hurricane season, organizers of the 18th Annual Red Clay Conference planned a day of panels and expert commentary to review the lessons learned and to explore how to be better prepared in the future.

The keynote speaker was nationally recognized expert on environmental law and land use Rob R.M. Verchick, the Gauthier-St. Martin Eminent Scholar Chair in Environmental Law at Loyola University in New Orleans. Since the Hurricane Katrina disaster, he has traveled the nation discussing Katrina, what went wrong, what could have been improved and the lessons that can be taken from the experience in preparation for future natural disasters.

At the March conference, Verchick addressed these issues and their implications on both a national scale and as they relate to Georgia.

Panel topics covered included: planning and preparation for emergency response, land use policy to prevent and mitigate against natural disasters, insurance implications, and health and safety issues.

Authorities from the Federal Emergency Management Agency, the Small Business Administration, the Environmental Protection Agency, the American Bar Association, the Centers for Disease Control and Prevention, the Southern Environmental Law Center and the U.S. Army Corps of Engineers served as panelists.

Sponsored by the Environmental Law Association, the Red Clay Conference was established to increase public awareness of environmental issues of regional, national and international significance through a series of educational presentations and open forum discussions.
This spring, a dozen second- and third-year Georgia Law students traveled to the famed University of Oxford for a semester of studying the law.

Offered in partnership with The Ohio State University, Georgia Law at Oxford is one of only a few semester-long study abroad programs offered by American law schools. This year, OSU’s James J. Brudney served as the American professor in residence. Next spring, David E. Shipley, Georgia Law’s Cobb Professor and Oxford academic coordinator, will travel to England.

The spring 2006 term was the program’s inaugural semester, and an American Bar Association inspection team and participating students thoroughly praised the program. Shipley said the ABA’s report on the March site inspection was “glowing.”

He also noted that the program is a once-in-a-lifetime experience for students. “They have the opportunity to live abroad. The curriculum is all international and comparative in nature. Also, the independent research project is conducted under the direction of an Oxford law faculty member,” Shipley said.

Second-year student Patrick H. Garrard, who signed up for the semester abroad looking for exposure to international law and the way different legal systems operate, said the experience was incredible. “The work was quite difficult and time consuming like normal semesters in law school, but it was just such a different experience because you also had a culture to learn about when you finished classes,” he said. “It made for a more dynamic law school experience that revolved around more than simply the classes.”

Regarding the experience, second-year student Jeffrey H. Gibson, who previously studied abroad, said that compared to his prior foreign study experiences, this one was much more demanding. “This trip has been much more focused on study and on understanding the similarities and differences between two systems which, on the surface, seem quite dissimilar, but on further inquiry may not be.”

Nathaniel H. Hunt, also a second-year student, said learning foreign law enhances one’s legal education and can only assist in furthering justice and improving the application of and access to law. “Comparative law can affirm the strengths of [the U.S.] legal system while at the same time provide ample fodder for questioning the legal principles and processes in the United States,” he said.

Notably, all slots for the 2007 Georgia Law at Oxford spring semester have been filled, and there is a waiting list.

Additionally, the school’s newest foreign study opportunity (which was in progress during the production of this issue of the Advocate), the Georgia Law Summer Program in China, is also enjoying success, with nearly 20 participants, including eight Georgia Law students and two practitioners, who are earning CLE credit.