

The Case for Full Coeducation at UVA Turned On a Late-Night Phone Call

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In the spring of 1969, Virginia Scott was 18 and preparing to graduate from Albemarle High School. She was also working part-time for a lawyer named John Lowe. Stories in the local newspaper about his work on civil rights cases had inspired her to apply for a job in his Charlottesville office.

That collaboration would lead to a monumental event – full coeducation at the University of Virginia.

On a recent summer morning in Charlottesville at Bodo's Bagels on Emmet Street, Lowe recalled a long-ago conversation with Scott that got the coeducation ball rolling. His young employee told him she was about to graduate with exceptional grades.

"Oh, I guess you will be going to Virginia then," Lowe remarked.

"No," she replied. "Women aren't allowed at Virginia."

Incredulous, Lowe shot back, "You've got to be kidding me!"

And with that, it was on. Lowe, who had himself graduated from UVA's School of Law two years prior, decided to take up the issue.

"It shocked me," he said. "I said, 'Well, then, we'll just have to take care of that.'"

He tried to get an appointment to speak to the Board of Visitors to convince them the stance was inappropriate and unconstitutional. Lowe figured they would immediately see the error of their ways and change, "because this was Virginia, my beloved University."

He was wrong. They would not give him an audience, so Lowe felt he had no other choice.

"I said 'OK, we're going to file suit.'"



Early Years at UVA

Thomas Jefferson founded the University to teach Southern gentlemen.

“A plan of female education has never been a subject of systematic contemplation with me,” he wrote in a letter to friend Thomas Burwell in 1818, the year after he, James Monroe and James Madison gathered for the ceremonial placing of UVA’s first cornerstone. The prevailing attitude at the time was that higher education would make women boisterous and jeopardize their roles in the household.

Over the years, women gradually became a small part of the student body, albeit in a piecemeal fashion. A 2003 UVA Library exhibit on women and the University said, “Over the course of the preceding century, women lived, studied, and worked at the University as professors’ family members, summer students, graduate students, and members of the University faculty, staff, and Board of Visitors.” The board allowed women to attend graduate and professional schools in 1920, and in 1923, Elizabeth Tompkins became the first female School of Law graduate.

But there was no systematic way for women to apply to be undergraduate students. For them, the door to the state’s flagship public institution remained largely closed.

In 1969, the year Scott was graduating from high school and UVA was celebrating its sesquicentennial, the Board of Visitors finally voted to grant women access to all parts of the University. It assigned the task of creating a transition map to then-Provost Frank Hereford and a coeducation committee. The plan: to gradually admit women to UVA over the span of 10 years and cap female enrollment at 35 percent in 1980.

Nonetheless, Lowe continued to prepare his lawsuit with his friend, lawyer Philip Hirschkop. Both were private practitioners who were cooperating attorneys with the American Civil Liberties Union. In addition to Scott, the pair

represented three other young women: Nancy Jaffe, Nancy Anderson and Jo Anne Kirstein.

In their complaint, filed in Richmond federal court in 1969, the plaintiffs said the University “severely discriminates against women in their admissions policies.” They appealed for a change in those policies to allow women to enter the College of Arts & Sciences.

David and Goliath

After graduating from the School of Law in 1967, Lowe went to work for a lawyer named James Harry Michael, who also was a state senator. Michael was so impressed with Lowe’s work that he asked him to become a partner in his Charlottesville practice. But the young lawyer wanted to “hang his own shingle,” so he left that law firm and set up his solo practice in town. The two would meet again under very unusual circumstances.

Michael was hired as special counsel to represent UVA in the lawsuit Lowe and Hirschkop had filed. “It’s like a class-C movie plot,” Lowe said. “The University hired Harry Michael, so it’s David and Goliath; it’s the mentor and the protégé.”

The two well-acquainted attorneys squared off in Richmond’s federal court before Judge Robert Merhige, who offered pivotal rulings in other landmark cases including the integration of Virginia’s public schools.

One of Lowe’s expert witnesses was Kate Millett, then dean of Barnard College, which had recently instituted coeducational dorms. “She was a very famous women’s rights person,” he said.

Lowe described some of the defense’s suppositions as “crazy.”

“At one of the hearings, the question was proposed by Senator Michael: ‘Isn’t it true, you have all these men’s bathrooms on the Grounds of the University? You don’t have any women’s bathrooms. How do you work that out?’”

Millett’s response brought down the house. “Kate said, ‘Oh, shucks, Senator, all you do is plant geraniums in the urinals and you’ve got a women’s bathroom,’” Lowe recalled with a chuckle.

“Judge Merhige almost fell off the bench laughing. I mean, really, she said that in open federal court!” Lowe added.

And there were other stories.

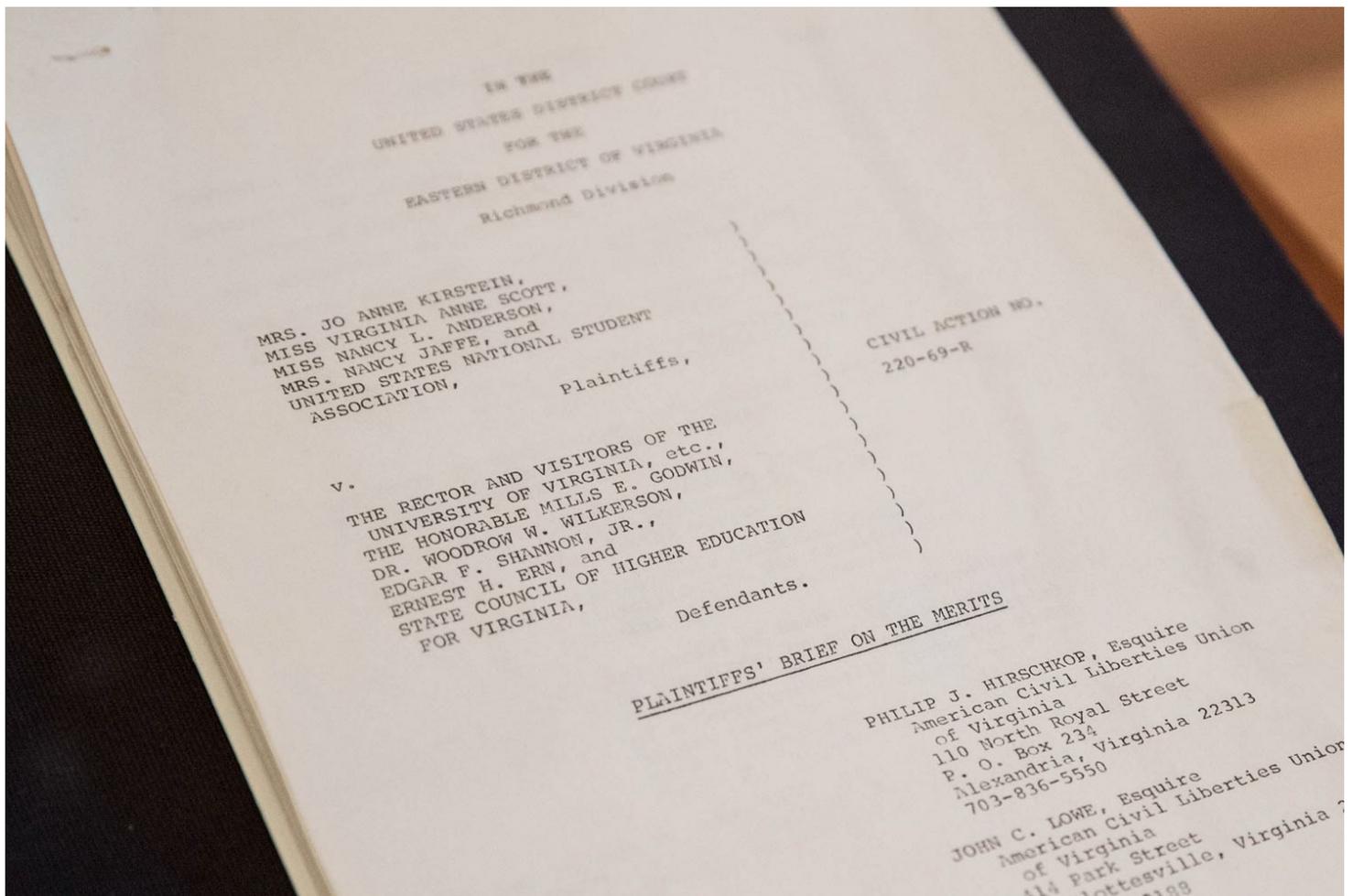
One University expert witness said coeducation would not work because women needed more diminutive furniture. “I couldn’t believe I was hearing this,” Lowe said. “And another expert said, ‘Well, women need to have a breakroom on the dormitory hall so they can have coffee while they are studying.’” Lowe’s response: “Why should it be different for women than men?”

Student Council President-Elect Provides Break in the Case

In the course of the lawsuit, Lowe asked for a preliminary injunction so Scott could enroll at UVA in 1969 and not lose a year of school while the case was pending.

The day before the preliminary injunction hearing, Michael sent Lowe an exhibit he was planning to enter into evidence. It was identified to Lowe as the report from Hereford’s Coeducation Committee.

“It was just such a boondoggle,” Lowe said. “It said that coeducation ‘might’ work. ‘Might’ was the word. It might be feasible to add up to 35 percent of women to the entering class over a period of 10 years – and that was only ‘might.’”



Then a startling twist turned the case on its head.

About 10 p.m. on the spring evening before the scheduled hearing, Lowe, a bachelor living in an apartment on Jefferson Park Avenue, got a phone call. It was the president-elect of Student Council, Kevin Mannix. A rising third-year student, he was also the student representative on Hereford's Coeducation Committee. He wanted to know if his minority report had been attached to the University's majority report on coeducation.

"No," Lowe responded slowly.

"I didn't think it would be," Mannix told him. "I'll bring it over."

"I remember this very well," Mannix, said in a phone interview. "I wrote the minority report because I could not subscribe to the position that the committee was taking on coeducation. It was a quota system. I guess in my naiveté, I thought it would be included in the record. I don't know what happened. I don't want to speculate, but somehow it was not provided to John."

(Mannix went on to earn a degree from the School of Law in 1974 and marry his wife, Susana, who enrolled at UVA in 1970 as a result of Lowe's case.)

The next day in court, Lowe thought to himself, "They're not going to do this," they are not going to move forward without submitting the minority report.

They did.

Michael introduced the majority report into evidence as the Report of the University's Coeducation Committee.

Lowe offered no objection.

Merhige sensed something was off.

“Judge Merhige knew me pretty well and he could see by my facial expression that something was wrong,” Lowe said. “He was really watching me carefully.”

On cross-examination, Lowe handed Mannix’s report to Hereford.

“I said, ‘Mr. Hereford, I hand you this document. May I ask you if you know what it is?’”

Lowe said Hereford looked at the report and blanched. “He said, ‘Yes, I do know what it is.’

“Can you tell Judge Merhige what that is?” Lowe continued.

“This is Mr. Mannix’s minority report,” Hereford responded.

Lowe asked, “Is that part of the report of the coeducation committee?”

Hereford replied that it was.

At that point, the judge knew exactly what was going on, Lowe said. “He got beet-red and furious on the bench. He knew important evidence had been withheld from the court.”

“I offer that in evidence,” Lowe told the judge, who immediately went into recess to read the new material.

Lowe said it was a “masterpiece” and “shredded” Hereford’s coeducation plan. “The majority report looked like an effort by a bunch of people to try and avoid letting women in by making up just about anything they thought supported that result,” he said.

“I’ve taught trial advocacy at UVA since 1981, and I tell you, that on that day, the case was over. When Judge Merhige realized what they had done, the case was over, although no such proclamation was made,” Lowe said.

After coming out of chambers, Merhige immediately granted the temporary injunction and Scott entered UVA later that year on the stipulation that if Lowe eventually lost the case, she would not earn any course credit. The other three women, perhaps wary they would not get a good reception, opted not to enroll.

A Black Eye on the University

Because the overall coeducation lawsuit was a challenge to the constitutionality of a state statute, it was assigned to a three-judge court. With the narrow issue of the preliminary injunction resolved by Merhige, the legal teams for the plaintiff and the defendant gathered in a federal courtroom in Richmond to continue the case. They were immediately called into chambers by the judges: Merhige, John MacKenzie and James Craven.

“When they got us in there, Judge MacKenzie said the reason they had called the teams in is because they thought the University was going to get a very black eye out of this matter if it went the wrong way,” Lowe said. Michael quickly moved for a continuance, effectively putting the trial on hold so he could go back to the Board of Visitors to see if the matter could be resolved.

About a week later, the board went into a special meeting and came out with a voluntary acceptance of full coeducation within three years on the terms Lowe’s suit had proposed: admitting 450 women to the College in 1970 and 550 in 1971. In 1972, students were considered for admission to UVA without regard to gender.

This year, women make up 56 percent of the incoming class and come from 47 states and 72 countries.

Where is the Order?

Lowe said he has been asked repeatedly for a copy of the court order demanding that UVA become coed. There isn't one.

"There was no order because if the University said they would transition fully to coeducation, we knew we could trust the University, so we didn't ask for an order. And the case was over," he said.



Virginia "Ginger" Scott

Scott was 19 when she enrolled at UVA. She graduated in 1973 with a degree in religious studies. She later earned master's degrees in religious studies and education from the University.

"I feel fortunate to have had the opportunity to be a part of this suit and to watch it unfold," she wrote in an email. "I am grateful for the outcome which enabled me to receive an education that enriched my life across many dimensions. All women who were able to attend UVA after the case was resolved are indebted to John for taking this case and so skillfully achieving a positive outcome for us all."

Scott said watching Lowe work on this case and others was an inspiration and a valuable learning experience.

"He was brilliant, fearless and totally dedicated to equal rights cases, regardless of how unpopular it made him," she said. "He was just getting his own practice going, but that didn't stop him from spending most of his time on cases that brought little or no revenue."



COEDUCATION



Yes, Virginia, there is a Senta Klaus. Although some found it difficult to accept this fact, for most the incision has healed.

yes, virginia, there is a senta klaus, a mary ann peterson, a carol marie jeffries and a joyce leigh humphries and there are ads for women's lingerie in the cavalier daily and there are 42 rejected urinials in the men's dormitories and there are lipsticks and powderpuffs and false eyelashes and bride's magazines in newcomb hall and there are painted fingernails waving in the faces of professors. there are people who expect you to open doors for them and there are people who suspect you if you do and there are people who wear chanel no. 5 and there are people who get to have shower curtains and there are people who did not go to episcopal or philips exeter or choate and there are people who do not roll to madison or mary ballwin or sweet briar and there are people who do not belong in fraternities and there are people who do not carry black umbrellas and there are people who do not shop at eljo's or ed michtom's.

body, but most importantly, a new mind — a mind that challenges the old one, that rattles its complacency with a gentleman's approach to academics and extra-curriculars. It is a mind with different perceptions and new intuitions. It is the mind of a person, an individual. It is not seeking group identity, but identity with the whole. "We are not just women, we're people". "Why wouldn't I stop to talk to a bunch of guys? I'd stop to talk to as many girls." "No, I won't give a woman's opinion, but I'll give my opinion if you want it."

It has been hard for some of Virginia's gentlemen to accept the women. Many just weren't sure how to act. Two hundred learning potential rapists camped outside the women's dorms in early September did not make for good public relations. Seeking dates with co-eds only on off weekends or days when the weather was too poor to go, was not a very moral. Chauvinistic letters to the SD demanding more cooperation from the faculty gender did not lead to faith in the young boys. But the men are learning. The incision has been healed, the rib has set in comfortably back in place, and surprisingly enough for many, the operation wasn't as difficult as it

Lowe is 80 and still practicing trial law full-time in Bethesda, Maryland, with most of his practice in Virginia jurisdictions.

"One of the things that comes out of this, I hope, is to inspire young lawyers who may think they don't have much power," he said. "As long as you've got the opportunity to go to court for somebody, you've got a lot of power. Neither Phil nor I received any fee for handling this matter. It was a pro bono-publico case — for the public good. This will hopefully give other lawyers courage and inspiration to do good things on a pro-bono basis."