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The Advocate

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WILLIAM & MARY SCHOOL OF LAW



General Zinni and a Changed World

by Kelly Pereira

On Monday, September 26, General Anthony Zinni, USMC (ret.), gave a lecture entitled "America's Role in a Changed World." The lecture, sponsored by the law school and the Human Rights and National Security Program, was well-received. Room 119 was full to capacity, and a cable feed had to be routed into room 120 to make room for the overflow crowd.

Gen. Zinni was formally honored as William and Mary Law's 2005 Lowance Fellow at the Wren building the same day. The fellowship honors a former Executive Vice President of the College, Carter O. Lowance, whose public contribu-

tions included serving as Chief of Staff to six Virginia Governors. Since 1989, the Lowance Fellowship has brought a distinguished visiting lecturer to the law school for a series of lectures and meetings with students and faculty.

Coincidentally, the year 1989 was the focal point of Gen. Zinni's lecture. That same year Gen. Zinni had just been promoted to Brigadier General and was stationed in Europe. Gen. Zinni arrived in Berlin at the fall of the Iron Curtain. The moment of his arrival, the standard briefs no longer applied. With no protocol to follow, a second lieutenant suggested that they try to enter East Berlin.

At Checkpoint Charlie, there were no sentries on either side of

the Berlin Wall. The eastern side of the wall was a different world of vintage bicycles, wooden auto-parts, and residual damage from World War II. They drove to Russian military garrison where the sentry, "didn't know whether to shoot or salute." Nevertheless, they passed unimpeded into the garrison and through the officer's quarters. Returning to West Berlin from their journey, they were inspired to take a piece of the Berlin Wall.

Gen. Zinni said that there was a tangible sense that the world had changed. With the fall of the Soviet Union, new troubles were brewing in the world. Old ethnic hatreds and disputes reached a boiling point. The Balkans started to disintegrate, noncombatants had to be evacuated

from Africa, the U.S. built up for the first Gulf War and armed Israel with missiles to defend itself.

There was a rise in non-state entities including drug cartels, warlords, terrorists, organized crime, and NGOs. There was the

Continued on page 2

INSIDE

Interview: Professor Silfen.....4

Iraqi Special Tribunal Clinic.....6

Supreme Court Preview.....8

Ask A Canadian.....12

Sex and the Law.....14

Zinni, continued from page 1

rise of the Information Age. There were migrations, legal and illegal. There was climate change. Overall, there emerged two worlds. One stable. One unstable. And they were no longer isolated but interdependent.

Gen. Zinni said, "It used to be, 'I gotta take care of business at home; that doesn't affect me.' But we are no longer self-sufficient, behind borders, and playing by old rules." America is no longer immune from the problems of the unstable world.

Wilson after WWI and Truman and Marshall after WWII saw a need to stop history from repeating itself to varying degrees of success. According to Gen. Zinni, "We've elected again to take the approach of World War I. We've tried to impose change: right, wrong, or indifferent... The old rules are gone and we are still fighting by them."

Gen. Zinni cited the 9/11 terrorist attacks and FEMA's failure

after Hurricane Katrina as evidence of a need for governmental reform. He advocated streamlining the federal government, not creating more bureaucracy. "In military and business, the worst you can do is create more organization."

In addition to internal restructuring, Gen. Zinni stressed that international intervention is of dire consequence. Fostering political, social, and economic reform throughout the world is "no longer altruistic, but necessary." Gen. Zinni pointed out that in Haiti, Bosnia, and Somalia, America waited too long to intervene, until resolutions became costly if not impossible. Military intervention is not the only answer. "A little insurance premium could have prevented this."

Gen. Zinni also criticized the War on Terrorism. "We declared war on a tactic. Can you imagine if FDR had said, 'We declare war on U-boats?'" Gen. Zinni reiterated that America cannot just be reactive or defensive. America is no longer facing a traditional enemy. Over the



General Zinni's talk on the current state of international relations and national security drew a large crowd.

last sixteen years, the stable and unstable world have been colliding. Problems continually wash up on America's shores. "We are not the world's policeman, but we are the world's leader by default."

Gen. Zinni said that immediately after the 9/11 attacks he heard from Middle Eastern friends that were frightened on many levels. Surprisingly, one friend said he was afraid that America, in retaliating, would lose its role as moral compass to the world. Gen. Zinni reflected on the words of de Tocqueville, "America is great because she is good. If America ceases to be good, America will cease to be great."

In concluding, Gen. Zinni used the analogies of a cobra and a swarm of bees. Communism was like a cobra: potentially deadly if striking, but predictable. Terrorism is like a swarm of bees: each sting heightens the pain and each strike is unpredictable. "The enemy is not monolithic. It is a whole mess of things." America's new "purpose of power" is to throw away the old policies and lead in the 21st century.

After the lecture, Gen. Zinni responded to questions. In his responses, he addressed the need

to better relations with China and India. He also advocated mediating between Israel and Palestine. He anticipates that stability in Iraq will only emerge within 5-10 years. In terms of foreign aid and intervention, Gen. Zinni stated that he envisioned America interacting with other "morally responsible institutions" on two levels. First, to provide leadership development through funding, education, and training. Second, to enable capacity building of environmental sustainability and political institutions.

Leadership development is a cause near and dear to the heart of Gen. Zinni. Gen. Zinni is a first generation American who rose to become a four-star general in charge of the U.S. Central Command. After almost 40 years in the Marines, Gen. Zinni is still retired in name only. Since his retirement in 2000, Gen. Zinni has served as President Bush's special envoy to the Middle East and as the special envoy to the Henri Dunant Centre for Humanitarian Dialogue. He currently serves as President of UCLA's Center for Middle East Development and has been a vocal critic of the war in Iraq. Tom Clancy co-wrote Zinni's autobiography, *Battle Ready*.

THE ADVOCATE

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Law School Celebrates John Marshall's Birthday

by Nicolas Heiderstadt

On September 22, the law school hosted a birthday celebration for its most distinguished alumnus, John Marshall, first Chief Justice of the United States Supreme Court. Festivities opened in the McGlothlin Courtroom with a lecture entitled, "Keeping Company with Chief Justice Marshall," by Charles F. Hobson, Ph.D., lecturer and editor of the John Marshall Papers at William & Mary. Dr. Hobson is currently finishing the final volume in his 12-volume collection of the papers of John Marshall, to be released in the Spring of 2006.

Dean Taylor Reveley opened with remarks contrasting Marshall's omnipresence at the law school, which includes a huge portrait in the lobby and the "giant graven image" of Marshall and Wythe that stands in front of the building, with the brevity of Marshall's actual career at the law school, which lasted all of three months in 1780. Reveley noted that it is the prerogative of every law school to "claim and display... a really famous alumnus," and that Marshall "went nowhere else for law school, so he's ours."

Dean Reveley then ceded the podium to Dr. Hobson. After noting that Dean Reveley had "remarkably anticipated most of [his] starting remarks," Dr. Hobson explained the title of his lecture, "Keeping Company with Chief Justice Marshall." Because he had been required to submit the title of his speech long before he actually began to write it, Hobson joked that he deliberately kept it "fairly general, so I could say anything I damn well pleased."

Dr. Hobson noted that we are in the midst of a "season of commemorations," which began in 2001 with the 200th anniversary of John Marshall's appointment as the first Chief Justice of the United States Supreme Court. It continued in 2003 with the bicentennial of Marshall's famous opinion in *Marbury v. Madison*, and now, in 2005, with the 250th anniversary of Marshall's birth.

Dr. Hobson went on to describe what "keeping company" with Marshall meant to him. He said that in the nearly four decades that he has been working on Marshall's papers, he has had "unique access to Marshall and his world," and came to regard him as a "charming and delightful companion" with whom he would have imaginary conversations covering topics from the Chief Justice's real motives for the *Marbury* decision, to Marshall's "cordial dislike" of Thomas Jefferson. Hobson then noted, however, that he would be unable to share these conversations, as Marshall divulged his secrets "in the strictest confidence."

Dr. Hobson described Marshall as a man who made the most of opportunities given him. Despite modest origins and relatively little formal schooling, Marshall went on to become not only Chief Justice of the Supreme Court, but a proficient historian (Marshall wrote a five-volume history of the life of George Washington during his first four years on the court), and even a writer of light verse. Hobson described the two experiences that had proved most integral in molding Marshall's personality and thought: his military service during the Revolutionary War, which, according to Hobson, gave Marshall a visceral understanding of what central government meant, and his service in the Virginia Legislature of 1780, where he was an outspoken supporter of the Washington Administration. This led to his selection as Secretary of State to John Adams, which in turn led to his appointment to the Supreme Court.

Turning to case law, Dr. Hobson explained that *Marbury v. Madison*, the "indispensable precedent" of the United States legal system, did not create the concept of judicial review. Although the idea was still somewhat controversial at the time that Marshall wrote the *Marbury* opinion, said Hobson, it was not novel. The concept that courts could disallow certain actions of legislatures, he said, already existed

in the common law of England, and was backed by years of precedent. In fact, said Hobson, the term "Judicial Review" was not even coined until the early twentieth century, when it described a much broader power than the one laid out in *Marbury*.

Other famous decisions of the Marshall Court, such as *McCulloch v. Maryland*, which allowed the chartering of a National Bank, and *Gibbons v. Ogden*, in which Marshall famously defined Congress's powers under the Commerce Clause, have been similarly misunderstood or exaggerated, said Hobson. He noted that many commentators have said that Marshall "anticipated the liberal regulatory state," and Hobson described him as a proponent of a strong federal government.

He was quick to note, however, that Marshall's desire for such a government stemmed more from a desire to resist the growth of state power than to enhance the power of the federal government. Marshall, said Hobson, believed in a broad construction of the Constitution that would limit state power, and called the arguments of the strict

constructionists, who wished for a narrow reading of the Constitution that would leave more powers to the states, "metaphysical reasoning."

"Cases alone," said Dr. Hobson, "do not make Marshall's legacy." What Marshall did for the court, argued Hobson, was to build its prestige, effectively shaping it into a branch of government that could stand equally alongside the legislative and executive branches. Marshall's "keen mind," "proficient pen," and "engaging humility" all helped him "mold an assembly of individuals" into a close-knit group, said Hobson.

Despite his important contributions to the role of the judiciary in the government of the United States, said Hobson, Marshall died "believing himself to be a failure." In his later years, Marshall became increasingly concerned about the increasing power of the states, and of what Dr. Hobson described as the court's "impotence in the face of determined political majorities." Hobson also said, however, that Marshall never brooded on the adversities facing the country, but

Continued on page 7

Operation Lifesaver: Update

by Kelly Pereira

Time, talent, and treasure are still in wide demand in the wake of Hurricanes Katrina and Rita. Project Lifesaver will continue to accept charitable, tax deductible donations in the law school lobby. With your help so far the donations have exceeded \$5,000.

Help is still needed from any and all law students and student organizations to staff the collection process. To make a donation or volunteer to monitor the collection process in the law school lobby, contact Liz McElroy at eymcel@wm.edu. Also look for an announcement for an upcoming meeting of the William and Mary

Law Chapter of Project Relief to brainstorm more projects.

Many GRFs can gain a working hour by staffing the Project Relief table. Additionally, hours of service can count toward the Virginia Bar Association Community Service pledge of 35 hours of community service during the academic year.

On the undergraduate campus, Project Relief donations have surpassed \$28,000. On Thursday, September 29, the anniversary of the disaster, students were encouraged to participate in a "Wear Green Day" to show support for the cause and feature fundraising t-shirts that were first sold at the Pat McGee concert.

Sports and Entertainment Law: Professor Silfen on Steven Tyler, Joe Namath, and on Being Owner/Manager of the Unicorns

by Jennifer Rinker

How did you get into entertainment law?

I got into it with my brother and one of his high school classmates. My brother worked for a law firm that was representing one of the promoters of the first Woodstock around 1968/69. I was a commercial lawyer, pretty much out on my own with one other person. My brother's firm just did transaction work, and I did litigation. So next thing I knew I was doing their litigation for their entertainment clients.

Then I was looking for space and two guys were starting a practice and had as their clients Chicago, Bette Midler, Bruce Morrow, and Neil Sedaka. So I started to teach myself the substance when I shared an office suite with them. I didn't take any classes—I taught myself how to do it.

Did you go to Woodstock?

No. I've been there. Went to the monument. Ended up representing the promoters of Woodstock II that failed—not the big one in upstate New York but the one at the original site. It failed because it was the same weekend as the one upstate and they had all the heavies—like Metallica—and our big act, if it had worked, would have been Fleetwood Mac.

You've basically ended up writing the curriculum for entertainment law, so have you gotten any trophies for that effort? (question courtesy of Kris Koletar)

[Gracious and modest ums and uhs] I got an award after 31 years of service, I'm a Fulbright scholar—just came back from teaching entertainment and sports law in South America. I've gotten many plaques from educational institutions where I've lectured. I would say I have been well rewarded financially from clients and others and recognized for my contributions to teaching.



Unicorns owner/manager Professor Silfen is pictured at top right. Photo courtesy of Patrick During.

Brief academic resume and other family stuff.

Native of Brooklyn, New York and went to Hobarth College with 1500 men and women. I wasn't planning on being a lawyer, to be truthful with ya. I was planning on going into the diplomatic corps, but through a series of events I wasn't able to do that. As a fallback position I went to Brooklyn Law School. Didn't do well; didn't like it. But I survived. I found teaching to be very rewarding and that's what I've done a lot, pretty much since 1972.

I have five grandchildren, three children, and a lovely, lovely wife. She's a nurse. Great tennis player. Loves aerobics. We traveled together to Argentina. I'm a candidate for the William and Mary appointment to participate in the Spain program in Madrid. I would like to do that.

Beatles or Rolling Stones?

Neither. I went to a Stones concert in Shea Stadium. From a production standpoint it was obviously amazing. I like all their music, but I wouldn't call myself an aficionado of either the Beatles or the Rolling Stones. I like Neil Diamond, the BeeGees, ya know, REM, Bruce Springsteen. [Professor Silfen had no comment when I confessed I

was recording this interview on my BeeGees cassette.]

Have you met any of the Brothers Gibb?

No. I did work for them, but it was primarily for their record company.

Who are some of the bigger names you have worked directly with?

Blondie's one. Aerosmith. REM. Judy Collins. LL Cool J.

Have you ever been interviewed for E! THS or VH1's Behind the Music?

No.

I heard you represented Joe Namath? Were you party to the pantyhose commercials he participated in? (question courtesy of Kris Koletar)

Yes. I was consulted by his manager and roommate, Jimmy Walsh, on the Brut deal, the pantyhose deal, the popper deal, but my predominate work for Joe was in litigations in the Supreme Court of New York.

You participated recently in the JayZ/R Kelly mediation. Is there anything you can share with us on that?

It wasn't successful, I can share that. Probably was premature. There was a pending court proceeding which needed to be decided before there could be any meaningful discussions. Setting aside for the moment the personalities involved, the lawyers pretty much ran the show. Each side was expressing optimism or pessimism about these court proceedings and without those being finalized or decided, there could really have been no meaningful discussion even if the parties had reconciled themselves, which they did not.

Would you say most of your practice has involved dealing primarily with agents and managers rather than the artists themselves?

I would say so, except for Aerosmith and Blondie, where I had continuous hands-on experiences with those people.

Do you have a favorite Steven Tyler story?

I do. Well, Steven and his first wife (she's dead now) had this house on Lake Winnepesaukee. It was a gorgeous house. Because the marital residence was in New Hampshire, when they fell into hard times, the court proceeding was in

Continued on page 5

The Department of Justice takes on Trafficking

by Nicole Travers

On September 15, the Federalist Society hosted guest lecturer Bradley J. Schlozman, acting Assistant Attorney General of the US Department of Justice, Civil Rights Division, to speak on the subject of the United States' new human rights criminal trafficking statute.

Schlozman began by defining human trafficking as a crime far removed from human smuggling, though many trafficking victims start out as illegal immigrants. While human smuggling is the product of a consensual relationship between the smuggler and an illegal immigrant to entering the United States (or other destination country), human trafficking is more akin to "a modern-day form of slavery." Traffickers force or defraud their victims into lives of unpaid labor or prostitution, amounting to a "virtual death sentence" for the men, women and children who are targeted by these criminals.

Trafficking is both extremely profitable and difficult to detect, mainly because victims tend to be well hidden from law enforcement, and conditioned to prevent them from seeking help themselves. This, said Schlozman, often takes the form of psychological torture, especially involving threats of violence against victim's families. Torture of this nature has such a profound impact on victims of trafficking that many victims steadfastly deny their living conditions when detected by law enforcers. Schlozman gave examples of women who were found working as prostitutes, all of whom denied being involuntarily trafficked for days after being taken into custody. Most were suffering from post traumatic stress disorder.

In order to more effectively deal with the ongoing problem of human trafficking, said Schlozman, the Department of Justice takes a three-pronged approach: identify the victim, rescue the victim, and hold the perpetrators accountable. Though prosecutions have risen dramatically under this system, only 200 individuals have been prosecuted in the past four years.

Compared to the estimated 15,000 people trafficked into the United States every year, it is clear that there is much more work to be done in bringing traffickers to justice.

However, according to Schlozman, many positive developments have been made since the Trafficking Victims Protection Act of 2000. For instance, law officers and prosecutors are specifically trained to deal with victims of trafficking with great sensitivity, as well as employing counselors to help trafficking victims adjust to life in a new country once they have been freed. The Department of Justice also issues "T-visas" to traffick-

ing victims, which allow them to stay in the United States for up to three years with benefits from the federal government including job training and green cards, as well as benefits for their family. Five thousand T-visas are allowed to be issued per year, but the actual number issued is closer to 500 per year. The Department of Justice has increased penalties for traffickers, and has added provisions dealing with psychological torture to previous positions that dealt only with physical torture.

Schlozman ended his presentation by commenting that when law enforcement officials become

aware of a trafficking situation, the tragedy and damage caused by the crime have already occurred. The Department of Justice is attempting to change their focus to prevent trafficking from occurring in the first place. Their efforts involve public service announcements encouraging citizens to report any suspicious activity that may point to evidence of trafficking, as well as encouraging victims to come forward. Through its efforts, the Department of Justice hopes to continue raise awareness of trafficking, help its victims, and bring those guilty of the crime to justice.

Professor Silfen, continued from page 4

Newport, New Hampshire—child support and all that.

Steven had designed or had designed for him a stained glass door on the entranceway to the house on the lake. He and his then wife, may she rest in peace, were not able to reconcile that Steven wanted the door. Well, since the statute of limitations has long expired, I can tell this. Steven adored that door and certainly wanted it, and I was with him in the car when he and the carpenter took the door and replaced it with another.

[pause]

He calls me Martimus, by the way.

You'll have to forgive me, but my Texan ears are having a bit of a hard time understanding Brooklynite. Are you saying Mortimus or Martimus?

No, M-A-R-T-I-M-U-S. Martimus, phonetically. No meaning I can really discern, but I thought he meant I was a magician. [Probably some reference to the work Silfen did for him].

We had a very warm relationship. Very personal. I would say even today, although I saw them last when they performed at the Virginia Beach amphitheater, I had a very warm personal relationship with Steven, not so with other members of the band.

I had down here to ask about your favorite sports moment.

My own *personal* sports moment was when I pitched a no-hitter against Kappa Sigma for Sigma Chi in college. That was my most memorable moment. I didn't play on any of the collegiate teams, but I was a good pitcher for the fraternity.

Which brings me, actually, to what prompted this interview in the first place—your magnanimous sponsorship of the Unicorns, one of the law school intramural softball teams. Can you tell how you became involved in that?

I was speaking to Melissa Daniels, who happens to also be my GRF, and she was telling me about the team. I always wanted to be the owner of a team [laughs] and so I purchased the shirts and the hats, and, by virtue of that, I became the owner and manager. We have a team picture. Yeah, you have it already. You were supposed to send that to me.

I'll send it tonight. Aren't you pitchin' in tonight's game?

Yes, I am. If I can reach home plate from the mound, I will pitch. My reluctance to do that is they are undefeated and I told Scott I—Oh, Hi Scott, how are you doing? [completely unrehearsed and serendipitous interruption of player Scott who proceeded to borrow Professor Silfen's Sports Law book

before class]. I have my uniform in the car, my hat and my cleats.

Do send the picture. That way I can share it with my grandchildren who will be coming soon for my 70th birthday. I told my wife I'm going to be pitching tonight. She said I must be crazy. I played two hours of tennis this morning, gave a lecture at Regent and then Sports Law tonight. I'll rest for a little bit and then go play. But it was a goof. I did it as a goof.

Do you have actual management—put the lineup together, that sort of control?

No, I just hear the results. And since they are undefeated, I know my investment has paid off big time. I haven't even seen them play yet. But tonight I'll be there cheering them on and maybe pitching. I don't want to be disabled. I have tennis again on Wednesday. It was a goof and it turned out to be a nice thing. Some of the people on the team I taught last academic year. Patrick During. Ryan Riesterer. Casey Eberhardt. Brian Levy. All in my class.

Unfortunately, the game was rained out. Maybe an errata photo in the next issue!

Thank you for talking to *The Advocate*, Professor Silfen. And thanks on behalf of the Unicorns!!

Director of Center for Law and Religious Freedom visits William & Mary

by Nicolas Heiderstadt

On September 29, the Christian Legal Society welcomed Greg Baylor, Director of the Center for Law and Religious Freedom (CLRF) in Washington, D.C. Mr. Baylor spoke about his organization's religious advocacy activities.

Mr. Baylor began by explaining two definitions of religious freedom. The definition the CLRF espouses, Baylor said, is "the government minimizing its influence over religious choice." He contrasted this with the idea of strict separation, which, he said, holds that government and religion are mutually exclusive categories, and that government should actively try to "keep religion confined to its proper place."

Citing James Davison Hunter's book *Culture Wars*, Baylor noted that much of the current strife over the place of religion in the United States' government is due to a clash of worldviews. The fist, he said, is the orthodox view, which involves a belief in transcendence as a source of right answers that do not change

overtime. The opposing worldview Baylor defined as a progressive view, in which transcendence either does not exist or is very remote, and answers are instead drawn from human experience, which changes over time.

Baylor described the law of church and state as "a front in this conflict," a context in which the two worldviews visibly clash. He explained that one of the most controversial issues in this area of the law has long been government funding of private, religious schools. From approximately 1947—1993, said Baylor, progressives used the Establishment clause of the Constitution as "a weapon" against such funding. Complainers argued that under the Establishment Clause, such funding violated their rights as taxpayers, and the Court agreed.

Recently, however, said Baylor, the paradigm has shifted more in favor of a neutrality theory. For example, he said, the Supreme Court upheld an Ohio school voucher program on the grounds that, while voucher recipients had the option to send their children to religious

schools, the government was neither mandating nor advocating such attendance.

Once the establishment clause became less of "a club" against religious organizations, said Baylor, progressive organizations moved to using two other tactics. First, they began to cite the Blaine Amendments in State constitutions, which, he said, had been introduced during the 19th Century to keep the increasing numbers of Catholic immigrants from founding their own schools using state funds.

Second, Baylor said, progressives began to use antidiscrimination laws to stop the government from funding religious organizations. These laws, said Baylor, generally focus on the hiring practices of religion-based groups, which often require employees to sign statements of faith affirming that they believe the tenets of the organization's religion. Opponents also argue that such organizations discriminate on the basis of sexual orientation, he said.

Baylor noted that the CLRF's stand in favor of these hiring practices has cost them the support of

some traditional allies, including the ACLU. He explained that organizations such as CLRF do not, however, discriminate on the basis of sexual orientation, but instead take conduct into account when hiring, which, he said, includes extramarital affairs and other sexual conduct outside marriage, which includes consideration of heterosexual conduct.

Baylor also found a fair bit of irony in using laws designed to stop discrimination to deny funding to religious organizations solely on the basis of their beliefs. "If that isn't discrimination," he said, "I don't know what is."

Following his presentation, Baylor was asked his opinion on several issues, including the recent cases involving the removal of displays of the Ten Commandments from state courthouses in Texas and elsewhere. "The courts got that one right," he said, noting that the government does not itself have a right to free exercise of religion, but rather a duty to see that the free exercise of religion by its citizens is not impeded.

The Iraqi Special Tribunal Clinic

by Brian Soiset

Last spring, twenty William and Mary law students had the opportunity to work in a clinic for the Iraqi Special Tribunal ("IST"). The IST was similar to other clinic experiences in that students provided legal advice and research to clients under the supervision of a licensed attorney, yet the IST was unique in that students worked with issues of international criminal law and their clients were Iraqi judges and lawyers. How did a group of American law students come to provide advice to Iraqi judges?

A little background on the Iraqi Special Tribunal is necessary to explain. After conquering Iraq in 2003, the Bush administration wanted to prosecute the leaders of

the Baathist regime, Iraq's ruling party under Saddam Hussein, for their many violations of human rights law. These crimes included the large-scale slaughter of Kurds in northern Iraq during Operation Anfal, where Iraqi soldiers routinely used poison gas to exterminate whole villages; the destruction of over 7,000 square miles of marsh in southern Iraq aimed to destroy the rebellious 'Marsh Arabs'; the routine torture and murder of political opponents; and many other atrocities. Human Rights Watch estimates that the Baathist party murdered over 100,000 of its own citizens during its bloody rule.

In light of this record, human rights activists united with the Bush administration in calling for the Baathist leaders to be brought

to justice after the Iraqi occupation. The IST was thus created to prosecute these leaders for violations of human rights laws. U.S. authorities designed the IST to give Baathist leaders the justice which they had denied to so many of their own citizens—fair trials that meet international standards—and empower Iraqis to lead the prosecution of their former rulers. In this light, the IST is an Iraqi national court, though entirely separate from the Iraqi judiciary. All judges and prosecutors are Iraqi nationals, and they have the help of some international advisors. The IST has jurisdiction over both international crimes—such as genocide, war crimes, and crimes against humanity—and some domestic Iraqi crimes. The IST was given

a national character (as opposed to the international tribunals in Rwanda and Yugoslavia) in the hope that it could serve as both a model of justice and a catharsis for a new Iraqi nation.

Yet the IST has come under severe international criticism. As the IST is a national court and under the authority of Iraq's ruling government, it has proven vulnerable to political manipulation. Also, the inclusion of the death penalty in the IST's punishments has rankled many human rights advocates. Most importantly, it has proven difficult to find qualified Iraqi judges and lawyers to staff the IST, as under the Baathist regime trials were little more than a pre-

Continued on page 6

Marshall, continued from page 3
 continued to cultivate deep friendships until the end of his days, particularly with his fellow Justice, Joseph Story, whose eulogy of Marshall Hobson called "a masterpiece that transcends the genre."

In closing, Dr. Hobson summed up his account of John Marshall by reciting the epitaph carved on

his tombstone, which records only the facts of his birth, marriage, and death. Of this, Hobson said, "It is hardly credible that such simplicity should be the hallmark of such greatness."

Following the speech, cake and cider were served in the law school lobby in celebration of Chief Justice Marshall's birthday

Iraqi Special Tribunal, continued from page 6

text to prosecute political enemies (reportedly, the longest trial under the Baathist regime lasted only two days). As such, there are very few trained judges or lawyers in Iraq, and the prosecutors and judges have already come under criticism for their mishandled investigations.

This is where William and Mary's clinic comes into the picture. In light of the relative inexperience of Iraqi jurists, the Justice Department contacted several U.S. law schools and requested that students compile research on international laws to help prepare the Iraqi judges and prosecutors for the upcoming trials. The Justice Department provided students detailed assignments on pressing issues facing the IST, which the Iraqi jurists typically have no experience in answering, and which the Justice Department does not have the resources to address. Students write memoranda on their topics and also compile their research ma-

terials into a binder. These products are then translated into Arabic and given to the IST.

No matter what one may think of the American invasion of Iraq, students working in the IST clinic are helping to ensure that some of the 20th century's most oppressive despots are brought to justice for their crimes. There is no doubt about their guilt, as Baathist leaders did a surprisingly thorough job of documenting their own crimes. It only remains to ensure that their trials are a testament to justice and the rule of law. Though the IST has proven an imperfect court so far, the work of American law students is helping to address some of the Tribunal's shortcomings and may help pave the way for a stronger judiciary in a new Iraq. The clinic is ongoing and will continue so long as the IST is in operation. I was fortunate enough to participate in the clinic last spring, and I highly encourage students to participate in this unique and important opportunity in future semesters.

DOCKET CALL

by Nicolas Heiderstadt

The Courthouse is located at 5201 Monticello Avenue, across from New Town (for those who navigate Williamsburg in a more alcohol-centric way, it's across from the Corner Pocket). Take a left out of the law school parking

lot, and take South Henry Street to 199. Make a right turn onto 199, and follow it until you reach the exit for Monticello Avenue. Take the right-hand fork of the exit ramp onto Monticello Avenue. The Courthouse is the large brick building on your right just before you reach the traffic light.

**October 2005
 General District Court Docket**

Monday	Tuesday	Wednesday	Thursday	Friday
		05 Charles City	06 8:00 Criminal 1:00 Criminal	07 8:00 Traffic 1:30 Contested Civil
10 Holiday	11 8:00 Parking, Boat, Zoning, Traffic, ABC 8:30 Counsel Hearings 10:00 ASAP, SCS 10:30 Contested Civil 1:30 Traffic - JCCPD	12 No court	13 8:00 Criminal 1:00 Criminal	14 8:00 Traffic 10:00 Animal Control 1:30 Contested Civil
17 8:00 Traffic - WPD 10:00 Traffic - VSP 1:30 Civil	18 8:00 Parking, Zoning, ESH Traffic, ABC 8:30 Counsel Hearings 10:00 ASAP, CCC, 10:30 Small Claims 1:30 Civil	19 Charles City	20	21

The Supreme Court Preview 2005

by **Linda Quigley and
Matthew Getty**

On the weekend of September 23, the law school hosted the Institute of Bill of Rights Law's 18th annual Supreme Court Preview. The weekend brings together nationally renowned constitutional scholars, journalists, and attorneys to analyze the upcoming Supreme Court term. The Preview was run by Institute Director and William and Mary Professor of Law Neal Devins and Program Coordinator Melody Nichols.

The weekend began Friday night with a moot court of *Rumsfeld v. Forum for Academic and Institutional Rights (FAIR)*. The case concerns the Solomon Amendment, which allows the government to withhold federal funds from any educational institution that refuses to provide equal access to military recruiters. Professor Michael Gerhardt of the University of North Carolina Law School, *New York Times* reporter Linda Greenhouse, *Washington Post* reporter Charles Lane, the *National Journal* reporter Stuart Taylor, *USA Today* reporter Joan Biskupic, Professor William Van Alstyne of William and Mary Law School, Slate.com's Dahlia Lithwick, and *Los Angeles Times* reporter David Savage played the roles of the justices. The court sat with only eight justices to honor the late Chief Justice William Rehnquist.

Litigator Beth Brinkmann, who has argued over 20 cases before the Supreme Court, played the role of counsel for FAIR. Brinkmann argued that law schools should not be forced to implicitly support the discriminatory message of the military's "Don't Ask, Don't Tell" policy by allowing military recruiters on campus. Ms. Brinkman asserted that by threatening to withhold federal funds, the government was in essence compelling speech on the part of the law schools. Rodney Smolla, Dean of the University of Richmond Law School, who has also argued cases before the Supreme Court, played the role of the solicitor general.

He urged the Court to reject the compelled speech argument and asserted that the only speech involved in the case was on the part of the government.

Former solicitor general, constitutional attorney, and Duke Law School Professor Walter Dellinger played the role of attorney for forty Harvard law professors who are amici in the case. He reiterated Brinkman's compelled speech argument and stressed the importance of the values of equality and non-discrimination in the law school setting. After a short deliberation, the justices ruled 8 to 0 in favor of the government, concluding this was not a case of compelled speech since the speech involved was the government's and not the law schools'.

Following the moot court there were panels discussing the legacies of retiring Justice Sandra Day O'Connor and Chief Justice William Rehnquist. The College of

William and Mary's new President, Gene Nichol, acted as moderator of the O'Connor panel. Nichol is a former professor at the law school and former director of the Institute of Bill of Rights Law. The panel on O'Connor focused on her position as a swing justice. Panelists Dahlia Lithwick and Joan Biskupic, who is the author of a soon-to-be published book about O'Connor, disagreed about how O'Connor found herself as the fifth vote in so many 5-4 decisions. Biskupic took the position that O'Connor's positions had an element of calculation, while Lithwick asserted that O'Connor voted her conscience and incidentally ended up the swing vote.

The Rehnquist panel included former Rehnquist clerks, Donald Ayer, now a partner at Jones Day, and Charles Cooper, a founding member of Cooper & Kirk. Both men spoke fondly of the former Chief Justice and painted a personal picture of the man, including his

close relationship with his family and his affinity for wagering. Panelists also discussed some of the Chief Justice's landmark decisions and how his jurisprudence developed over time.

On Saturday there were panels on confirmation politics, criminal law, business, and federalism that highlighted some of the more interesting and important cases coming in front of the Supreme Court this upcoming term. The discussions were often lively, including an exchange during the Civil Rights panel between Professor Pamela Karlan of Stanford University Law School and Professor Van Alstyne over the future of peremptory challenges. Other panelists on Saturday included our own Dean Taylor Reveley and Professors Davison Douglas, Paul Marcus, and Alan Meese, as well as Professor Stephen Wermiel of American University Washington College of Law, and Lyle Denniston of SCOTUSblog.

Still Trouble in the Sudan

by **Michael Kourabas**

It has been nearly two years since the genocide began in the Darfur region of Sudan. Sudan is one of numerous war-torn countries in Africa. It is the largest country in Africa, land-wise, and one of the continent's most diverse. The genocide that continues there today is one of the worst in the continent's history—certainly the worst humanitarian crisis since the genocide in Rwanda nearly eleven years ago.

The current "conflict" has its roots, as many in the region do, in civil war. That war lasted nearly 20 years, pitting Muslims against Christians and costing close to two million lives. The conflict might also reflect the country's oil resources. Sudan's southern region is rich in oil, but the infrastructure is nearly destroyed due to the ongoing war. The peace accord, signed in January of this year between the government and the Southern rebels, forces the South to share oil revenue with the North.

The genocide, which began in 2003, parallels the religious nature of the civil war—pro-Government Arab militias attempting to eradicate the non-Arabs. However, the militia—called the "Janjaweed"—is more than just pro-Government; they're government-sponsored. Like the genocide in Rwanda, which was largely rooted in a fictional rivalry between the Hutus and Tutsis, imposed by both colonial powers and the domestic government, the genocide in Sudan evokes a similar government imposition. The country is largely non-Arab, but the government has attempted to impose Islamic law on the entire country. Naturally, the non-Arab population has resisted.

To date, the Sudanese Government, via the Janjaweed, has killed upwards of 400,000 people, though exact numbers are unknown. Most of these people are civilians, driven from their homes by militias on horseback, armed with automatic weapons and machetes, or by government helicopters strafing the deserts. The women are raped,

then killed, and children are not spared.

Refugee camps exist mainly in Chad and parts of Sudan. These camps attempt to house as many of the nearly 2.5 million people who have been displaced as possible. Many NGOs and human rights groups have gotten involved, and numerous UN Resolutions have been signed. The Darfur Peace and Accountability Act was proposed in Congress months ago, but has not yet been approved (for reasons I can't even imagine).

That Act would "impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity...support measures for the protection of civilians and humanitarian operations, and...support peace efforts in the Darfur region of Sudan..." (HR 3127). However, that proposition has arguably died on the floor, while the fighting continues, and millions remain without food or shelter.

In another turn for the worse, new fighting has recently erupted, *Continued on page 10*

A Walk on the Wild Side: National Estuaries Day at York Park

by Kelly Pereira

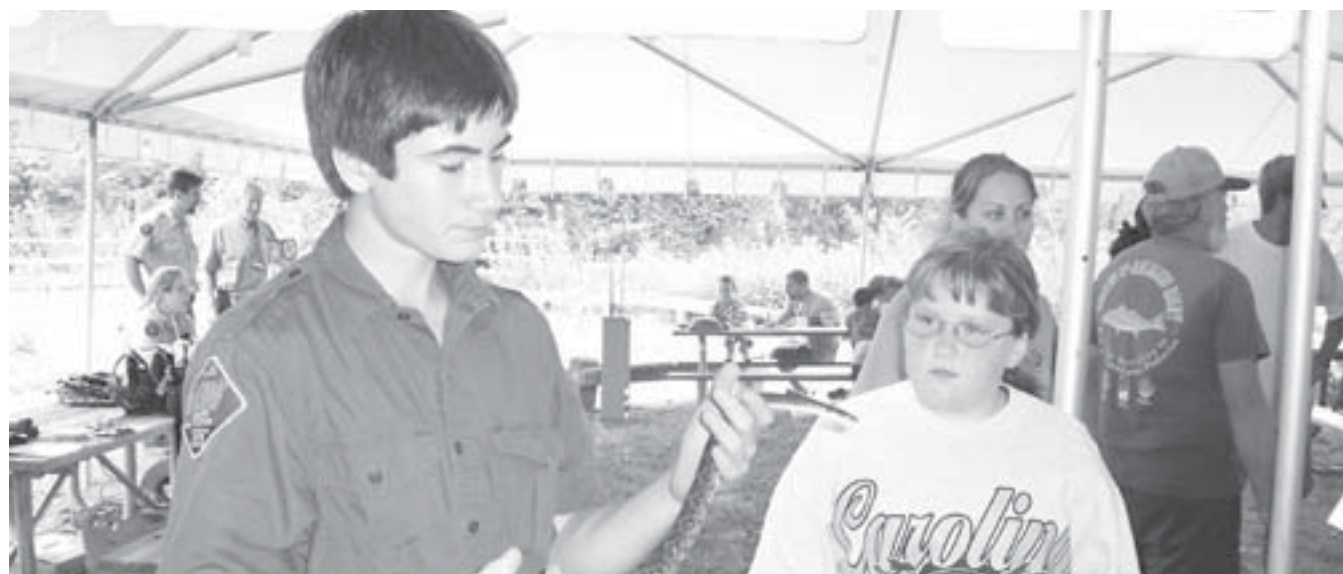
York River State Park celebrated National Estuaries Day on Saturday, September 24. Does anyone other than Ken Jennings know what an estuary is? An estuary is a tidal waterway such as the brackish York River.

The York River and the James River are both local watersheds, and York River State Park is only 11 miles away from historic Williamsburg. Members of the Environmental Law Society sampled some of the free park offerings including canoeing, hiking in a marsh, viewing local wildlife, and taking a hayride.

The York River State Park strikes a balance between environmental conservation and recreational use. The park is open daily and includes 29 miles of trails for hiking, biking or horseback riding. An archaeological site of a former tobacco warehouse from the 17th and 18th centuries can be seen at low tide and is part of the National Register of Historic Places.

During a canoe trip in the Taskinas Creek, there was a close encounter with a heron, and we were told that the park is also home to some bald eagles. Canoes, kayaks, paddleboats, and bikes are available daily at the park for only a \$5 rental fee and guided canoe trips can be arranged on the weekends. You can paddle down the tranquil Taskinas Creek and wave back at all the fiddler crabs in the marsh or the more adventurous can test the rippling tidal waters of the York River.

Under a tent near the visitor center were free conservation literature, children's activities, and a petting zoo. Some of our friendly and not-so-friendly neighbors here in Williamsburg include the corn snake, black snake, box turtle, and snapping turtles. The accountants and GRFs in the law school "cottage" can attest to the plentiful lizards and black snakes in our own backyard.



York River State Park is cooperatively managed by the National Park Service and the Virginia Institute of Marine Science (VIMS). A VIMS guide initiated a "Marsh March" into an area of the park where visitors rarely spend time. He likened the marsh to the prairie, an area of land rich in flora and fauna that we often overlook.

Some of the more common creatures have interesting adaptations. The male fiddler crab's large claw serves no other function than to attract mates. Apparently the appeal of those large appendages is no myth; 500,000 fiddler crabs can live in one hectare (2.5 acres) of marsh. The crabs feed on microorganisms and detritus (disintegrated plant matter) and support their ecosystem by burrowing to provide air to waterlogged roots and hideouts for other organisms.

We hunted for periwinkles

and fiddler crabs with some very enthusiastic children and tested the terra firma by jumping up and down in our fashionable, borrowed galoshes. Our guide explained that the marsh helped protect the local area two years ago during Hurricane Isabel when it withstood six foot tidal waves. What an excellent incentive to further the conservation of wetlands!

Volunteers caught some wildlife earlier in the day for some closer observation. We admired some silver perch and blue crabs. But the highlight was the "hog chokers," a flat fish with a strange protective mechanism. When their scales are touched in one direction they are smooth, but touched (or swallowed) in the wrong direction they feel like sandpaper.

Other offerings of Estuary Day included fossil hunting and seining. By definition a fossil has to be over

4,000 years old, and York River has fossilized remnants of a tidal pool. Seining involves dragging a net to capture small fish and marine animals. The York River fishing pier and launching dock are great places to fish for larger catfish, spot, croaker, and striper.

A Pocahontas Scavenger Hunt and face painting were available for visiting children. Parents should also know that the park has a playground and picnic area. A 25 minute hayride through the woodlands capped off the visit for visiting students, parents, children, and dogs.

The hayrides should be even more rewarding in a few weeks when the foliage begins to change colors. The Environmental Law Society is planning to return to the park for Harvest Day on October 15, which coincides with National Make a Difference Day.

Sudan Continued from page 8
threatening an estimated 33,000 additional lives (according to the UN). According to the *Guardian* of 9/27/05, the UN Envoy for the Prevention of Genocide accused the Sudanese Government of continuing its refusal to turn *any* genocide suspects over to the International Criminal Court. Little can be done against these suspects without ICC intervention.

Thus, the responsible person might ask, what can we do? There are plenty of good ways to help, and I would point everyone in the direction of savedarfur.org. From that site one can find information on how to donate, instructions regarding letter writing campaigns, and so on. Also, October 6th, Students Taking Action Now: Darfur (STAND) is sponsoring a day-long fast (savedarfur.org has information on this as well). I know most of us *feel* like starving students sometimes, but this is something tangible that everyone can participate in. Skip a meal and donate the cost to the relief effort.

"Progress" or "Betrayal?" Professor Rabkin on the Constitution

by Nicole Travers

On September 28, the Federalist Society hosted a catered dinner featuring guest speaker Professor Jeremy Rabkin of Cornell University. Professor Rabkin's lecture, entitled "What's Wrong with Using Foreign Sources to Interpret the U.S. Constitution," focused on the Supreme Court's increased use of reference to international law when deciding cases.

To illustrate this practice, Rabkin cited three recent Supreme Court cases that referenced international law. The first, *Atkins v. Virginia*, ruled that the execution of convicts with mental disabilities violates the constitution. The second, *Lawrence v. Texas*, ruled that sodomy laws in Texas were unconstitutionally discriminatory. Finally, *Roper v. Simmons* ruled that the execution of convicts who

committed their crimes while under the age of 18 violated the Eighth and Fourteenth Amendments. While none of these cases relied solely on international law, said Rabkin, all of the opinions mentioned that the proscribed practices were also frowned upon in international law.

Rabkin described the practice of referring to international law in Supreme Court cases as "disturbing," and "a kind of betrayal" to the original intent of the Constitution—a document written by the country's founding fathers to break free from Europe. However, Rabkin said, the question goes beyond the polarity between originalists and those who see the Constitution as a living document. Rabkin's main concern is with the idea of "progress," where progress assumes the gradual convergence of nations through their laws becoming alike. This idea, asserts Rabkin, is not

only alien to the U.S. Constitution, but also alien to what we consider Constitutions to be. The consequences are that it is harder for the United States to be in conflict with another nation. According to Rabkin, if the United States is not backed in conflict by another nation, then that nation's views should not count.

For Rabkin, even the preamble to the Constitution forbids its interpretation through law made in other countries. "It's hard to get past the sentence 'We the people of the United States,'" he said. "It all comes down to one question: are we our own country or not?"

Jeremy A. Rabkin is Professor of Government at Cornell University. He is the author of Law Without Nations? (2005), The Case for Sovereignty (2004), and Why Sovereignty Matters (1998).



With the face of a boy and the body of a man, men want to be him, women want to be with him—that's all there is to it. Neill Kirk, Green Leaf Cafe co-owner, William & Mary alum, and purveyor of the Bit O' Honey martini, would love to see you at the Leafe where he is (practically) every day from 11:00 am to 2:00 am. Make sure to ask him about the Neill B. Kirk Award and how you too can become a recipient.



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Thursday: An Evening With Tony 4-9pm

Friday: New Draft Night

Saturday: Shrimp Night 4-9pm

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New Orleans Students at W&M: Update

by Nicole Travers

In the aftermath of Hurricane Katrina, William & Mary School of Law took in five new students from New Orleans who had been displaced by the damage done to their city. I was able to speak to Mario Stellute (2L) and Lauren Dana (3L), two Virginia natives who arrived at William & Mary from Loyola and Tulane respectively, and ask them about life in New Orleans, and their experiences during and after their evacuation from Louisiana.

Never having been to the Big Easy myself, the first thing I wanted to know was what it is like to be a law student in such a culturally distinctive city. While the students in New Orleans are, of course, just as dedicated to their studies as we are up north, the social goings-on in Louisiana tend to be a bit more distracting than the odd farmer's market. "There is always a reason to have a party, or better yet, a parade," said Mario. Both mentioned that the availability of alcohol is far greater than in Virginia. "You can buy liquor pretty much anywhere, anytime," Lauren told me. Mario agreed. "When friends of mine come to visit from Virginia," he said, "they are shocked to see that bars are open twenty-four hours a day...I often have difficulties getting family and friends back to Virginia."

As the hurricane approached last month, students at Loyola and Tulane were told to evacuate. Interestingly enough, Mario was not even in Louisiana at the time—he was in Pennsylvania, attending a wedding. "I saw from the television that I wouldn't be able to go back. All I had was my suit, and the things I'd brought up for the wedding." Lauren, who was at school, had a difficult time getting out of the state. She booked a flight out of New Orleans on Delta airlines, only to have the airline cancel all of their flights from that city. "I managed to drive to Pensacola with a friend,



A view of uptown New Orleans before it was devastated by hurricanes Katrina and Rita

and catch two standby flights from there and Charlotte to get home. All I managed to get out with was a duffle bag of my clothes, my laptop, my flute, and my Coach tote." Both chose to come back to their homes in Virginia to stay near their families. Mario, who is originally from Hampton, is staying with his sister's boyfriend in Williamsburg, and Lauren, who went to William & Mary for undergrad, is staying at her parents' house near campus.

As for Mario and Lauren's apartments back in New Orleans, both were lucky to be living in the approximately twenty percent of the city that was not entirely flooded. However, it will take some time before they can go back permanently, the necessity of school notwithstanding. Lauren's ground floor apartment was breached by about an inch of water, necessitating carpet replacement, and both the air conditioning and heating units will have to be replaced. She is unsure as to when the power will be restored. Both Mario and Lauren plan to return to New Orleans over the fall break to retrieve any possessions they can, and to survey the extent of the damage.

In the meantime, Mario and Lauren are hard at work, catching up with their new classes. Mario

has declared his classes to be quite similar to those he was taking at Loyola. "I'm enjoying classes a lot," he said, "all the professors are great." Lauren has had a bit more difficulty in finding classes to mirror the ones she had hoped to take this semester. She explained: "I had been following a very specialized international law track at Tulane, which just can't be followed elsewhere. I am taking Human Rights Law, which is something that was on my schedule at Tulane, but the classes are vastly different in both their coursework and their requirements." Both are, however, hopeful for their job searches, as both have expressed an interest in working in Virginia after graduation. In fact, Mario had an internship in Hampton over the last summer, where he got to know several William & Mary law students. "It's made the transition a lot easier," he said. Lauren, who is planning to take the Virginia Bar, believes "it may be helpful in the long run to be local for this one semester."

Tulane and Loyola are both planning to re-open on time for the spring semester. Mario told me that Loyola has already set up a provisional campus in Houston, and many students who had originally left the area entirely have returned

to Houston in order to stay with the school. Tulane has also established office space in Houston, from which Dean Ponoroff gives students frequent updates about the University's status. Lauren is on the editorial board of her journal, which has decided to continue its publishing schedule this semester. While the disparate members of the editorial board are working hard to ensure they stay on schedule, said Lauren, they are also concerned that they will not be able to have a full journal staff next year. In addition, her other activities have been shelved until the following semester. However, based on the announcements coming for both universities, their leaders seem confident that they will have their campuses completely prepared for their students' arrivals in January, when hopefully the students' lives will return to something close to normal.

Though the students with us this semester have a great many difficulties to overcome both before and after they return to New Orleans, we at *The Advocate* hope that they'll at least have fun staying with us in Virginia, even if we don't have twenty-four hour bars or parades. It has been a pleasure getting to know you all.

Ask a Canadian

by Matt Dobbie

Hello, and welcome to another edition of “Ask a Canadian.” In this week’s edition, I discuss Canadian culinary specialties and the return of “the coolest game on ice.” Now, before you laugh, that was once the NHL’s marketing slogan. I’ve always thought it was just stupid because it’s not like we had a lot of competition in the “games on ice” category. Way to beat out curling, guys. Anyway, on to this week’s questions.

I’m from the South where we have many unique foods. Are there any foods that are uniquely Canadian?

—Jason McCabe, 2L

Yes, we Canadians do have some special foods we like to call our own—the most prominent being ketchup chips, maple-flavoured donuts (and, yes, that’s “flavour” with a “u.” I for one refuse to bow down to the American bastardization of the English language. Okay, y’all?), poutine, and Clamato. The first two are fairly easily understood. Ketchup chips are ketchup-flavoured potato chips. This may not sound great, but trust me—they are delicious. You put ketchup on your French fries, right? Same concept.

The maple donut is a personal favourite of mine. Basically it’s your standard chocolate glazed donut, but instead of using chocolate frosting, we use maple frosting. Tim Horton’s (a spectacular coffee/donut/sandwich chain named after a hockey player that can be found in every town/city/mining camp in Canada, and which probably deserves its own column) has cornered the market on the maple donut. They offer a maple

walnut, a maple glazed, a maple cream (Boston crème with maple frosting), and something that can best be described as a maple twist. That’s four maple donuts out of the 18 flavours they carry. Just a spectacular array of maple donuts—Krispy Kreme and Dunkin’ Donuts would do well to follow Tim’s lead.

Poutine (pronounced “poo-teen”—doesn’t it just sound appetizing?) is a French-Canadian specialty consisting of French fries, gravy, and cheese curds. Not just cheese, but *cheese curds*. The curds pack a higher cholesterol content per volume, sort of like extra MSG. Apparently, the French fry-gravy combination wasn’t causing enough heart attacks on its own, so our Québécois brothers and sisters added cheese. Depending on how you view things, this marked the high or low point in Quebec culture (my opinion—high). Oddly enough, poutine, unlike, say, the French language or Celine Dion has become popular throughout the country. I think the cheese curds are the key.

Finally, we come to Clamato. It’s our most distinct and yet bizarre food. Clamato is tomato juice with the added benefit of clam. Yes, you read that right, *clam*. This specialty constantly amazes me, if only because I can’t imagine somebody drinking tomato juice and thinking to themselves, “You know what? This tomato juice could really use some clam.” If that’s not bizarre enough, they were then somehow able to convince all their friends to try it. That can’t have been easy. The only thing more bizarre than this scenario is the fact that it has become popular all across the country—to the point that tomato juice has essentially been replaced by Clamato. For example, there are no Bloody Marys



in Canada, only Bloody Caesars. I have no idea why this is so, but I’ve just grown to accept it. The popularity of Clamato juice in my country is completely and utterly inexplicable.

I hear hockey is coming back. Your thoughts?

—Jake Styles, 1L

Yes, hockey is coming back. In fact, the season starts the day this issue of the Advocate comes out. My feelings are in a word; “stoked”. Without hockey, last year felt strange and hollow—kind of like having sex with a stripper. But its return has me, along with the rest of my country, excited like a kid on Christmas morning. The only sad part is that my beloved Toronto Maple Leafs will be brutal. Our off-season strategy was to sign old, injury-prone players to expensive contracts. Not exactly a blueprint for the Stanley Cup. Oh well, there’s always next season.

Not only is hockey back, but it’s back with a bang. We’ve got teenage wonderkid Sidney Crosby

(hockey’s version of LeBron James), new rules that should make the game more exciting, and tons of player movement—big name stars going to small market teams. We’ve had the hockey equivalent of Alex Rodriguez getting traded to the Kansas City Royals. I’d go into greater detail, but most of you would have no idea what I’m talking about. Basically, all you need to know is that hockey should be better than ever. So please, do me a favour and watch a game (but not the Capitals—they don’t count). Just one game, that’s all I’m asking. Just give us a chance; I think you’ll be pleasantly surprised. Yes, as a Canadian, I am legally required by my government to promote hockey. Sorry, it’s just our way.

Anyways, that’s it for this week. Just remember that, as you read this, I’m probably sitting on my couch, washing down my maple donuts with a nice, cool, tall glass of Clamato juice. Go Leafs Go.

Off The Beaten Path: Nature Calls

by Zach Terwilliger

Now, I don't mean this title in the sense of having to dash out of Room 119 and sprint for the newly refurbished bathrooms, complete with stalls that could hide the Washington Wizards' starting five, before it's too late. No, I am referring to the onset of fall, which brings cooler weather, beautiful vistas, and the departure of flies, ticks, and snakes. Simply, nature is calling to us.

So, if the jack-hammering in the library is driving you mad (or, worse, you are getting used to it), or the words "Ms. X, what do you think the court is trying to say?... I'm guessing you would like to confer with your co-counsel?" have been occurring with some frequency, and the Leafe just isn't cutting it—then I suggest heeding nature's call and heading to the woods.

I'm not talking about a stroll through a wooded glen off D.O.G. Street or even a jog through Waller Mill. I am talking about the real woods: Charles City County. This is a place where the country club

stickers of James City County are replaced with messages such as "Git 'r Done" and "Keep honking, I'm reloading." Where is this utopia, you ask? Why, it is just a short 20-minute sojourn from Williamsburg. The specific destination is the Chickahominy Wildlife Management Area (WMA). I discovered this paradise last year when I went to find a quiet spot to set fire to my 70-page Torts outline.

In all seriousness, the Chickahominy WMA is amazing. It is a huge expanse of woods, crop fields, bluffs (yes, actual hills in Williamsburg), and river frontage with a huge network of well maintained trails. It is the perfect destination for a fall campout. There are a dozen or more parking areas, each with a well-marked path/logging road leading gently into the woods. The majority of the area is flat, which is ideal for camping, and I have yet to travel down one of these paths and not see countless camping spots within 500 yards of each parking area.

A couple of my classmates and I did an impromptu Wednesday night

(we were never going to understand joinder anyway) campout during the middle of fall semester finals, and it was just what the doctor ordered. There is no substitute for getting totally away from school and getting back to our primeval roots of sitting around a campfire, fishing for dinner, telling lawyer jokes, and sipping cheap bourbon.

OK, now the nuts and bolts:

The Chickahominy is located directly out Route 5. Take Richmond Road to Monticello Ave, and Monticello turns into Route 5. Route 5 is a gorgeous two-lane road canopied by trees and flanked corn fields and plantations. You will cross over a drawbridge that puts you in Charles City County. Once you cross the bridge it is a about a 10-minute drive to the Chickahominy WMA. Stay straight on Route 5 until you hit Route 623. Then take a right on 623 (there is a sandwich stop right there) and go about two miles and you will see Chickahominy WMA parking areas on your right for the next six or seven miles. A road actually bisects the WMA, which gives you access

to some choice spots. If you want to take this road, stay on 623 for a few miles and then make a right at Route 621.

A map of the entire area can be found at:

<http://www.dgif.virginia.gov/hunting/WMA/maps/chickahominy.pdf>.

The area is open seven days a week and allows camping, open fires, and overnight parking. It is never crowded and just a few minutes from town. The W&M outdoor recreation center will rent tents, sleeping bags, and coolers. If camping is not your thing, the WMA is also a great place to jog, hike, mountain bike, fish, and hunt. My only warning is that the area is open to hunting, so, if you plan to camp during deer season (which runs from November 5 through January 3), go from Saturday night to Sunday morning, because Virginia does not allow Sunday hunting. I encourage each of you to go out to the WMA and check it out for yourself; I promise that you will not find a single tourist out there.



OCS' own Brian Lewis and Company entertain the crowd regularly at the Farmer's Market in Colonial Williamsburg.

Sex and the Law: Here Comes the Sun

by Nicole Travers

While at school last week, I happened upon a sight so monstrous and terrifying, I hesitated to write of it. But, unable to think of any other topic for this week's column, I feel that I must. Now, most of you know of my opinions on underwear, having read last year's column about the appropriate undies during interview season.¹ What I saw defied all previous underwear-related horrors. A law student² was bent over a bag, with jeans slung low enough to reveal not undies, not a thong, not even a thong shadow. I saw upon this student's back a thong tan line.

A thong tan line! I didn't even realize such things existed! As I continued to walk, I started to speculate on how one could even attain a thong tan line. All I could come up with were three methods: first, walk around in the sun with low slung pants showing your thong for all to see, while wearing a shirt high enough to allow the sun's rays to hit the area; second, sunbathe on a beach in a thong bathing suit; and third, go to a tanning salon and lie in a booth while wearing a thong. The first two sound rather implausible, as I can't imagine many people wanting to wander around in public with a thong in such full view.³

This left me with option 3: the tanning booth. Now I have honestly always thought that tanning booths are rather silly, and that they don't seem like too much fun. But it got me thinking about tans in general, and why they are

considered to be so attractive that people will willingly pay to don a thong and lie in a coffin-shaped box for an hour at a time.

It wasn't always this way, of course. A few hundred years ago, a tan was seen as evidence of one's low status as an outdoor laborer, while the ideal was a healthy blue-veined pallor accentuated by lead-based face powder or arsenic.⁴ Pale skin meant you spent your time indoors, and therefore must have a good deal of money. Now,

the opposite is true. A tan means that not only do you spend most of your time sequestered in an office, but by doing so you make enough money to purchase tickets to sunny islands for your vacation or spend a significant amount of time lying in a tanning booth in your thong. Within the past ten years, it also means that you have enough money stored away for the medical bills needed to get your melanoma removed somewhere down the line.

I actually looked up "tanning" on the internet,⁵ and discovered the possibly mythologized story which claims that the tan as a fashion statement was "invented" by the late, great, Coco Chanel. Apparently, she'd gone yachting and returned to her home in Paris with a lovely and completely accidental golden tan. The tan caught on, given its new connotation with "high fashion," "yacht," and most

Continued on page 15



¹ For those of you who don't, here's a recap: Visible panty lines are trashy. Visible thong lines are worse. Thong shadows (light see-through pants, dark thong showing through) should be avoided at all costs.

² No, I am not going to name names. I'm not even going to say what sex the student was, which makes this even more terrifying.

³ Christina Aguilera notwithstanding. She defies all my expectations for the human race. Her and Phil Collins. What does Sussudio even mean?

⁴ I'm not making that up.

⁵ Read: I am too lazy to do proper research, so don't believe a word of it.

Feature Editorial Rap

Part One

by William Y. Durbin and
Rajdeep Singh Jolly

- © Two-oh-five for a parking pass?
 w Good thing I got three bucks for gas.
- w Shopping at Wal-Mart is quite whack
 © But a living wage ain't off-the-rack
- © Placebos taste like sugar pills;
 w Gettin' paid in three-dollar bills.
- © Horses have the weirdest faces;
 w Kidnap them but leave no traces.
- © A learned nose knows
 w bona fide cups of Joes.
- © A man with six fingers—
 w The mark he made e'er lingers.
- © My baby sells Kalashnikovs
 w She keeps track of all her tick-offs.
- w Traded in Prague for ten bucks more
 © Bought me a hog and an Uzbek whore
- © My doctor said: "Eat lemons; fight
 scurvy."
 w But hearsay ain't all that
 trustworthy

Sex Continued from page 14

importantly, "lots of money" as opposed to "backbreaking outdoor labor." What's more, fashionable or not, tans look nice. They make people look a little thinner than pasty skin does, and they show off muscle tone, which is now acquired at the gym rather than on the farm. They let you wear sleeveless dresses without stockings, two piece swimsuits, and they bring color to your face without makeup.

So it seems that tanning is evidence of a culture of conspicuous consumption that has existed for centuries, if not millennia. Of course, there's absolutely nothing wrong with this, but it does make one pause to think for a bit. While it's true that bronzing cosmetics don't say in their advertisements "wear our product and look like you have money," isn't that sort of the idea? It's all entwined in biology, too. Just like peahens are more attracted to peacocks with long, flowing tails, human beings are either consciously or unconsciously looking for a significant other who is most likely to put a Rolex on his wrist, or a Cartier diamond on her finger, as a symbol of his/her ability to feed and clothe one's future progeny with ease. A person whose complexion says "I can spend time and money on my tan, so I can spend time and money

on you, honey pie" is probably going to get dates (and thus sex) with greater speed and regularity than someone who looks like she lives in a windowless cubicle.

So what do law students' tans say about them? To put myself up as an example, as busy as I am with studies and office work during the summer months, my own complexion has taken on a refreshing minty green glow which looks best when reflecting my laptop monitor.⁶ But many of my legal-minded comrades have lovely looking tans, and get much better grades than I do. The likely reason for this is just a simple matter of priorities. While beaches and tanning beds don't happen to rank among my personal priorities, I do possess about half a small country's worth of makeup—my eyeliner budget alone could feed a family of four for two months. I spend about half my morning-getting-ready-time preening in front of a mirror, which cuts significantly into my getting-coffee-time. But despite the occasional late start and grouchiness from lack of caffeine, I still wouldn't change a thing.⁷ It's all about priorities. So while I cheerfully powder my face to a Theda Bara white, my fellow law students are free to don their thongs and lie in tanning beds as often as they please.⁸ That's more lead-based powder for me, anyway.

⁶ You'd think this would mean I would be higher up in the class ranking, but given the amount of time I seem to spend musing over classmates' underwear, you can take a guess at what my transcript is like.

⁷ Well, maybe when I'm a rich, successful lawyer I'll hire Alton Brown just to make me a cup of coffee every morning...sort of like King Phillip V hiring Farinelli just to sing two songs to him at night for twenty-five years. Money rules!

⁸ But in the future, maybe they should be a little more careful about where they show their thong tan lines off.



Marshall-Wythe students live it up during the 2005 Bar Crawl.
Photos courtesy of Amy Lisenfeld, Erin Ashcroft, and Nora Garcia.