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The Amicus Curiae

VOLUME XIII, ISSUE FIVE

TUESDAY, NOVEMBER 19, 2002

WILLIAM & MARY SCHOOL OF LAW

ELPR Celebrates 30 Years of Federal Protection

Festivities mark anniversary of Clean Water Act

by Laurie Spolidoro

October marked the thirtieth anniversary of the Clean Water Act. To commemorate the event, the Environmental Law and Policy Review took the opportunity to spread awareness of the Act and the positive impact it has had on the environment.

Bob Annette and Meredith McCool from the Virginia Living Museum and Ray Hook from the Tidewater Oyster Gardens gave talks about and displayed several indicator species, those animals that manifest the effects of a polluted environment before other species. This characteristic is a valuable tool for environmentalists to gauge the health of our aquatic environment.

Some of the animals on display were oysters, a diamond back turtle, a box turtle, a hog-nose snake, and a bullfrog.

The Clean Water Act, in substantially its present form was passed in 1972, as the Federal Water Pollution Control Act Amendments of 1972, and amended several times since. The Clean Water Act established a foundation for federal and state regulation of pollutant discharge in the United States. The act seeks to control water quality standards, limitations on discharges, permitting requirements, and construction of sewage treatment plants.

For more information on the Clean Water Act and other environmental issues and policies, feel free to contact any member of the Environmental Law and Policy Review or take a look at one of their publications.

Vice Dean Lynda Butler is the Review's advisor and specializes in environmental law and land use law.



Associate Dean Lizbeth Jackson and Dean of Admissions Faye Shealy observe Bob Annette and his frog from a safe distance.

Photographer Unknown

Dr. Fisher Speaks Against War

Institute Bill of Rights Law students host Dr. Fisher

by Gary Abbot

President Bush now has the final word on any decision to attack Iraq. Some people are content with that; Dr. Louis Fisher is not.

Tuesday, October 29, 2002, the Institute of Bill of Rights Law - Student Division hosted a luncheon for interested students with Lou Fisher on the topic, "Authorization of the War Against Iraq." Dr. Fisher is a senior specialist in separation of powers with the Congressional Research Service of the Library of Congress. He is active with the Central and East European Law Initiative, has taught at numerous law schools, Marshall-Wythe among them, and has frequently testified

before Congress on constitutional issues.

Dr. Fisher is disturbed with the Congressional Resolution on Iraq that gives President Bush full authority to authorize war on Iraq. He considers the resolution an abdication by Congress of its constitutionally mandated power to declare war and a weakening of the idea of a republic where power is shared by different branches of government. He is also troubled with the waffling on the question of war by the President over a short two month period.

Dr. Fisher's opinion is that the issue of war with Iraq was manipulated by the administration to improve the Republicans chances in the upcoming (now completed) November elections. In his talk, Dr. Fisher first high-lighted the timeline and inconsistency of the rationale given for war with Iraq. On August 8, 2002, President Bush said he was "a patient man" concerning Iraq. A mere five days later, Vice-President Cheney said that the only

option was war. This turnabout was followed on September 7 by a new report on Iraq's military capability and a call for a regime change. Vacillating, on September 12 the President told the United Nations that if Saddam took five specific actions of disarmament and cooperation, no regime change would be required. But on September 25 the claim was made that Saddam was working with al-Qaeda, the terrorist group, a claim later determined to be unfounded. On September 27, Bush said there was "evidence at hand" for the claim, another unfounded statement. Undaunted, on October 8 Bush told the nation that Saddam was both helping al-Qaeda and rebuilding his war capability. Shortly thereafter, Senator Gephardt said Congress needed to take politics out of the discussion and consider the war resolution. The resolution soon passed.

Congress had two models of action to choose from on the resolution, as described

War Continued p. 3

Meet Prof. Marcus

by Andrea D'Ambra

1) What's your favorite word?

Justice.

2) What's your least favorite word?

Deceptive.

3) What's your most vivid childhood memory?

Being the 5th of 5 children and being unable to reach a dish at dinner because of older and bigger kids getting there first!

4) When you were a child, what did you want to be when you grew up?

As a little child, I wanted to play baseball for the Brooklyn Dodgers, just like my hero, Jackie Robinson.

5) What's your favorite smell?

Very good food cooking.

6) What's your least favorite smell?

No so good food cooking.

7) What other profession would you like to try?

International relations.

8) What other profession would you NOT want to try?

Upholstery, what my dad did all of his life—extremely difficult and unhealthy work.

9) If you have a tattoo, what does it say (or depict)...if you don't have one, and decided to get one, what would it say (or depict)?

Sorry, I do not do tattoos.

10) What's the best thing about your job? What's the worse thing about your job?

The best thing? To be able to explore very important questions about our society with bright and caring students. The worst thing? There are no truly bad things about the job of being a law professor.

11) If you could talk to one person living or dead, who would it be?

Justice Louis Brandeis.

12) What's one little known fact about William and Mary School of Law that everyone should know?

The Law School used to be in a building right in the heart of the main campus.

13) If you could appoint the next three Supreme Court justices, who would they be?

Honorable Damon Keith of the U.S. Court of Appeals for the 6th Circuit, one of the great American civil libertarians—recent author of widely discussed opinion requiring federal government to open certain deportation hearings. Honorable Mary Schroeder of the U.S. Court of Appeals for the 9th Circuit, an extremely capable and thoughtful judge

who is truly caring about the impact of our criminal justice system. Former Arizona Governor and Interior Secretary Bruce Babbitt, an exceptionally bright and diligent individual who was an outstanding member of the executive branch in both state and federal government.

14) Professor Guiffreda's question: Three most favourite readings of all times?

Hard to say of all time, but three books which made a real impact on me are: Elie Weisel, "Memoirs", a life affirming and witty (and surprisingly humorous) work by a survivor of the Auschwitz and Buchenwald death camps. Alice Sebold, "The Lovely Bones", remarkable recent novel in which murdered teenage girl observes from her lofty position in heaven the impact of her death on those still alive. Ernest Gaines, "A Lesson Before Dying." Gaines is one of the great American authors, here he lays out a deeply moving story of a teacher who must confront the realities of capital punishment in our criminal justice system.

15) Now you have a chance to pose a question to the next faculty member to answer this questionnaire....

50 years from now, which current Justice of the United States Supreme Court will be most admired?

Questions borrowed heavily from Bravo's Inside the Actor's Studio's Bernard Pivot Questionnaire and the National Journal's Media Monitor spotlight questionnaire. A few actually conceived by William and Mary law students.

David B. Wilkins Delivers Wythe Lecture "Living Brown"

by Marie Siesseger

Professor David B. Wilkins discussed the development and transformation of the legal community post-*Brown v. Board of Education* in his address at the 27th annual George Wythe Lecture on Thursday, November 7. Speaking to a capacity audience of students, faculty and staff, Wilkins' lecture and the subsequent discussion emphasized the development of the black corporate bar within and through the paradigm established by *Brown*.

In researching his forthcoming book on the subject, Wilkins, the Kirkland & Ellis Professor of Law at Harvard Law School, explored the impact of the *Brown* decision on diversity within the legal profession, and in particular, the multi-faceted social and professional ramifications of the decision for black lawyers. His study of the integration of the bar post-*Brown* revealed an ambiguous record—one that he said would be far less extensive than the creators of the *Brown* decision would have hoped.

Wilkins' insights into his chosen subject are primarily drawn from his exploration, both personal and academic, of the integration of black lawyers into corporate law firms. As the lineal descendants of the *Brown* lawyers who paved the way for integration both in schools and American society at large, the elite corporate black lawyers are a lens through which to view the effects of *Brown*, according to Wilkins. As Wilkins noted, the ascension of black lawyers into the uppermost echelons of

the corporate bar occurred simultaneously with a major transformation of the practice of corporate law. These dramatic changes ushered in a new era wherein the legal profession moved away from its prior incarnation as a guild with localized practitioners to the more modern conception of law as a vocation characterized by global business and the "bottom line."

To Wilkins, the black corporate lawyers who were the lineal descendants of *Brown* typify the experience of black lawyers in the aggregate in that they have had to struggle with the complexities of the generational conflict created by *Brown*. In particular, Wilkins identified the two principle groups of black lawyers who have been affected by *Brown*, "those who opened the door and those who walked through." As a member of the latter group, Wilkins postulates that those who "walked through" were met with a unique set of challenges. In contrast to their predecessors, today's black corporate lawyers are not directly engaged in the promulgation of the *Brown* decision, however, by their very presence, they reveal the slow, but actual realization of the *Brown* ideals. These lawyers, like their predecessors, have walked the fine line between opportunity and social justice, according to Wilkins.

The generational conflict has manifested itself in numerous ways. As an illustration, Wilkins related the story of Judge Clemon and his nephew, a lawyer hired by BellSouth

From all of us here at the Amicus...

Good luck on finals & enjoy your winter break!

THE AMICUS CURIAE

William & Mary School of Law

P. O. Box 8795 Williamsburg, Virginia 23187 (757) 221-3582

"Dedicated to the complete and objective reporting of student news and opinion"

Editor: Brooke Heilborn
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Features Editor: Nick Heydenrych
Copy Editor: Adrienne Griffin
Business Editor: S. L. Rundle
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Law school hosts symposium "A World Without Worldcoms"

Symposium includes four free market proposals for corporate reform

by S.L. Rundle

People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices. It is impossible indeed to prevent such meetings, by any law which either could be executed, or would be consistent with liberty and justice. But though the law cannot hinder people of the same trade from sometimes assembling together, it ought to do nothing to facilitate such assemblies; much less to render them necessary. — (Adam Smith, *The Wealth of Nations*)

Professor Jayne Barnard directed the symposium Friday, November 1st, in which two practicing attorneys and two William & Mary professors proposed measures against opportunistic behavior by the officers of public corporations. Prof. Barnard explained the inspiration behind the symposium's droll name. "I was sick of programs with Enron in the title," she said.

Overall, student and faculty attendants were impressed. "As symposia go, I would have to say this is one of better ones I've attended," said Jeff Spann, a self-described symposia aficionado.

Four panels convened, each panel headed by a speaker proposing his solution to the problem of corporate fraud. After the speaker made his

argument, three commentators criticized the speaker's proposal and then took questions from the audience.

In her proposal "Dismantle the Cult of the CEO," Prof. Barnard traced the beginning of the modern trend of CEO worship to the appearance of Lee Iacocca on the cover of *Time* in 1985. She gave a list of the symptoms of the Cult of the CEO: awful, ghostwritten CEO autobiographies, "stupendous compensation packages," CEO of the year awards, idolatrous press coverage, and post-retirement consulting fees. Traditionally, she said, CEOs would consult with their former corporations for free. Today, at least 28 retired CEOs receive over \$500,000 a year in consulting fees.

Barnard gave an example of overvaluing the importance of a given CEO. Jamie Dimon was fired from Citigroup in 2000 because of management-in-fighting. When this was announced, Citigroup lost \$4 billion in market capitalization overnight. When Bank One thereafter

hired Jamie Dimon as CEO, Bank One gained \$7 billion in market capitalization in one day. Professor Richard Hynes then rebutted the inference that no CEO can make a corporation \$4 or \$7 billion dollars more or less valuable.

"I do agree that part of the upward movements reflect the market's enthusiasm about the board doing something positive (or doing something period). But these movements also reflect the madness of the market in overvaluing appearances over substance, personalities over performance, and hope over experience," said Barnard.

Louanna Ockerman Heuhsen, of Hunton

& Williams and a W&M Law adjunct professor, took a dim view of the flurry of regulatory activity following the recent stock market unpleasantness. Her proposal was "Don't Try to Fix Things That Are Not Broken."

Alan Rudnick's proposal, "Think Again About Executive Compensation," was based on the September 2002 report of the Conference Board Commission on Public Trust and Private Enterprise (available at http://www.conference-board.org/PDF_free/756.pdf). The Conference Board is funded by the Pew Charitable Trust. Mr. Rudnick is principal of Alan A. Rudnick LLC and counsel to the Commission on Public Trust and Private Enterprise, as well as a W&M Law adjunct professor. After Rudnick reviewed the report, Bruce McNew (Partner, Taylor McNew LLP

School proposed: "Return Ethics Consciousness to the Workplace." He suggested three steps corporations should take to ward off future malfeasance. (1) Think about how we go about changing an organization's culture. (2) Create a climate where whistle blowing is encouraged. (3) Create a climate that fosters open dialogue about ongoing moral behavior.

After Sims finished, panelist Prof. Eric Kades then filleted his proposals. Ethics, Kades argued, can be (1) substantive rules we should follow in addition to the law but which are without the threat of legal sanctions. Alternatively, ethics might mean (2) norms that are internal, which cause the actor to reflect and say, "I cannot do this." Kades said Sims proposal fit under (2). The problem with norms is

they are formed by around age 10, well before employment; the problem with definition (1) is that businesses that follow non-sanctionable substantive rules will be competed out of

1. Dismantle the cult of the CEO
2. Don't try to fix things that aren't broken
3. Think again about executive compensation
4. Return Ethics to the workplace

Greenville, Delaware) provided some rather insupportable and anti-corporate commentary which led to a heated exchange between audience member Prof. Alan Meese and McNew. McNew specializes in shareholder class action suits and, as Meese remarked later while massaging his swollen jaw, "a powerful left-right combination."

"None of the William & Mary grads on the program were students of mine, but all have been great resources for the law school over the years. I'm always happy to invite them to play a role in the programs I put together and, remarkably, they always say 'yes!'" Barnard said.

Prof. Ronald Sims of the W&M B-

the market. Kades added that although whistle-blowing sounds like free law enforcement, over-rewarding it is inefficient.

On rebuttal, Sims said that although ethical norms may be formed at a young age, corporations can influence their employees' behavior. He added that corporate fraud has been and always will be a problem. "We would not have had this ethical outcry if so many people hadn't lost their shirts — it would have been business as usual," said Sims.

"I agree with Ron Sims that these kinds of scandals will recur forever. That's why fraud is such an interesting topic," said Barnard afterwards.

War a hasty decision

War Continued from p. 1

by Dr. Fisher. One was the original 1990-91 Iraqi resolution granting the other President Bush war power. In that case, Congress itself investigated the situation and the information it was provided and made an informed decision. Unfortunately, this Congress' model of action was the Tonkin Gulf Resolution of 1964. President Johnson had presented Congress with two instances of North Vietnamese aggression, one falsified and one questionable, and demanded carte blanche to take whatever military action may have been needed. A too-hasty Congress quickly

made an uninformed decision. Then, as now, the House and the Senate wanted to give their President the ability to speak to our alleged enemies with a single voice and with a united front. Both times, the belief was that the best way to prevent war was to give our President the unfettered power to wage war.

A last point for reflection, and of concern to Dr. Fisher, is that the resolution has no time limit.

[Editor's note: "Those who do not learn from history..."]



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Program Discusses Civil Liberties Post - 9/11

by Ted Lotchin

At Nuremberg's International Military Tribunal, Hermann Goering delivered a chilling statement on criticizing government policy during a time of war: "Of course the people don't want war, but after all, it is the leaders of the country who determine the policy, and it is always a simple matter to drag the people along. All you have to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger."

At no time in recent history has this disturbing commentary seemed more applicable than in the initial stages of the federal government's legal actions to prosecute the war on terror. The flurry of legal action following the tragedy of September 11th, 2001 has highlighted the conflicts between protecting national security and maintaining individual liberties. On October 7th, 2002, the Marshall-Wythe community tackled these pressing issues during this year's initial First Monday presentation, "Of Rights and Wrongs: The Threat to America's Freedoms."

Presented jointly by the American Constitution Society and the Multicultural Law Student Association, this video presentation focused on vignettes describing the experiences of several American Muslims following the September 11th attacks. The video's first segment focused on an interview with a young woman who was forced to remove her head scarf during a security check at Baltimore-Washington International Airport. The fact that security guards made this request at gunpoint further compounded the woman's embarrassment at disrobing in public. She stated that she felt subjected to disparate treatment after watching non-Muslim passengers pass through security checkpoints without incident.

Another vignette explored the practice of holding citizens or non-citizens in federal custody without due process. This segment described the experience of a 34-year-old man who was held in a detention center for 116 days without seeing a judge or hearing the charges against him. In the interview, he stated that, despite his detention, he was still excited about the potential of life in America. At the same time, he questioned the wisdom of alienating minority communities by restricting civil liberties in the interest of national security.

Congratulations!



Little Ethan David Murray was born Saturday, Nov. 2, at 11:35 PM, 4 days before his due date. He weighed 7 lbs., 1 oz. and was 19.25 inches long. He has blue eyes and quite a bit of fuzzy hair.

Photographer Unknown



Tyler Brass, Teah Quinn, Brooke Heilborn, Emily Anderson, and Pete Flanigan fought for their right to party this Halloween.

Photographer Unknown



Jeff Boerger, bee extraordinaire.

Photographer Unknown

Political Correctness 21st Century McCarthyism

by John E. Price

I am writing in response to a comment in Elle O' Flaherty's letter to the editor in the October 30th edition of the *Amicus Curiae*. Let me begin by saying that I am appreciative of Ms. O' Flaherty's timely reminder that misogyny and prejudice remain powerful forces in our society. I also agree that we each bear a personal responsibility to engage and challenge these ways of thinking—prejudice must be dealt with on a personal level, if it is to be dealt with at all.

But while I applaud Ms. O' Flaherty's passion for sexual equality, the following line intrigued me: "I am hoping if I have daughters, by the time they are my age Barbie will be a social pariah and lawyers who make sexist comments will be booed out of the courtroom." [emphasis mine] While I don't pretend that Ms. O' Flaherty actually wants to bar attorneys who don't share her ideological views from practicing law, the fact is that many at America's colleges and universities apparently do want to bar politically unorthodox expression from our academic communities. I'll point out a few emblematic examples.

In April of 2000, a student governing body at Tufts University in Massachusetts officially "de-recognized" the Tufts Christian Fellowship, an on-campus evangelical group. See Michael Paulson, "Campus Faith Groups Face Rebuke on Gay Rights," *Boston Globe*, April 29, 2000; Michael Paulson, "Tufts Lifts Its Ban on Christian Group," *Boston Globe*, May 17, 2000; PlanetOut News Staff "Tufts U. Christian Group Reprieved," *PlanetOut News*, May 17, 2000, available at www.planetout.com/news/article2000/05/17/01. As punishment for failing to consider a bisexual student for a leadership role in the group, the Tufts Community Union Judiciary stripped the group of its funding, and then banned it from meeting

on campus. A lawsuit eventually changed Tufts' mind about the group, but I have to wonder if the issue would even have come up if the tables had been turned. What if an evangelical Christian had claimed she had been discriminated against because a gay and lesbian student group had refused to allow her to have a leadership position?

A more recent event involves an attempt by some law students at Washington University School of Law in St. Louis to form a pro-life organization on campus. See Matthew Frank, "Students at WU Law School Reverse Group Ban," *St. Louis Post-Dispatch*, October 15, 2002; Joyce Howard Price "Student bar group OK's proliferators," *Washington Times*, October 17, 2002. Earlier this year, the Washington University School of Law SBA denied Law Students Pro-Life recognition by an astonishing 27-10-1 vote. Law Students Pro-Life asked for recognition again, and was denied again by the SBA. The Wash. U. SBA told the group that the "catching issue" was the "narrowness of the group's interests and goals." The school's administration denied the group's request to overrule the SBA decision. Law Students Pro-Life asked outside organizations, like the ACLU and FIRE, the Foundation for Individual Rights in Education (www.thefire.org), for help, and eventually the SBA reversed its decision. See Susan C. Thompson, "ACLU Backs Anti-Abortion Group Denied Recognition at Washington U," *St. Louis Post-Dispatch*, October 12, 2002.

Both groups won, but the fact that they had to fight so hard should get our attention. It is even more troubling if we recognize that these events are not isolated. At Cal State Sacramento, a commencement speaker was booed into silence

when he expressed concerns over racial profiling and secret military tribunals in the wake of September 11th. See Geoffrey Mohan, "Graduation Speech Riles Sacramento," *Los Angeles Times*, December 20, 2001. At the City University of New York, professors held a "teach-in" where U.S. foreign policy was criticized; the first response of CUNY's trustees and chancellor was to publicly condemn the teach-in. See Jonathan Yardley, "Ticketing the Campus Thought Police," *Washington Post*, November 12, 2001; Mary Beth Marklein, "Foreign Policy, Free Speech Are Under Fire on Campuses," *USA Today*, November 15, 2001. At the University of New Mexico, a professor faced dismissal for foolishly telling a class, "Anybody who can blow up the Pentagon gets my vote." See Diana Jean Schemo, "New Battles in Old War Over Freedom of Speech," *New York Times*, November 25, 2001. On the other hand, an Ethiopian American student (who, by the way, is fluent in Arabic) at San Diego State University was disciplined for criticizing three students he overheard praising Osama bin Laden in Arabic for the Sept. 11 attacks. See *id.*

All across the country, "diversity training," speech codes, and get this—"free speech zones" are popping up on university campuses. Is this really what pluralism and freedom of expression look like? I wonder if in our desire to promote diversity, we have begun to embrace what amounts to thought reform. While I'm not suggesting that our academics are becoming some kind of budding Orwellian nightmare, I am suggesting that something is missing if our public forum doesn't have room for the politically incorrect. Our quest for tolerance is undermined if we fail to extend the same freedom to those whose views we deem to be intolerant. We cannot

assess the rights of the individual by first deciding whether she's one of "us" or one of "them." Instead of working to promote diversity, we would instead foster groupthink. In a post-9/11 world, it is clear these issues will only become more important.

At the heart of the problem is the fact that, somehow, we've begun to think diversity can be adequately expressed and realized in terms of group membership: "Yeah, sure we're a diverse campus, just look around; we've got African-Americans, Whites, Asians, Christians, Muslims, Buddhists, conservatives, liberals. . . ." This is a wrong-minded approach. Real diversity is a function of individual choices to think, express, and associate. Don't assign me an identity based upon which groups I belong to—decide who I am by getting to know me.

If we really want diversity, it is individual freedoms that we must protect, no matter how noisome we may find the views of any particular individual. And if that person wants to gather with others who share that view, or who may even want to express that view in the public forum, we should fight to preserve their rights to do so. The idea that some annoying, middle-aged little bald guy with a southern accent is free to accept and express stereotypical notions of women without fear of reprisal (even in a court of law) isn't necessarily a bad thing. I want him to have that freedom, because I want that freedom. I want to decide for myself what to think and what to express, no matter how unpopular, wrong, or silly my opinions may be. We are all enriched by that freedom—it enables us to have genuine interaction with others who don't share our opinions, or who might even be offended by our opinions.

So, baldy, go ahead and talk your nonsense - because I'm up next.

"I want to decide for myself what to think and what to express, no matter how unpopular, wrong, or silly my opinions may be."

Rooms, Doors, and Sidewalks

Watch out Steve Martin

by Tim Castor

Recently, in an attempt to stave off another candy corn binge (four out of five dentists have put a hit out on my candy corn supplier), I compiled a list of all the positive features of William and Mary School of Law's facilities. Unfortunately, this list required only three lines on my piece of paper. Disenchanted by the thought that the remaining space on the paper would go to waste, I decided to fill the remaining space with doodles of a puppy, a cow (If a cow finds himself stranded in the Sahara Desert and is dying of thirst, would it be appropriate for me to give him a tall glass of Hershey's chocolate milk?), and a four-month-old child

playing "Livin La Vida Loca" via the recorder. Due to the fact that these doodles serve as acclaimed works of art rather than newspaper article fodder, I think I will focus this discussion on my list highlighting the positive aspects of the facilities at our fine institution (where the term "fodder" is thrown around more frequently than J. Lo's marriage license).

The first positive feature of the facilities at this law school is that roughly three inches of space separate the rows of seats in each lecture room. Now, I have to admit that this tight squeeze initially bothered me, as the task of reaching the middle of a row of seats was more challenging than trying to solve a Rubik's Cube while blindfolded. (As an aside, it seems as if pin the tail on the donkey appears to have fallen out of favor with the 3-8 age bracket. This decline in the game's popularity stems

from the fact that the donkey, embittered by the fact that no one could successfully locate his rear end, quit his post as two-dimensional birthday party entertainer and moved to Reno. A turtle has assumed the donkey's position, causing first graders throughout the nation to question the validity of what they learn in their "science class" at school.)

Recently, however, I have altered my view on the matter and now feel that the cramped quarters in the lecture rooms are fantastic with a capital, bold-faced, underlined, italicized "E." My about-face can be attributed to the fact that I have come to realize that the cramped quarters of the lecture rooms enables me to emulate two of the coolest dudes to grace TV in the 1980's: Bo and Luke Duke. Ever since I was a boy, I have wanted to purchase a car merely for the purpose of sliding across its hood and

jumping into it without opening the car door. Given the cramped quarters in the law school, however, I can achieve my dream without plopping down ten grand for that lime-green Pinto. Instead of squeezing my way past twenty law students and their fifty-eight laptops on my way to the center of the aisle, I now simply do my best Luke Duke impersonation and slide over the top of the desk and into the warm embrace of my comfortable little chair. If it had not been for the cramped layout of the lecture rooms, I probably never would have stumbled upon such an idea; rather, I would have merely continued to stumble upon all of the laptop wires that are strewn across every single nanometer of every single classroom.

The second positive feature of the facilities at William and Mary involves

Castor Continued p. 6

Amicus Staff Picks: Best Movie

"What is the best movie you have seen so far this year and why?"

Kate Jackson

Ummm hard question! nothing I've seen in the theaters...

"Tape" is good—Indigent Films, Ethan Hawke and that guy from Dead Poets Society—about guilt, justice, and vengeance! What more can a future attorney want?? I saw that on "tape" though, I don't know when it came out. "Storytelling" is also good—intellectually stimulating, but don't know the year again. Britney Spears in Crossroads is great for a laugh, and for entertaining guy friends who SWEAR they watch it for the material.

Pete Flanigan

Best movie "The Accountant" a wry southern-style humor piece that ran on the festival circuit this summer. If you get a chance, check it out.

Adrienne Griffin

My favorite movie so far for reasons of pure enjoyment and fun is About a Boy, with Hugh Grant and Toni Collette, a rare movie that, in my opinion, was an improvement on the book. I would also recommend Insomnia with Al Pacino and Robin Williams for an intense visual and emotional experience.

Gary Abbott

DAGON.

Alright, so it was a rental. But it's 2002, it's H.P. Lovecraft, and it's directed by Brian Yuzna (Reanimator, also Lovecraft). And a very good adaptation, considering how poorly Lovecraft translates to screen. The ominous, creeping, foreboding horror

comes across excellently. Some kind of antediluvian water monster god, a close cousin to Cthulhu I think, has spread its seed in a remote Italian (?) seaport and is worshiped by all. The villagers are in various stages of transformation into their new fishy, slimy forms. The hapless pair of couples that get stranded do not fare well. CGI is used mostly effectively and spfx make-up is good, gory and/or gross when appropriate. Like a first date, there is enough gratuitous sex to get your interest, but not enough to be satisfying, although the hero's "date" is at least half luscious. If you've read the story, you'll know pretty much how it goes; if you haven't, you'll like it better.

Seth Rundle

It is a tie between two low budget yet richly symbolic commentaries on the dominant threads of the American social fabric. Winona Ryder Shoplifting (Closed Circuit Cinemas 2002) and Bill Clinton: Men Can Fake It Too, for the scene wherein the President toggles from jovial conversation mode to crocodile tears mode at Ron Brown's funeral in the instant he spots the camera (Gotcha Films 1998). Scratch threads. Metastasized tumors is the apt metaphor for the essence of Hollywood and the Democrat Party.

Maggie Carr

Sweet Home Alabama... I thought it was a really cute movie. Reese Witherspoon is great in it. I like her a lot as an actress. The scene in Tiffany's is like every girl's dream... pick anything you want.

Sara Aliabadi

What: "Spiderman"

Why: "Toby Maguire"

Tim Castor

The best movie I have seen this year is Signs because it was filmed in Bucks County, Pennsylvania, home of the coolest 22 year-old east of the Mississippi (by the way, I live there too).

Kirstin Michener

My Big Fat Greek Wedding. Every time I think about it I laugh! It was NOT serious—that's why I liked that movie.

Seeking compassion for all

The death penalty is no better than murder

by Elle O'Flaherty

Thursday November 14, 2002 I, along with many others, stood vigil outside a building where the premeditated killing of a man took place.

Mir Aimal Kasi was put to death for the murders of Frank Darling and Lansing Bennett. The widely publicized case of Kasi's shooting spree at the CIA garnered national attention and led Virginia to hand down the death sentence in the case.

In response I posted fliers publicizing the vigil and imploring anyone who so desired to make the 90 mile trek to show our abhorrence towards killing in any form, especially a killing that is state sanctioned.

Someone posted a simple sign in response to which I will reply. First, let me say that I am honestly glad there has been some response because it shows people are thinking about what their government is doing. This, I think, is the most important thing. Not to let passivity be taken for permission.

The flier stated the details of the crime for which Kasi is being executed. Below that were the words, "Would you protest the execution of Osama Bin Laden? Know what you stand for."

I will answer the second statement first. Yes, I know what I stand for. I am completely aware of why Kasi was killed, and I am still firmly against the needless murder of any human being in any circumstances. If my flier had been read more closely, it would have been observed that the vigil was actually for Kasi as well as his victims Darling and Bennett.

The anti-death penalty movement is not an attempt to condone murder. It is the expression of sorrow over the loss of any person's life. I am terribly sad, angry, and scared by the thought that there are those who would take an innocent life. I am equally sad, angry and scared by the thought that there are those who would take any life.

Now, I will answer the first statement. Yes, I would protest the execution of Osama Bin Laden. If I had the choice between his death or life imprisonment, I would choose the latter. I will answer the obvious question, at this time last year my entire immediate family lived within two miles of the Pentagon or in New York City, and yes, I know someone who died. September 11 was not an abstract event to me.

However, this time last year I was also one of the very, very few people who openly expressed my opposition to the bombing of Afghanistan. And then, as

now, I do not think we should seek to kill Osama Bin Laden. This does not mean I think he should not be brought to justice and tried in front of the appropriate tribunal.

It seems the world community has caught up with me.

110 countries have abolished the death penalty by law or in practice. We are virtually the only industrialized country that still uses the death penalty. Internationally we are brethren with the Democratic Republic of Congo, Iran, Nigeria, Pakistan, and Saudi Arabia as the only countries that execute children.

The rest of the world, as I'm sure you can confirm from our L.L.M. students, see us as barbaric in our insistence on reserving the right to state executions. A right we protect in every global treaty on the topic despite the fact that dozens and dozens of countries, in fact almost every country, have agreed that it is an inhuman and despicable practice.

Jesus said in his Sermon on the Mount (Matthew 5:38, 5:43), "You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you, Do not resist one who is evil. But if anyone strikes you on the right cheek, turn to him the other cheek also... You have heard it was said, 'You shall love your neighbor and hate your enemy.' But I say to you, love your enemies and pray for those who persecute you..."

Although I don't happen to be Christian, I think it is interesting that a nation founded by, and so heavily populated by, Christians is the last to heed these words in their holy book.

Another great nonviolent thinker, Gandhi, once said, "Peace will not come out of a clash of arms but out of justice lived and done by unarmed nations in the face of odds."

Martin Luther King, Jr. said, "Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars. Darkness cannot drive out darkness, only light can do that. Hate cannot drive out hate, only love can do that."

All three stress the importance of love towards all people, or Agape, in the path to a better society. How can you kill one you love?

I understand why you are angry and feel you need retribution. I also understand my words will be lost to most of you. However, I think someday many will understand.

Slowly, in our society and worldwide, we are growing to abhor violence. We are treating each other more kindly and learning to see a common brotherhood of man. We have almost extinguished slavery of all kinds. We have acknowledged our fear of gross discrimination and needless oppression of many of the world's people. I have faith that in time our nation will catch up to the world.

Public Service Funds & Environmental Jobs

by Matthew Brown

My experience this summer as a Public Service Fellow was very rewarding and meaningful. I was lucky enough to work at two public service internships and reaped the benefits of both. I worked in Boston at the Massachusetts Executive Office of Environmental Affairs and at the Boston Conservation Commission. Because both offices were under-funded and under-staffed, I got a tremendous amount of responsibility at each, and got to do things that not many other IL's get the chance to do.

The Boston Conservation

Commission is concerned with protecting the water quality and attractiveness of water bodies in and around Boston. This summer, the city decided that it wanted to enact a wetlands protection ordinance so that they could further protect areas adjacent to the Charles River and other inland areas. Such an ordinance would help the Commission continue to clean up the Boston Harbor and the areas surrounding the river, as well as have the opportunity to influence development of the areas around these areas. Because the Commission is so under-

See Boston, p. 10

Punching Indie

Punch Drunk Love leaves viewers thirsty for more independent films

by Peter Flanigan

The opening scene in *Punch-Drunk Love* starts on a very calm and serene morning in Los Angeles. The calm is shattered when a SUV rolls over in front of Barry (Adam Sandler). Despite being horrified at the accident, Barry becomes more intrigued by a small piano that is simultaneously dumped off by someone in a taxi. This rather strange juxtaposition becomes the common theme for *Punch-Drunk Love*.

Barry owns his own toilet plunger company but doesn't go out much. Being a social recluse is the least of his problems. He has seven sisters who constantly call him gay boy. This constantly causes him to go crazy and smash anything with glass in it. Barry also starts buying pounds of pudding so he can redeem frequent flyer miles. If you think *Punch-Drunk Love* is strange, you haven't heard about his love life.

Being a social recluse limits one's dating options and Barry decides to call a phone sex operator, not so much for titillation but for someone to talk to about his business. Things start going badly when the phone-sex operator starts calling back Barry and asking for money. Barry starts to become really scared, cancels his credit cards and starts freaking out. Dean (a great Phillip Seymour Hoffman, *Boogie Nights*, *Almost Famous*) sends four brothers to beat up Barry and take his money for "being a pervert".

However, things start looking up for Barry when he meets Lena (Emily Watson, *Gosford Park*, *Hilary & Jackie*). Despite his eccentricities and overall shyness, Lena takes an immediate interest in Barry and even leads to an extremely funny kissing scene (suffice to say Barry can't remember which apartment Lena is in).

When Lena goes to Hawaii on business, Barry takes a chance and follows her there. Things work out very well but things turn violently dark in the last quarter of the movie.

Barry, imbued with love, makes threatening phone calls to Dean. Dean does not take this lying down and sends the four brothers to ram the back of Barry's car, injuring Lena. Barry starts an incredibly violent attack on the brothers and then goes after Dean. Things end up well in the end and, as my friend noted, the entire movie seems like a setup to make sense of Barry's ending soliloquy.

To call this movie offbeat is an understatement. Not only are the story

and the characters almost a string of non-sequiturs but the visual aesthetic of the film itself becomes wrapped up in the ubiquity of the situation. The screen changes to random colors. The pacing of Barry's sequestered lifestyle is languid while his human interactions are frenetic and overwhelming (with some great background actions done by Luis Guzman, *Magnolia*).

Additionally, the sound, music and actions are intermixed for a multi-layered effect coinciding with the story. For example, Barry starts trying to play a melody on the piano he found, which is sometimes parallel and sometimes perpendicular to the film's soundtrack. Music also plays a curious role in that the main theme song (He Needs Me) is used for the entire Hawaii sequence (about 20 minutes).

This affords the film almost a French New Wave feel to a decidedly American film. One can't help but conjure up references to offbeat romantic comedies like *Amelie* and *Better Off Dead*. This is a must see while it is still here in the area.

Since this is most likely the last column of the semester, I would just like to talk about the frustration of watching independent cinema here in the Hampton Roads area. While most independent cinema has traditionally been confined to limited releases, small budgets, and few major distributors (with the exceptions of Miramax and Fox Searchlight), in recent years "independent cinema" has made a small revival on the big screen.

Bolstered by the success of movies such as *Memento*, *Amelie* and *My Big Fat Greek Wedding*, the bigger distributors are stepping up and releasing these movies on multiple screens. This is markedly different then the past where one had to be in New York City or Los Angeles to see film.

This geographic centrism came about because of the population density and the fact that both cities are cultural nexuses for American society. This, accordingly, would leave Hampton Roads decidedly out of the loop of any independent releases. One almost has to go to Washington to see some challenging and thought provoking work.

The situation has changed some with Regal Cinemas and the Kimball Theatre stepping up to shoulder some of the independent cinema burden. Just this semester, the Kimball has shown such films as *Sunshine State*, *The Secretary* and soon, *The Good Girl*. Regal has also shown *Tadpole*, *One Hour Photo* and *PunchDrunkLove*.

As gratifying as this turnaround is, it is not even close to being sufficient. This fall seems to be the season of widely released independent films. One only has to mention *Bowling for Columbine* (Michael Moore's film that won at Cannes), *Auto Focus* (starring

Greg Kinnear about the life of Bob Crane), *Frida* and *Comedian* are just some examples of films, with national releases, that have not even hinted at coming here.

In fact, this area was lucky to get *PunchDrunkLove*. This movie was released 5 weeks ago by a major distributor (Sony), and has grossed 14.5 million. Yet, it came to Hampton Roads only last weekend (November 8). The fact is, is that there are many people who either know or would enjoy seeing quality films here in Southeastern VA.

We have a decidedly large enough population base to ensure enough ticket sales. The interest level is there just by measuring the amount of people that find a seat at the Kimball. The fact that independent cinema has the numbers and support to justify screenings makes it all the more frustrating when the movies aren't shown. *Attack of the Clones* and *N*Sync* being shown on IMAX should not pass for independent cinema here on the peninsula. So, if we are lucky enough to get the rare (and good) independent film, please go and support it to show the various chains that independent cinema can work here (with the exception of Carmike Cinemas who would rather show *Not Another Teen Movie* twenty times than one independent film).

Castor (Cont.): Facilities at law school ideal for impersonating Duke brothers

Continued from p. 5

several doors in the law school building. What distinguishes these doors from mediocre, run-of-the-mill, wannabe doors is the fact that, unlike most doors, these doors in the law school push open in both directions. I do not know about you, but where I come from, doors that push open in both directions are more rare than natural strands of Marv Albert's hair. I cannot tell you how many times I have witnessed an individual embarrass herself, her family, and her country by trying to push open a door when it could only be opened by pulling it. In fact, the primary test for determining whether or not an individual would get acceptance to the elite private schools in the area was whether the individual could discern whether doors should be opened by pulling or pushing. That infamous gauntlet of doors tarnished the once promising futures of many youths. By installing doors that push open in each direction, however, William and Mary has rightfully moved away from the harshness

of such a test. Rather than causing countless embarrassing moments and instilling fear in all who use them, these doors create a relaxed environment, in which one need not spend countless hours trying to construct a mathematical formula that will help predict whether a particular door must be opened by pulling or pushing.

The third positive aspect of the facilities is the sidewalk that originates from the entrance of the law school and leads toward Colonial Williamsburg. Being a former cross-country runner and an advocate of letters at the beginning of the alphabet, I always took the B-line when traveling from one place to another. Given this tendency, I was initially puzzled to see law students tread the winding path that leads past the National Center for State Courts and toward Colonial Williamsburg. At first, I merely thought that people were walking upon that ever-winding path to eventually come across a big hunk of Gouda. Upon learning that many of those who traversed the path were lactose intolerant, I realized that law students selected that route of travel because it led to a pot of marshmallow gavels, robes, and five-inch thick bankrolls. Apparently, the jury is still out on whether they found any marshmallow busts of George Wythe.

Pete's Picks



WORST TV MOVIE PICK OF THE WEEK:

The Substitute 4: Failure is Not an Option. This movie has something about underground military clubs and Treat Williams. A Star Spangled Effort all the way around. HBO2, various times after 11:30 pm.

WORST DVD PICK OF THE WEEK:

I could recommend *Lord of the Rings* or *Spiderman* (all of which are coming out on DVD this week) but continuing with my worst pick listings, I will go with *The Powerpuff Girls*. Call it a dumb-downed Tiny Toons or even a bad takeoff on the Chipettes but this movie has Mojo Jojo, an absolutely great cartoon villain which makes this a great movie to watch while imbibing certain substances. For my serious pick of the week: *The Dangerous Lives of Altar Boys*.

KIMBALL THEATRE SCHEDULE: *The Good Girl*: 11/21-11/25, 7&9 pm. *Possession*: 11/26-12/2, 7&9 pm. *Tadpole*: 12/3-12/6 7&9 pm.

Letters to the Editor

Statues: A Constitutional Perspective

John Marshall and George Wythe were men of great minds and great convictions; they contributed fundamentally to our contemporary legal and governmental structures. Their extraordinary accomplishments in these fields are why they have been memorialized in front of the law school. While personally they may have been sexist, racist, religious purists, they had the forethought to create a government that can accommodate to changes in time, culture, and beliefs and guarantees each individual a voice.

The decoration of the Marshall and Wythe statues for National Coming Out Day is a quintessential example of the rationale behind the First Amendment. There have been many inequities in the history of the United States; from slavery to the recent attacks against Arab-Americans. The First Amendment of the United States was created to ensure that everyone, regardless of their beliefs, has an open marketplace for the discussion and trade of ideas for the purpose of effecting change. What we now take for granted, such as voter rights for African-Americans and women started with a long and strenuous battle of protests, none of which would have been possible had it not been for the First Amendment.

Jason Miyares wonders if there are any laws against this type of desecration. Desecration is a word reserved for the destruction of churches, burial sites, and corpses. Giving Mr. Miyares the undeserved benefit of the doubt, I assumed he meant "vandalism". Unfortunately for him, vandalism requires a showing of actual damage.

The only other time the word "desecration" is used in Virginia is in the context of flag destruction. In 1989, the Supreme Court held in *Texas v. Johnson* that the burning of the U.S. flag for a political protest has societal benefit, and is therefore protected speech. In 1990, the Supreme Court held in *U.S. v. Eichman* that "flag burning as mode of expression, unlike obscenity or fighting words, enjoys full protection of the First Amendment." There is no doubt that decorating the statues would receive equal First Amendment protection.

Mr. Miyares wonders if this was an act by a "mischievous student". This was no joke. The fight for gay rights is not an easy one. Not only is it intensely personal, but there is a distinct lack of political power. Not unlike other political movements in our history, the gay rights movement relies on public visibility. In many states, gay citizens can be fired from their jobs, refused housing and insurance, and get verbally harassed without any right to legal recourse. Gay citizens cannot marry.

The need for these most basic rights makes the gay rights movement particularly imperative. If this doesn't warrant the First Amendment protection to tape a crocheted blanket to a statue, I don't know what does.

Jennifer Berndt
Vice President of the American Constitution Society,
Member of the Gay and Lesbian Law Student Association,
Class of 2004

JAG Corps Discriminates

As interviewing season continues, and in light of recent editorials in the *Amicus*, we've been thinking about on-campus interviewers and discrimination. For over a decade, the American Association of Law Schools has mandated that schools not allow employers who discriminate on the basis of sexual orientation to recruit on campus at the peril of the law school's accreditation. But this spring, during the on-campus recruiting season, note the presence of JAG (Judge Advocate General's Corps). This is the legal contingent of the different branches of the US military, which continues to promulgate the shortsighted and senselessly punitive "don't ask, don't tell" policy. It is still possible to be involuntarily discharged from the military for nothing more than a "homosexual admission". We're sure that none of this is news to the campus community.

Our goal here is not to point the finger of blame at the administration for allowing JAG on William and Mary's campus to recruit. We understand that their hands are tied - the Solomon Amendment, passed in 1995 by Congress, sets out that law schools deny admission to JAG and other military recruiters at the peril of their federal funding. The federal government has placed William and Mary Law School in an untenable position -

they are forcing our community to choose between principles of fair play and federal dollars that we depend on.

Think about what you're being asked to do. Most of us came to law school to participate in an academic environment that fosters open expression and rewards intellectual success without reference to our personal lives. The presence of JAG and other military recruiters on campus is antithetical to these ideals. Whether or not you agree with the homophobic and discriminatory "don't ask, don't tell" military policy, we would like you to consider the fact that your autonomy has been abrogated by the government policies

that strong-arm and intimidate schools into compliance. The legal profession is a self-regulated one, and in this important respect, our independence is being denied. As academics and students, we strive to create an

environment of academic freedom. How is it desirable that our tuition dollars go to fund the activities of recruiters who deny, degrade and discriminate against members of our community?

This open letter is intended to start discussion and honest appraisal of our complicity as a community in denying civil rights to people we (should) value as a part of that community. This is a broader issue than homophobia and discrimination against gays. It is about how we define ourselves as a community, and how we execute our responsibilities to other members of that community. Discriminatory treatment of one group hurts the entire community by destroying that community from the inside out, and it's called co-opting. We hope this community will refuse to be co-opted, and carefully consider the ramifications of JAG's presence on campus. You don't have to agree with a group's ethic to support and protect their basic human rights.

We would submit that the most brave and humanistic act one can commit is to support the human rights of people that they fundamentally disagree with. Recognizing the basic humanity of everyone - no matter his or her political, religious, or sexual practices remains the fundamental element of a free and just society. Although our options for immediate change are limited, feel free to contact your congressional representative.

For a petition supporting the enforcement of the AALS policy, go to www.resistdiscrimination.net <<http://www.resistdiscrimination.net>>.

Sincerely,

Megan-Brady Viccellio
Nathan Doan
Jen Berndt
Kevin Houlihan
Brooke Rogers-Miller

Miyares Expresses Double Standard

Jason Miyares's letter in the October 30 edition of the *Amicus* has prompted some lively discussion among members of the Lesbian & Gay Law Students Association on whose behalf I write. Mr. Miyares objects to the decoration of the Marshall Wythe statues for National Coming Out Day and expresses concern at what he sees as a lack of respect for the memory of John Marshall and George Wythe. Perhaps other members of the law school community, in addition to Mr. Miyares, find this or any other statue decoration objectionable on principle. In making his point, however, Mr. Miyares makes use of some unfortunate rhetoric. That a student has chosen to publicly echo, in the context of a celebration of gay identity, themes which have been used for centuries to oppress gay and lesbian people, gives many of us pause.

For those of us who are gay, who have

witnessed the variety of decorative ensembles gracing the statues in the past without objection, we cannot help but note that it is a gay theme which has finally provoked a voice of disapproval. Themes including Santa hats for the holidays, witch hats for Halloween, and baseball decorations for the World Series, have all passed without objection. Even decorations celebrating the Army-Navy game (a game between two institutions which expressly and unashamedly discriminate against gay men and lesbians) have passed without commentary. The Coming Out Day decorations were not even the first to appear this year. This September 11th saw the statues adorned with black armbands and American flags. Perhaps Mr. Miyares missed the September 11th decorations and is sincerely objecting to the very first decoration he noticed regardless of theme. Nevertheless, gay people find ourselves yet again being told that, although we have gone no further than others, someone believes we have gone too far.

To be fair, Mr. Miyares does not say the National Coming Out day decoration went "too far," rather (eschewing all polemical restraint) he declares it to be a "desecration." It is rhetoric of this order which has raised alarms among gay students here most of all. For centuries, homosexual persons have been horribly mistreated in the name of religion. We continue to be told by some that we are an "abomination." Members of the law school community obviously have a right to believe this and to state their belief. But when even the suggestion of such a notion appears in a public forum at this law school, those of us who have been victims of this ideology will speak up and reject it out of hand. Mr. Miyares may or may not believe homosexuality itself to be a "desecration." If not, he made a most unfortunate choice of words. Certainly his lament, "We have become a society that increasingly devalues what was once valuable, mock what was once revered, and find actions acceptable which were once deplorable" (emphasis added) leaves room for doubt.

Finally, Mr. Miyares opines that perhaps the person responsible for the National Coming Out Day decoration was "a mischievous student with a distinctive sense of humor" and that the individual found it "entertaining to 'dress' the memorial in gay drag." Such characterizations seem to rest on the premise that no one could possibly take a celebration of coming out seriously. As many of us know from personal experience, the coming out process is deeply complex. Some of us wondered as teenagers if we would be homeless if we came out to our families. Some of us have come out and lost our jobs. Many feared, and some experienced, the loss of family and friends. Some students are still unable to come out. Ultimately, the decision to come out is a decision to live with integrity and honesty. National Coming Out Day is a joyous

Public Service Funds offer summers of guns, drugs, and constitutional battles

by Kevin M. Barnes

Let me begin by thanking Frank Dunham and the attorneys and staff at the Federal Defender's Office in Norfolk, Virginia for a summer experience I will never forget. I also need to thank the Public Service Fund for helping with money to help defray my costs this summer.

When I first spoke with attorney Larry Dash at the Federal Defender's office about working there last summer, he told me that they couldn't pay me anything but they could promise a summer filled with the excitement of guns and drugs cases—they came through with the guns and drugs but little did anyone know what else was in store. Barrett Thies (another W&M Intern) and I got to be a part of a constitutional battle that no one could have expected—the on-going "Second American Taliban" case of Mr. Yaser Hamdi.

Yaser Hamdi is was captured and detained by the U.S. Military in Afghanistan during the prison uprising last fall where CIA agent Michael Spann was killed and American Taliban member John Walker Lindh was also captured. John Walker Lindh was sent immediately to the U.S. via ship but Mr. Hamdi's U.S. citizenship was not realized until he had already been

detained in Guantanamo Bay, Cuba. For reasons unknown to anyone but the government, Mr. Hamdi was moved to a military prison in Norfolk, VA—most speculate the reason is Mr. Hamdi's U.S. citizenship. Mr. Hamdi was not, and has not to this day been charged with any crime. He is being held without access to a lawyer, and for all intents and purposes is still being held *incommunicado*. Since Mr. Hamdi is being held in the Eastern District of Virginia, the newly formed Federal Defender's office under Frank Dunham took on Mr. Hamdi's case by filing a *habeas corpus* action on his behalf.

This started a fascinating summer of research into uncharted territory. Relevant case law went back to WWII detentions and Barrett and I were looking into issues of international, military, and administrative law. This research was especially interesting because unlike the research we were doing for the guns and drugs cases where the attorneys were very knowledgeable on the topics, the Hamdi research was ground breaking constitutional work with no established case law. It was thought provoking to listen in on teleconferences with legal scholars from around the country to discuss the next direction for our research.

This still active case took many twists and turns during the summer and it was exciting to have a case you were working on be on the front page of the New York Times, the Wall Street Journal and the Washington Post, and to have CNN coverage at the hearings. The topics we researched this summer truly made this Air Force Academy graduate rethink the laws of war as I knew them prior to law school and allowed me to witness first hand the incredible power of the U.S. Attorney's Office. The lessons I learned by watching how the Federal Defender is handling a high profile case are lessons that would be difficult to teach in the classroom and I am grateful to have seen them firsthand. I could fill this whole page with my experiences on the Hamdi case, but that would leave out the other very important work I was involved in.

I spent the majority of my time this summer reviewing traffic stop videos, putting together strategy to defend a major drug ring conspiracy case that spanned from coast to coast, drafting motions, observing and participating in client/witness interviews (both in and out of jail), and starting a research project on the correlation between guns and drugs violations in

Virginia. The initial statistical results of the study were promising enough that I hope to publish an article in conjunction with the Federal Defender's Office for the benefit of the defense bar. I had no intention/expectation of being involved in something publishable this summer, yet once again the Federal Defender's Office delivered far more than they had initially offered.

As a summer intern with the Federal Defender's Office there is always someone in court that you can observe for a motion hearing, a sentencing, or a trial. I learned a great deal about the federal criminal system this summer through these observations.

By being a part of the initial research and planning and then being encouraged to see how that research plays out in the courtroom—I was better able to comprehend how the system really works. If you have any interest at all in the criminal system, I highly recommend a summer with the Norfolk Federal Defender's Office for the Eastern District of Virginia and would be glad to talk with you about my experiences.

Thanks again to Frank Dunham and his Norfolk Office and thank you Public Service Fund for helping make this summer possible.

"...they could promise a summer filled with the excitement of guns and drugs cases..."

"...putting together strategy to defend a major drug ring conspiracy case that spanned from coast to coast"

Letters (Cont.)

Continued from p. 8

celebration of that decision. It is anything but a joke.

I seriously doubt that the majority of the law school student body agrees that the practice of decorating the Marshall Wythe statues should end. Mr. Miyares has expressed his belief that it should. It is indeed regrettable that he did not do so with greater care.

Sincerely,

Kevin Houlihan
Lesbian & Gay Law Students Association,
President

Honor Council Announcement

The Law School Honor Council would like to publish their Spring 2002 Activities:

During the spring semester of 2002, the Law School Honor Council dealt with one issue. An allegation of plagiarism was filed against a student by a professor. The Honor Council investigated the matter, found evidence sufficient to support the allegation, the student pled not guilty, and a hearing was held. After presentation of the evidence and testimony, the Honor

Council deliberated and found the student guilty of plagiarism. The sanction decided upon was permanent dismissal. Upon appeal the sanction was reduced to separation from the Law School until spring 2003.

The activities of the other Honor Councils at William & Mary will be forthcoming shortly.

Bo Foley
Chairman

Paul Dame
Vice Chairman

Editorial Policy

The letters and opinion pages of *The Amicus* are dedicated to all student opinion regardless of form or content. *The Amicus* reserves the right to edit for spelling and grammar, but not content.

Letters to the Editor may not necessarily reflect the opinion of the newspaper or its staff. All letters to the Editor should be submitted by 5 p.m. on the Thursday prior to publication. *The Amicus* will not print a letter without confirmation of the author's name. We may, however, withhold the name on request. Letters over 500 words may be returned to the writer with a request that the letter be edited for the sake of space.



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The War Prayer

by Mark Twain

It was a time of great and exalting excitement.

The country was up in arms, the war was on, in every breast burned the holy fire of patriotism; the drums were beating, the bands playing, the toy pistols popping, the bunched firecrackers hissing and spluttering;

On every hand and far down the receding and fading spread of roofs and balconies a fluttering wilderness of flags flashed in the sun; daily the young volunteers marched down the wide avenue gay and fine in their new uniforms, the proud fathers and mothers and sisters and sweethearts cheering them with voices choked with happy emotion as they swung by;

Nightly the packed mass meetings listened, panting, to patriot oratory which stirred the deepest depths of their hearts and which they interrupted at briefest intervals with cyclones of applause, the tears running down their cheeks the while; in the churches the pastors preached devotion to flag and country and invoked the God of Battles; beseeching His aid in our good cause in outpouring of fervid eloquence which moved every listener.

It was indeed a glad and gracious time, and the half-dozen rash spirits that ventured to disapprove of the war and cast a doubt upon its righteousness straightway got such a stern and angry warning that for their personal safety's sake they quickly shrank out of sight and offended no more in that way.

Sunday morning came - next day the battalions would leave for the front;

The church was filled; the volunteers were there, their young faces alight with martial dreams - visions of the stern advance, the gathering momentum, the rushing charge, the flashing sabers, the flight

of the foe, the tumult, the enveloping smoke, the fierce pursuit, the surrender! Then home from the war, bronzed heroes, welcomed, adored, submerged in golden seas of glory! With the volunteers sat their dear ones, proud, happy, and envied by the neighbors and friends who had no sons and brothers to send forth to the field of honor, there to win for the flag or, failing, die the noblest of noble deaths.

The service proceeded; a war chapter from the Old Testament was read; the first prayer was said; it was followed by an organ burst that shook the building, and with one impulse the house rose, with glowing eyes and beating hearts, and poured out that tremendous invocation:

God the all-terrible!
Thou who ordainest,
Thunder thy clarion
and lightning thy sword!

Then came the "long" prayer. None could remember the like of it for passionate pleading and moving and beautiful language. The burden of its supplication was that an ever-merciful and benignant Father of us all would watch over our noble young soldiers and aid, comfort, and encourage them in their patriotic work; bless them, shield them in the day of battle and the hour of peril, bear them in His mighty hand, make them strong and confident; invincible in the bloody onset; help them to crush the foe, grant to them and to their flag and country imperishable honor and glory -

An aged stranger entered and moved with slow and noiseless step up the main aisle, his eyes fixed upon the minister, his long body clothed in a robe that reached to his feet, his head bare, his white hair descending in a frothy cataract to his shoulders, his seamy face unnaturally pale, pale even to ghastliness. With all eyes following him and wondering, he made his silent way; without pausing, he ascended to the preacher's side and stood there, waiting.

With shut lids the preacher, unconscious of his presence, continued his moving prayer, and at last finished it with the words, uttered in fervent appeal, "Bless

our arms, grant us the victory, O Lord our God, Father and Protector of our land and flag!"

The stranger touched his arm, motioned him to step aside - which the startled minister did - and took his place. During some moments he surveyed the spellbound audience with solemn eyes in which burned an uncanny light; then in a deep voice he said:

"I come from the Throne - bearing a message from Almighty God!"

The words smote the house with a shock; if the stranger perceived it he gave no attention.

"He has heard the prayer of His servant your shepherd, and will grant it if such shall be your desire after I, His messenger, shall have explained to you its import - that is to say, its full import. For it is like unto many of the prayers of men, in that it asks for more than he who utters it is aware of - except he pause and think.

"God's servant and yours has prayed his prayer. Has he paused and taken thought? Is it one prayer? No, it is two - one uttered, the other not. Both have reached the ear of Him Who heareth all supplications, the spoken and the unspoken. Ponder this - keep it in mind. If you would beseech a blessing upon yourself, beware! lest without intent you invoke a curse upon a neighbor at the same time. If you pray for the blessing of rain upon your crop which needs it, by that act you are possibly praying for a curse upon some neighbor's crop which may not need rain and can be injured by it.

"You have heard your servant's prayer - the uttered part of it. I am commissioned of God to put into words the other part of it - that part which the pastor, and also you in your hearts, fervently prayed silently. And ignorantly and unthinkingly? God grant that it was so! You heard these words: 'Grant us the victory, O Lord our God!'

That is sufficient. The whole of the uttered prayer is compact into those pregnant words. Elaborations were not neces-

sary. When you have prayed for victory you have prayed for many unmentioned results which follow victory - must follow it, cannot help but follow it. Upon the listening spirit of God the Father fell also the unspoken part of the prayer. He commandeth me to put it into words. Listen!

"O Lord our Father, our young patriots, idols of our hearts, go forth to battle - be Thou near them! With them, in spirit, we also go forth from the sweet peace of our beloved firesides to smite the foe.

"O Lord our God, help us to tear their soldiers to bloody shreds with our shells;

Help us to cover their smiling fields with the pale forms of their patriot dead;

Help us to drown the thunder of the guns with the shrieks of their wounded, writhing in pain;

Help us to lay waste their humble homes with a hurricane of fire;

Help us to wring the hearts of their unoffending widows with unavailing grief;

Help us to turn them out roofless with their little children to wander unfriended the wastes of their desolated land in rags and hunger and thirst, sports of the sun flames of summer and the icy winds of winter, broken in spirit, worn with travail, imploring Thee for the refuge of the grave and denied it -

"For our sakes who adore Thee, Lord, blast their hopes, blight their lives, protract their bitter pilgrimage, make heavy their steps, water their way with their tears, stain the white snow with the blood of their wounded feet!

"We ask it, in the spirit of love, of Him Who is the Source of Love, and Who is the ever-faithful refuge and friend of all that are sore beset and seek His aid with humble and contrite hearts. Amen."

After a pause: "Ye have prayed it; if ye still desire it, speak! The messenger of the Most High waits!"

It was believed afterward that the man was a lunatic, because there was no sense in what he said.

Boston offers young lawyers environmental jobs

Continued from p. 7

staffed, I was given sole responsibility for researching and drafting this wetlands ordinance. For the first few weeks of the internship, I would go to the library researching the commission's authority to enact legislation, and the procedure that they would have to follow to do so. I also found copies of other Massachusetts towns' wetlands ordinances to help me to draft Boston's. A week or so later, I had completed all the research and the first draft of the ordinance. From the beginning of July to the end of August I met with different city officials reviewing and redrafting the ordinance, and even spoke with the Massachusetts Attorney General on

several occasions to review the ordinance.

Invaluable. I learned things that I would never have learned if I had worked for a law firm. I learned first hand how to draft meaningful legislation for a city. I learned first hand all the political influences that force revisions and deletion of certain provisions. I learned first hand the inner turmoil of city government. Invaluable.

At the Massachusetts Office of Environmental Affairs I got even more responsibility than I got at the Conservation Commission. My job at Environmental Affairs started out as researcher of unchartered environmental law. My boss had a stack of

different environmental problems that no one in the office knew what to do with because they have never been litigated. So they had me research these issues for probably courses of action. For instance, the federal government has holds over two million acres restricted by conservation easements. And in Massachusetts, the towns hold these easements, and generally have the right to enforce them over any landowner trying to develop these parcels of land. However, the federal government has started to develop these parcels of land, and Massachusetts wanted to know if it could sue the federal government to stop development, or if the court would throw the case out as a matter

of sovereign immunity.

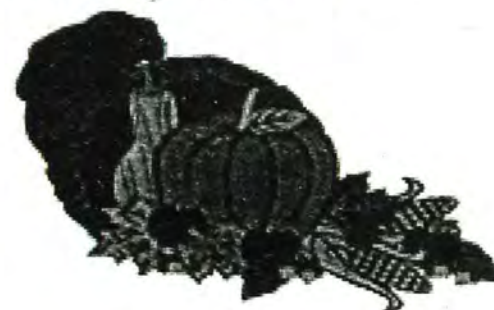
Later in the summer, my responsibilities increased, as I got to deal directly with representative from various Massachusetts towns. A number of towns wanted the state to stop siting solid waste facilities in their towns, but they didn't know how they could do this. My boss told me to go research everything, write her a memo describing everything, and then write letters to each of these towns. So not only did I get to write an ordinance for Boston, but I also got to advise a number of different towns about how to prevent these huge facilities from being put near their homes. I got to

See experience, p. 11

Don't forget about the Turkey!

Legal Skills Firms, Faculty, Staff, Administration & Student Organizations

Thanksgiving Basket Contest



BLSA is collecting Thanksgiving baskets for those in need in the Williamsburg community. Please help by sponsoring a group food basket.



- Turn in baskets in Law School Lobby on November 26th at noon.
- BLSA EBoard will judge baskets on November 26th at 3pm in Lobby.
- Judging will be based on abundance, presentation, & creativity.



Questions? Please contact Angeleen Godbey at acgodb@wm.edu

Experience with environmental work invaluable, unique

Continued from p. 10

devise legal strategies that were going to be relied on by thousands of people. I got to personally advise these towns about different ways that they could implement these legal strategies.

Invaluable. Again, I learned things this summer that I never would have learned at a law firm. I got to do things this summer that some fourth and fifth year associates wouldn't get to do. Not many 1L's get the chance to work with the Attorney General of

Massachusetts on two separate occasions. Not many 1L's are given the responsibility of writing legislation for a city, and then treated like the legal expert in the room when talking with government officials. Not many people get the responsibility of advising numerous towns about legal strategies that they developed. Invaluable.

So if you want the big bucks, go to a big law firm and research whether "is" should be included in a contract for your summer work experience. But if you are like lots of other people, and are feeling the crunch of the job market, public service is a great alternative. Not only to get to play for the good guys, but you actually get to play.

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Calendar Of Events

EVENT	DATE	TIME	LOCATION
ACS closed conference	Thu, November 14	08:30 AM	Courtroom, lobby
ACS closed conference	Fri, November 15	08:30 AM	Courtroom, lobby
Association Board Meeting	Fri, November 15	12:00 PM	North Wing Faculty Room
Small Town Practice, Big Time Career	Fri, November 15	12:30 PM	Room 127
"Risk, Death and Harm: The Normative Foundations of Risk Regulation"	Fri, November 15	01:15 PM	Room 239
Reception for Small Town Practice, Big Time Career	Fri, November 15	01:30 PM	Lobby
Board Member Reception	Fri, November 15	04:00 PM	Between lobby & N. Wing
BAR/BRI Contracts Review	Sat, November 16	09:00 AM	Room 119
BAR/BRI Evidence Review	Sat, November 16	09:00 AM	Room 124
Association Board Meeting	Sat, November 16	10:00 AM	North Wing Faculty Room
Foundation Board Meeting	Sat, November 16	12:00 PM	Dean's Conference Room
BAR/BRI Criminal Procedure Review	Sun, November 17	09:00 AM	Room 124
BAR/BRI Torts Review	Sun, November 17	09:00 AM	Room 119
Sports & Entertainment Law Society	Mon, November 18	12:30 PM	Room 134
Appointments Committee Meeting	Mon, November 18	03:00 PM	The Faculty Room
Appointments Committee Meeting	Tue, November 19	01:00 PM	Dean's Conference Room
National Trial Team Training	Tue, November 19	06:00 PM	Room 133
Luncheon for Visiting Judges	Wed, November 20	01:00 PM	The Faculty Room
National Trial Team Training	Wed, November 20	06:00 PM	Room 133
Tax Conference 2002	Thu, Nov. 21 thru Nov. 22		Kingsmill Conference Center
Student Intellectual Property Society Meeting with speaker Dr. Weinstein	Thu, November 21	04:30 PM	Room 124
National Trial Team Training	Thu, November 21	06:00 PM	Room 133
Workshop presented by Professor David Meyer, University of Illinois Law School	Fri, November 22	12:30 PM	The Faculty Room
Special Faculty Meeting	Mon, November 25	05:30 PM	Room 127
Appointments Committee Meeting	Tue, November 26	01:00 PM	Dean's Conference Room
Thanksgiving	Wed, Nov. 27 thru Nov. 29		
BLSA General Meeting	Tue, December 3	07:00 PM	Room 133
"Pursuing an LL.M. Abroad" program sponsored by OCPP	Wed, December 4	12:45 PM	Room 135
Classes End	Fri, December 6		
Workshop presented by Professor Steven Schwarcz, Duke University Law School	Fri, December 6	12:30 PM	The Faculty Room
Reading period	Sat, Dec. 7 thru Dec. 9		
Election Law Exam	Tue, December 10	09:00 AM	Room 133
Payment Systems Exam	Tue, December 10	09:00 AM	Room 141
Taxation of Small Businesses Exam	Tue, December 10	09:00 AM	Room 124
Administrative Staff Meeting	Tue, December 10	10:00 AM	The Faculty Room
Property Exam - Kades	Wed, December 11	09:00 AM	Room 127
Property Exam - Rosenberg	Wed, December 11	09:00 AM	Room 120
Applied Business & Law Exam	Wed, December 11	01:00 PM	Room 133
Trademark Exam	Wed, December 11	01:00 PM	Room 141
Immigration Law Exam	Thu, December 12	09:00 AM	Room 141
Corporations Exam	Thu, December 12	01:00 PM	Room 119
Criminal Procedure Survey	Thu, December 12	01:00 PM	Room 124
Evidence Exam - Lederer	Thu, December 12	01:00 PM	Room 120
Federal Courts Exam	Thu, December 12	01:00 PM	
Faculty Meeting	Thu, December 12	03:00 PM	The Great Hall
MAKE-UPEXAM#1	Fri, December 13	09:00 AM	Room 119
Administrative Law Exam	Fri, December 13	01:00 PM	Room 124
European Union Law Exam	Fri, December 13	01:00 PM	Room 127
First Amendment Exam	Fri, December 13	01:00 PM	Room 141
Mergers & Acquisitions Exam	Fri, December 13	01:00 PM	Room 119
Secured Transactions Exam	Fri, December 13	01:00 PM	Room 120
Contracts Exam - Alces	Sat, December 14	09:00 AM	Room 120
Contracts Exam - Hynes	Sat, December 14	09:00 AM	Room 127
Contracts Exam - Selassie	Sat, December 14	09:00 AM	Room 124
Economic Analysis of Law Exam	Sat, December 14	01:00 PM	Room 124
Federal Income Tax Exam	Sat, December 14	01:00 PM	Room 120
Sales Exam	Sat, December 14	01:00 PM	Room 127